

आयकर अपीलिय अधिकरण
मुंबई पीठ "बी "
श्री विकास अवस्थी, न्यायिक सदस्य एवं
श्री अमरजीत सिंह, लेखा सदस्य के समक्ष
IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH " B", MUMBAI
BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER &
SHRI AMARJIT SINGH , ACCOUNTANT MEMBER

आअसं.1553/मुं/2020 (नि.व. 2011-12)
ITA NO.1553/MUM/2020(A.Y.2011-12)

Bhamraram S. Purohit,
Unit No.4, Royal Industrial Hub,
Plot No.A/31, Kaman Bhiwandi Road,
Kaman Road, Nr Jain Mandir,
Basai(E), Thane 401 208.
PAN: BBSPP-0249-L

..... अपीलार्थी /Appellant

बनाम Vs.

The Income Tax Officer, Ward 19(1)(2),
2nd Floor, Room No.204,
Matru Mandir,Tardeo,
Mumbai 400 007.

..... प्रतिवादी/Respondent

अपीलार्थी द्वारा/ Appellant by : None

प्रतिवादी द्वारा/Respondent by : Shri C.T.Mathews

सुनवाई की तिथि/ Date of hearing : 24/05/2022

घोषणा की तिथि/ Date of pronouncement : 24/05/2022

आदेश/ ORDER

PER VIKAS AWASTHY, JM:

This appeal by the assessee is directed against the order of Commissioner of Income Tax(Appeals)-30, Mumbai [in short 'the CIT(A) '] dated 15/07/2019, for the assessment year 2011-12.

2. A perusal of the appeal file shows that after filing of appeal in the year 2020, none appeared on behalf of the assessee despite repeated notices. The

notices have been sent to the assessee on the address mentioned in Form No.36. As per record, the notices to the assessee through RPAD on different dates are tabulated herein below:

Date of issuance of notice through RPAD	Date of hearing.
03/08/2021	02/09/2021
27/09/2021	13/10/2021
09/11/2021	14/12/2021
02/03/2022	09/03/2022
14/03/2022	18/04/2022
19/04/2022	24/05/2022

The notices sent through RPAD have not been received back unserved from the Postal Authorities, therefore, it is deemed that the notices have been duly served on the assessee. Despite service of notice neither the assessee nor any Authorized Representative of the assessee has ever appeared to defend the appeal.

3. A perusal of the assessment order dated 14/03/2016 shows that the assessment order has been passed u/s. 144 r.w.s. 147 of the Income Tax Act, 1961 [in short 'the Act']. It is evident from the assessment order that during assessment proceedings the assessee never responded to the notices issued by the Assessing Officer. Therefore, the Assessing Officer was constrained to complete the assessment after invoking provisions of section 144 of the Act.

3.1 Against the assessment order assessee filed appeal before the CIT(A). The conduct of the assessee before the CIT(A) was no different. The CIT(A) issued notices to the assessee on the address mentioned in Form No.35. However, the assessee neither appeared before the CIT(A) in person nor any Authorized

Representative of the assessee appeared before the CIT(A). The CIT(A) passed an ex-parte order confirming the additions and dismissed the appeal.

3.2 The conduct of the assessee right through shows that the assessee is negligent and non co-operative. Even before Tribunal the assessee has never appeared after filing of the appeal. In effect, the assessee has abandoned the appeal . In the absence of support from the assessee, this appeal is take up for adjudication with the assistance of Id.Departmental Representative and material available on record.

4. Shri C.T. Mathews representing the Department vehemently supported the impugned order and prayed for dismissing appeal of the assessee.

4. We have heard the submissions made by Id.Departmental Representative and have examined the orders of authorities below. The assessee is engaged in trading of ferrous and non-ferrous metals. The Assessing Officer held that the assessee has indulged in bogus purchases. The Assessing Officer estimated the profit element embedded in such transactions at 12.5% and made addition of Rs.1,13,59,544/-. The CIT(A) enhanced the addition and made 100% disallowance of the bogus purchases. Taking into consideration entirety of facts we deem it appropriate to restore this issue back to the file of CIT(A) for denovo adjudication after affording reasonable opportunity of hearing to the assessee in accordance with law.

5. The assessee is directed to make submissions before the CIT(A) after service of notice, without fail. In case the assessee fails to respond to the notice issued by CIT(A), the CIT(A) shall be at liberty to take adverse view on assessee's non-compliance.

6. Before parting we would like to record that assessee is recalcitrant and has no respect for the law of land and the Adjudicating Authorities under the statute. This is a fit case for levy of cost for defying notices served on the assessee. A cost of Rs.5,000/- is imposed on the assessee. The assessee shall deposit cost in accordance with Rule 32A(2) of the Income Tax (Appellate Tribunal) Rules, 1963. **The CIT(A) shall entertain the appeal of assessee only after the cost is paid and proof of same is furnished to the CIT(A).**

7. In the result, appeal by the assessee is allowed for statistical purpose in the terms aforesaid.

Order pronounced in the open court on Tuesday the 24th day of May, 2022.

Sd/-

(AMARJIT SINGH)

लेखा सदस्य/ACCOUNTANT MEMBER

मुंबई/ Mumbai, दिनांक/Dated 24/05/2022

Vm, Sr. PS(O/S)

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य/JUDICIAL MEMBER

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.

BY ORDER,

//True Copy//

(Dy./Asstt. Registrar)

ITAT, Mumbai