

IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH, MUMBAI  
**BEFORE SHRI D. KARUNAKARA RAO, ACCOUNTANT MEMBER AND  
SHRI RAVISH SOOD, JUDICIAL MEMBER**

I.T.A. No.549/M/2015 (Assessment Year: **2008-2009**)

I.T.A. No. 550/M/2015 (Assessment Year: **2009-2010**)

|   |              |   |
|---|--------------|---|
| DCIT-12(1)(2),<br>R.No.223, 2 <sup>nd</sup> Floor,<br>Aayakar Bhavan, M.K. Road,<br>Mumbai – 400 020. | बनाम/<br>Vs. | M/s. Billets Elektro Werke<br>Ltd,<br>42, 2 <sup>nd</sup> Floor, Jagat Satguru<br>Industrial Estate, Off Aarey<br>Road, Goregaon (E),<br>Mumbai – 63. |
| स्थायी लेखा सं./PAN : AAACB2027P  |              |   |
| (अपीलार्थी /Appellant)  | ..           | (प्रत्यर्थी / Respondent)   |

|                                    |   |                       |
|------------------------------------|---|-----------------------|
| अपीलार्थी की ओर से / Appellant by  | : | Miss Mahua Sarkar, DR |
| प्रत्यर्थी की ओर से/ Respondent by | : | Miss Keyuri Desai     |

सुनवाई की तारीख /Date of Hearing : 06.09.2016

घोषणा की तारीख /Date of Pronouncement : 06.09.2016

**आदेश / O R D E R**

**PER D. KARUNAKARA RAO, AM:**

There are **two** appeals under consideration pertaining to assessment years 2008-09 and 2009-10. Both these appeals are filed by the Revenue against the orders of the CIT (A)-19, Mumbai commonly dated 13.11.2014. Considering the low tax effect involved in these appeals, they are clubbed, heard combinedly and disposed off in this consolidated order.

**"Grounds raised in appeal ITA No.549/M/2015 read as under:-**

*Whether on the facts and in the circumstances of the case and in law, the Ld CIT (A) was right in deleting the addition made u/s 69C of the Act to the tune of Rs. 19,17,638/- on account of non-genuine transactions made with three vendors viz M/s. Industrial Trading Co., M/s. United Traders & Manufacturers, and M/s. Nilesh Enterprises.*

*2. Whether on the facts and in the circumstances of the case and in law, the Ld CIT (A) erred in holding that the identities of the parties is established and the transaction is genuine ignoring the fact that the documents submitted in response to the notices u/s 133(6) of the Act were neither duly signed nor was the company seal affixed on these documents by the above parties.*

*3. Whether on the facts and in the circumstances, the Ld CIT (A) erred in allowing the appeal of the assessee-company after ignoring the fact that these three vendors did*

*not submit any bills / vouchers to support the genuineness of their transactions with the assessee-company."*

**Grounds raised in appeal ITA No.550/M/2015 read as under:-**

*Whether on the facts and in the circumstances of the case and in law, the Ld CIT (A) was right in treating the hedging loss of Rs. 14,96,276/- as business loss instead of speculation loss as considered by the AO.*

2. *Whether on the facts and in the circumstances of the case and in law, the Ld CIT (A) erred in ignoring the fact that the MCX was not notified exchange to be covered by the provisions of section 43(5) of the Act when the assessee-company made transactions through it.*

3. *Whether on the facts and in the circumstances of the case and in law, the Ld CIT (A) erred in law by ignoring the fact that the notification of the MCX is prospective in nature and therefore, any statute enacted with this condition will be operative subsequent to the notification."*

2. At the outset, Ld Counsel for the assessee briefly narrated the facts of the cases and demonstrated that the tax effect in these cases is below Rs. 10 lakhs. Therefore, these cases are covered by the CBDT **Circular No.21/2015, dated 10.12.2015** which is relevant for the proposition that *the appeals filed by the Revenue with a tax effect of Rs. 10 lakhs and below are to be either dismissed by the Tribunal as not maintainable or not pressed by the Revenue.*

3. After hearing both the parties, we are of the opinion, considering the low tax effect involved in the present cases ie below Rs. 10 lakhs, the instant appeals filed by the Revenue are required to be dismissed since, the same are not maintainable. We order accordingly.

4. In the result, both the appeals filed by the Revenue are dismissed.

Order pronounced in the open court on 6<sup>th</sup> September, 2016.

**Sd/-**

**(RAVISH SOOD)**

JUDICIAL MEMBER

मुंबई Mumbai; दिनांक 06.09.2016

व.नि.स./ OKK, Sr. PS

**Sd/-**

**(D. KARUNAKARA RAO)**

ACCOUNTANT MEMBER

**आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त(अपील) / The CIT(A)-

4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR,  
ITAT, Mumbai
6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//

आदेशानुसार/ BY ORDER,  
उप/सहायक पंजीकार (Dy./Asstt. Registrar)  
आयकर अपीलीय अधिकरण, मुंबई / **ITAT, Mumbai**