

1438IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "C", MUMBAI

BEFORE SHRI OM PRAKASH KANT (ACCOUNTANT MEMBER) &
KAVITHA RAJAGOPAL (JUDICIAL MEMBER)

ITA No. 3791/MUM/2018 (A.Y.2010-11)

Deputy Commissioner of Income-tax, Central Circle-4(2), Mumbai Room No.1918, 19 th Floor, Air India Building, Nariman Point, Mumbai-400 021	vs	Shri Ginny Prateek Gupta 6 th Floor, Apeejay House 130, Mumbai Samachar Marg Fort, Mumbai-400 023 AFXPK2448E
APPELLANT		RESPONDENT

ITA No. 3795/MUM/2018 (A.Y.2011-12)

Deputy Commissioner of Income-tax, Central Circle-4(2), Mumbai Room No.1918, 19 th Floor, Air India Building, Nariman Point, Mumbai-400 021	vs	Smt. Suman Gupta 6 th Floor, Apeejay House 130, Mumbai Samachar Marg Fort, Mumbai-400 023 AFXPK2448E
APPELLANT		RESPONDENT

Assessee represented by	Shri Haridas Marthak
Department represented by	Shri Kailash Kanojia – CIT DR

Date of hearing	23/08/2022
Date of pronouncement	26/09/2022

ORDER

Per Kavitha Rajagopal (JM):

The captioned appeals filed by the Revenue relates to assessment years 2010 & 2011-12, respectively.

ITA 3791/Mum/2018 - Shri Ginny Prateek Gupta

2. The Revenue has filed the said appeal on the ground of restricting the addition to the extent of 12.5% of the bogus purchase of Rs.1,12,17,415/- by the Ld.CIT(A) vide order dated 21/03/2018. The assessee is the proprietor of M/s G.G. Corporation which is the relative concern of Ushdev group and is engaged in the business of trading in ferrous and non ferrous metals. The assessee filed its return of income on 30/09/2010 declaring total income of Rs.1,15,098/-. Pursuant to a search and seizure action, assessment order under section 143(3) read with section 153A was passed determining the total income of the assessee to be at Rs.1,12,17,450/-. The assessee was in appeal before the Ld.CIT(A), who restricted the addition to the extent of 12.5% of the bogus purchase. The Revenue is in appeal before us as against the order of the Ld.CIT(A).

3. During the appellate proceeding, it was observed that the assessee's case will be covered under the low tax effect as per the CBDT circular No.17/2019 dated 08/08/2019. Considering the same, we hereby dismiss the appeal filed by the Revenue with liberty given to the Assessing Officer for recalling the said appeal if the case would fall under any of the exceptions provided at para 10(e) of the said circular.

4. In the result, appeal filed by the Revenue is dismissed.

ITA 3795/Mum/2018 - Shri Suman Gupta

5. This appeal filed by the Revenue relates to assessment year 2011-12 as against the order of the Ld.CIT(A) dated 21/03/2018 passed under section 250 of the Income-tax Act, 1961. The assessee is proprietor of M/s Honest Trading

Co. which is a related concern of Ushdev group and is engaged in the business of ferrous and non ferrous material. The assessee filed its return of income on 30/07/2011. Pursuant to a search action, the assessment order under section 143(3) r.w.s. 153A of the Act dated 31/10/2016 was passed determining the total income at Rs.5,70,81,480/-. The Assessing Officer computed proportionate interest on the term loans availed by the assessee at 10% per annum totalling Rs.80,03,540/- and disallowed claim of interest expenditure under section 36(1)(iii) of the Act. The assessee was in appeal before the Ld.CIT(A), who deleted the disallowance under section 36(1)(iii) of Rs.80,03,540/- made by the Assessing Officer. The Revenue is in appeal before us.

6. During the appellate proceeding, it was observed that the assessee's case will be covered under the low tax effect as per the CBDT circular No.17/2019 dated 08/08/2019. Considering the same, we hereby dismiss the appeal filed by the Revenue with liberty given to the Assessing Officer for recalling the said appeal if the case would fall under any of the exceptions provided at para 10(e) of the said circular.

7. In the result, appeal filed by the Revenue is dismissed.

8. As a result, both the appeals filed by the Revenue are dismissed.

Order pronounced in the open Court on 26th September, 2022.

Sd/-

sd/-

(OM PRAKASH KANT)	(KAVITHA RAJAGOPAL)
ACCOUNTANT MEMBER	JUDICIAL MEMBER

Mumbai, Dated: 26/09/2022

Pavanan

Copy of the Order forwarded to :

1. The Appellant ,
2. The Respondent.
3. The CIT(A)-
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

//True Copy//

BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai