

आयकर अपीलीय अधिकरण न्यायपीठ "एक-सदस्य" मामला रायपुर में

**IN THE INCOME TAX APPELLATE TRIBUNAL
RAIPUR BENCH "SMC", RAIPUR**

**श्री रवीश सूद, न्यायिक सदस्य के समक्ष
BEFORE SHRI RAVISH SOOD, JUDICIAL MEMBER**

**आयकर अपील सं. / ITA No. 51/RPR/2023
निर्धारण वर्ष / Assessment Year : 2018-19**

The Raipur Industrial Steel Co.
631-632, Urla Industrial Area
Raipur-492 001 (C.G.)
PAN: AABFT3726B

.....अपीलार्थी / Appellant

बनाम / V/s.

ITO, Ward-2(2)
Aaykar Bhawan, Civil Lines
Raipur (C.G.)-492001

.....प्रत्यर्थी / Respondent

Assessee by : Shri Ravi Agrawal, CA
Revenue by : Shri Piyush Tripathi, Sr. DR

सुनवाई की तारीख / Date of Hearing : 11.04.2023

घोषणा की तारीख / Date of Pronouncement : 28.04.2023

आदेश / ORDER**PER RAVISH SOOD, JM:**

The present appeal filed by the assessee is directed against the order passed by the Commissioner of Income-Tax (Appeals), National Faceless Appeal Center (NFAC), Delhi, dated 03.02.2023, which in turn arises from the order passed by the AO under Sec.143(3) of the Income-tax Act, 1961 (in short 'the Act') dated 24.02.2021 for the assessment year 2018-19. The assessee has assailed the impugned order on the following grounds of appeal :

“1. That on the facts and circumstances of the case and in law, the Ld.CIT(A) erred in confirming the addition made by the Ld.AO to the tune of Rs.3,89,888.00 without appreciating the facts of the case and therefore, the impugned addition is liable to be deleted.

2.That the appellant reserves the right to add, alter or modify any grounds of appeal.

2. Controversy involved in the present appeal hinges around the sustainability of the addition of profit made by the AO on the alleged unaccounted sales of raw material/scrap of Rs. 1,39,74,484/- by the assessee company.

3. Succinctly stated, the AO in the course of the assessment proceedings observed that the assessee firm which was engaged in the business of manufacturing and trading of steel had suppressed its sale of raw material/scrap by an amount of Rs.1,39,74,484/-. The assessee company

on being confronted with the variance in the sale figures as disclosed in its Form 26AS as in comparison to that disclosed in its return of income, therein came forth with an explanation as regards the same, as under:-

“1. Query regarding sale-

Particulars	Amount as per ITR	Amount as per list filed
Sales net of duty or tax	10,50,36,486	11,90,10,970
Sales gross of duty or tax		14,03,21,445

In this regard it is submitted that

Sale of the assessee is grouped as under-

Items	Amount	Shown in audited financial statement
Manufactured items	10,50,36,486	Schedule-M- Item wise sale is shown separately
Raw material	1,39,74,484	Schedule -O- It is reduced from raw material consumption.
Total Rs.	11,90,10,970	

As such there is no difference in total sale amount as per list & above grouping. Relevant part of financial statement are also enclosed highlighting the sale figure reflecting in the schedule "M"&"O".

I Taxes such as excise duty/VAT/GST collected in sales is adjusted with taxes (Excised duty/VAAT?GST) paid on purchase as such it is credit in GST input account & the net balance is reflecting in schedule - L of the audited balance sheet.

2. Query regarding Purchases-

Particulars	Amount as per ITR	Amount as per list filed
Purchase net of duty or tax	9,63,93,430	11,03,67,914

Purchase gross of duty or tax		13,03,25,962
-------------------------------	--	--------------

Purchases is grouped as under the ITR-

Items	Amount	Shown in audited financial statement
Total Purchases	11,03,06,914	Schedule -O
Less:Sale of raw material	1,39,74,484	Schedule -O- It is reduced from raw material consumption.
Net raw material purchases	9,63,93,430	Shown in ITR

As such there is no difference in total purchase amount as per list & above grouping. Relevant part of financial statement are also enclosed highlighting the sale figure reflecting in schedule-“O”

Taxes such as excise duty/VAT/GST collected in sales is adjusted with taxes (Excised duty/VAT/GST) paid on purchase as such it is credit in GST input account & the net balance is reflecting in schedule-L of the audited balance sheet.

3. In form no. 26AS our purchase of scrap is reflecting which is uploaded by our suppliers, as such the amount of Rs.3,63,53,869/- reflecting in 26AS is our purchase of scrap (raw material) & not sales. Further amount of Rs.1,39,74,484/- is not our sale of scrap but it is sale of raw material which is already explained.”

4. On the basis of the aforesaid reply, it was the claim of the assessee company that the raw material/scrap of Rs.1,39,74,484/- which it had purchased was sold directly without any modification, i.e in the same form as it was purchased. It was submitted by the assessee that instead of separately reflecting the aforesaid sale of raw material/scrap of Rs.1,39,74,484/- it had reduced the said amount from the raw material purchases account. On the basis of its aforesaid explanation the assessee company tried to reconcile the impugned difference in the sales (net of

duty/tax) as was pointed out by the AO. However, the AO did not find favour with the aforesaid explanation of the assessee company and held the sale of raw material/scrap of Rs.1,39,74,484/- as its undisclosed turnover. The A.O considering the fact that the assessee company had already claimed expenses against sales applied the disclosed GP rate of 2.79% on the aforesaid unaccounted sales and made the consequential addition of Rs.3,89,888/- (1,39,74,484 x 2.79%) as its net profit from sale of the aforesaid raw material/scrap to its returned income.

5. Aggrieved, the assessee carried the matter in appeal before the CIT(Appeals) but without success.

6. The assessee being aggrieved with the order of the CIT(Appeals) has carried the matter in appeal.

7. I have heard the Id. Authorized Representatives of both the parties, perused the orders of the lower authorities and the material available on record.

8. As is discernible from the orders of the lower authorities, it is a matter of fact borne from record that the sales (net of duty/tax) of the assessee company as was gathered by the AO from Form 26AS, as against that disclosed in its return of income was higher by an amount of Rs.1,39,74,484/-. On a perusal of the record, we find that the assessee had

explained the aforesaid discrepancy by claiming that it had reduced the aforesaid amount of sale value of raw material/scrap that was sold without any modification (including the profit element) from the value of its purchases of Rs. 11,03,06,914 and thus, had claimed deduction of purchase of raw material at Rs.9,63,93,430/- [Rs.11,03,67,913.64 (minus) Rs. 1,39,74,484/-]. Ostensibly, the aforesaid explanation of the assessee that was filed before the AO is found to be duly substantiated, as the same also explains the discrepancy in the purchases as had surfaced on a conjoint perusal of Form 26AS as against those disclosed by the assessee in its return of income.

9. I have given a thoughtful consideration and perused the relevant schedules to which my attention was drawn by the Id.AR in order to fortify his aforesaid explanation, and find the said claim of his in order. In my considered view, as stated by the Ld.AR, and, rightly so, now when the assessee had reduced the sale of raw material/scrap of Rs.1,39,74,484/- from its total purchases [net of duty/tax] of Rs.11,03,67,914/-, then, the said sales could not have been dubbed as unaccounted sales transactions carried out by the assessee company outside its books of accounts. At this stage, I may herein observe that the correctness of the aforesaid explanation of the assessee company can safely be gathered from a conjoint perusal of the equal amount of discrepancy in the amount of sales vis-à-vis the amount

of purchases, as disclosed in Form 26AS as against that disclosed by the assessee company in its return of income, as under:

Particulars	Amount as per Income-tax Return	Amount as per list	Difference (i.e excess/deficit as per form 26AS vis-a vis return of income)
Sales	Rs. 10,50,36,486/-	Rs. 11,90,10,970/-	(+)Rs. 1,39,74,484/-
Purchases	Rs. 9,63,93,430/-	Rs. 11,03,67,914/-	(-)Rs. 1,39,74,484/-

I, thus, in terms of my aforesaid observation set-aside the order of the CIT(Appeals) and vacate the addition of Rs.3,89,888/- made by the AO. The **Ground of appeal No. 1** is allowed in terms of my aforesaid observations.

10. The **Ground of appeal No.2** being general in nature is dismissed as not pressed.

11. Resultantly, the appeal of the assessee is allowed.

Order pronounced in open court on 28th day of April, 2023.

Sd/-

(रवीश सूद /RAVISH SOOD)

न्यायिक सदस्य/JUDICIAL MEMBER

रायपुर/ RAIPUR ; दिनांक / Dated : 28th April, 2023

*#Thirumalesh/ SB

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(Appeals), Raipur (C.G)

4. The Pr. CIT, Raipur (C.G)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, रायपुर बेंच,
रायपुर / DR, ITAT, Raipur Bench, Raipur.
6. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

निजी सचिव / Private Secretary
आयकर अपीलीय अधिकरण, रायपुर / ITAT, Raipur.