

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH, 'E': NEW DELHI**

**BEFORE SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER AND  
SHRI KUL BHARAT, JUDICIAL MEMBER**

**ITA Nos.4705 & 4706/DEL/2019  
[Assessment Years: 2013-14 & 2014-15]**

M/s Magnum Steels Ltd., Essel House, 10 Asaf Ali Road, New Delhi-110002	Vs	ACIT, Circle-20, New Delhi
<b>PAN-AADCM6400E</b>		
Assessee		Revenue

Assessee by	None
Revenue by	Sh. Jitender Chand, Sr. Dr

<b>Date of Hearing</b>	<b>02.02.2023</b>
<b>Date of Pronouncement</b>	<b>02.02.2023</b>

**ORDER**

**PER SHAMIM YAHYA, AM,**

These are appeals by the assessee against the respective orders of the Ld. CIT(A) 27, New Delhi, both dated 27.03.2019 and pertain to Assessment Years 2013-14 & 2014-15 respectively.

2. Since, the issues are common and connected and the appeals were heard together, these are being consolidated and disposed of together for the sake of convenience by this common order.

**ITA No.4706/Del/2019**

3. The grounds of appeal for AY 2014-15 reads as under:-

- i. *The Ld. CIT(A) has erred in law as well as on facts in confirming the assessment made by Ld. AO under section 143(3).*

- ii. That the Ld. CIT(A) has erred in confirmed the disallowance of Rs.6,20,237/- made by Ld. AO on account of cartage expenses.
- iii. That the Ld. CIT(A) has erred in confirming the disallowance of Rs.22,21,003/- on account of stores & spares expenses made by Ld. AO.
- iv. That the Ld. CIT(A) has erred in law as well as on facts in not adjudicating the grounds raised by the appellant made by Ld. AO on account of LTTCG.”

4. Brief facts of the case are that the assessee is engaged in manufacturing of TMT bars and Rods. During the course of examination of bills and vouchers, the AO noted that following expenses were not supported by bills and vouchers and the assessee was asked why the disallowance to the extent of Rs.2,07,96,710/- be not made in the total income of the assessee to protect the interest of the Revenue. The chart in this regard made by the AO is as under:-

Particulars	Amount claimed (In Rs.)	Disallowance (in %)	Disallowance (in Rs.)
Cartage	62,02,365	15	9,30,355
Power and Fuel	11,02,32,334	15	1,65,34,850
Store and Spares	2,22,10,034	15	33,31,505
<b>Total</b>	<b>13,86,44,733</b>		<b>2,07,96,710</b>

5. The AO noted in reply, the assessee offered the amount for taxation, hence, the said amount was disallowed. Furthermore, the Assessing Officer noted that the reason for selection of case i.e. property transaction for Rs.2,42,28,800/- located in Chhatisgarh. The AO noted that this property is not shown by the assessee in the return of income. On query, in this regard, it was stated that the Managing Director of the assessee company has appointed Shri Rajendra Gupta as company's general power of attorney for this property which was later on transferred

by Mr. Rajender Gupta in the name of M/s Manglam Metal and Ors Ltd. For which no consideration is received. The AO was not satisfied in this regard. He computed Long Term Capital Gain in this respect at Rs.1,95,37,832/- as under:-

<b>INCOME FROM LONG TERM CAPITAL GAIN</b>	<b>AMOUNT (RS.)</b>
<b>Sale of Agriculture Land</b>	
Sale (Dos: 29.10.13)	2,42,28,800/-
<b>Less : Cost of Acquisition</b>	
Purchases (01.09.2009)	
Indexed cost of acquisition (31,81,000 *936/632)	46,90,968
<b>Long Term Capital Gain</b>	<b>1,95,37,832/-</b>

6. Against this order, the assessee appealed before the Ld. CIT(A). Before the Ld. CIT(A), the assessee submitted detailed submission and filed a application Rule 46A of the Income Tax Rules 1962 for admission of additional evidences. The Ld. CIT(A) obtained remand report from the AO and rejoinder from the assessee. Considering the additional evidences as well as remand report of the AO, the Ld. CIT(A) deleted the addition on account of power and fuel of Rs.16,534,850/- by observing that these payments were made to government department or government companies and the claim was accepted after examining the documents. As regards, disallowance of cartage expenses, the ld. CIT(A) restricted to 10% against 15% done by the AO. As regards 15% disallowance on account of Stores and Spares amounting to Rs.3,331,505/-, the Ld. CIT(A) noted that the AO has pointed in the remand report that, the notice u/s 133(6) for verification, was not responded. On the other hand, the assessee contended that these are VAT paid items which could have been confirmed form the government

office. The Ld. CIT(A) was of the opinion that when notice u/s 133(6) remains noncomplied, it is the duty of the assessee to get the compliance. He restricted the disallowance from 15% to 10% in this regard.

7. Against the above order, the assessee is in appeal before us.

8. We have heard the Ld. DR. None appeared on behalf of the assessee for past several occasions. Hence, we proceed to adjudicate the issue after hearing the Ld. DR and perusing the records. We note that the disallowance of Cartage Stores and Spares expenses have been made by the AO for want of relevant supporting vouchers. Though the AO has made @ 15%, the Ld. CIT(A) restricted the same @ 10%. In our considered opinion, the order of the ld. CIT(A) in this regard is reasonable and does not need any interference on our part.

9. As regards grounds of appeal no.4, the addition on account of Long Term Capital Gain has not been adjudicated by the Ld. CIT(A), though ground in this raised before him. Hence, in the interest of justice, we remand this issue to the of the Ld. CIT(A). The Ld. CIT(A) is directed to pass an speaking order as per law.

**ITA No.4705/Del/2019**

10. The grounds of appeal for AY 2013-14 read as under:-

- i. *The Ld. CIT(A) has erred in law as well as on facts in confirming the assessment made by Ld. AO under section 143(3).*
- ii. *That the Ld. CIT(A) has erred in confirmed the disallowance of Rs.16,45,005/- made by Ld. AO on account of cartage expenses.*

iii. That the Ld. CIT(A) has erred in confirming the disallowance of Rs.4,64,240/- on account of stores & spares expenses made by Ld. AO.

11. The case in this regard is identical to the one adjudicated by us in ITA No.4706/Del/2019 as above. The AO made disallowance @ 10% of Stores and Spares expenses for want of relevant supporting bills & vouchers and verifications. The additions of power and fuel of Rs.1,35,91,732/- was deleted by the Ld. CIT(A) on the same basis as mentioned in the earlier hearinabove.

12. Upon assessee's appeal, the Ld. CIT(A) has confirmed the additions.

13. In our considered opinion, the ld. CIT(A) has passed a reasonable order and does not need any interference on our part. Hence, we uphold the same.

14. In the result, ITA No.4706/Del/2019 is partly allowed for statistical purposes and ITA No.4705/Del/2019 is dismissed.

Order pronounced in the open court on 02<sup>nd</sup> February, 2023.

**Sd/-**  
**[KUL BHARAT]**  
**JUDICIAL MEMBER**

**Delhi;** Dated: 02.02.2023.

*Shekhar*

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

**Sd/-**  
**[SHAMIM YAHYA]**  
**ACCOUNTANT MEMBER**

Asst. Registrar,  
ITAT, New Delhi