

आयकर अपीलिय अधिकरण
मुंबई पीठ "एस एम सी" , मुंबई
IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "SMC", MUMBAI
श्री विकास अवस्थी, न्यायिक सदस्य के समक्ष
BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER
आअसं. 6230/मुं/2019 (नि.व.2010-11)
ITA NO.6230/MUM/2019 (A.Y.2010-11)

M/s Salem Steel Industries
27/29, Sindhi Lane,
Mumbai-400004

PAN: **AAOFS8839D**

..... अपीलार्थी /Appellant

बनाम Vs.

ITO-19(3)(2),
Matru Mandir, Room No. 224,
Tardeo Road, Mumbai-400007.

..... प्रतिवादी /Respondent

अपीलार्थी द्वारा/ Appellant by : None
प्रतिवादी द्वारा/Respondent by : Ms. Smita Verma

सुनवाई की तिथि/ Date of hearing : 03/05/2021

घोषणा की तिथि/ Date of pronouncement : 16/07/2021

आदेश/ ORDER

PER VIKAS AWASTHY, J.M:

This appeal by assessee is directed against the order of Commissioner of Income Tax (Appeals)-30, Mumbai [hereinafter referred to as 'the CIT(A)'] dated 10.08.2018 for the Assessment Year (AY) 2010-11.

2. During the course of assessment proceedings, the Assessing Officer (AO) found that the assessee has obtained bogus purchase bills from M/s Siddhivinayak Corporation amounting to Rs. 61,922/-. Since, the assessee

failed to discharge its onus in proving authenticity of the dealer and the purchases made from the said dealer, the AO made addition by estimating profit margin at the rate of 12.5% on unproved purchases, the AO made addition of Rs. 77,404/- on account of suspicious purchases. Against the assessment order dated 04.03.2016, the assessee filed appeal before the CIT(A) *interalia* challenging the addition made on account of suspicious purchases. The CIT(A) upheld the assessment order and dismissed the appeal of assessee in toto. Hence, the present appeal by the assessee.

3. Ms. Smita Verma representing the Department vehemently defended the impugned order and prayed for dismissing the appeal of assessee. The Id. Departmental Representative (DR) submitted that the assessee could neither produce the dealer nor any confirmation from the said dealer was furnished by the assessee. The name of dealer from whom the assessee had obtained accommodation bills figured in the list of hawala operators declared by the Sales Tax Department, Government of Maharashtra. Further, the assessee failed to furnish copies of lorry receipts, delivery challanes, transport bills, etc. to prove trail of goods. Therefore, the AO held the purchases made from suspicious dealer as bogus and made addition by estimating GP on such unproved purchases. The CIT(A) has upheld the same.

3. Submissions made by Id. DR heard, orders of authorities below examined. The assessee in appeal has challenged re-opening of assessment, in an alternate plea, the assessee has prayed for restricting the addition to the extent of GP declared by assessee i.e. 7.26%. The assessee had assailed re-opening of assessment before the CIT(A). The CIT(A) after examining the

submissions of assessee has upheld the validity of re-opening. No contrary material is available before the Tribunal to controvert the findings of CIT(A). Hence, ground no.1 to 3 of appeal are dismissed.

4. In ground No.4 of appeal, the assessee has raised alternate contention assailing addition on bogus purchases confirmed by the CIT(A). The prayer of the assessee is to restrict GP on alleged unproved purchases to GP already declared by the assessee. Undisputedly, the assessee has failed to discharge its onus in proving genuineness of the dealer and the purchases made from the said dealer. The authorities below have estimated profit margin on unproved purchases at 12.5%. Generally, in trading of ferrous and non-ferrous metals, GP ranges between 5% to 8%. In my considered view, estimation of GP at 12.5% by AO/CIT(A) is on higher side. Taking into consideration entirety of facts, I deem it appropriate to restrict addition in respect of bogus purchases to 7.5%. The impugned order is modified, accordingly and ground no.4 of the appeal is partly allowed.

5. In the result, appeal of the assessee is partly allowed.

Order pronounced in the open court on **Friday**, the **16th** day of July, 2021.

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य / JUDICIAL MEMBER

मुंबई/Mumbai, दिनांक/Dated:16/07/2021

SK, PS

प्रतिलिपि अग्रेषितCopy of the Order forwarded to :

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. आयकर आयुक्त(अ)/ The CIT(A)-

4. आयकर आयुक्त CIT
5. विभागीय प्रतिनिधि, आय.अपी.अधि., मुंबई/DR, ITAT,
Mumbai
6. गार्ड फाइल/Guard file.

//True Copy//

BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai