

आयकर अपीलीय अधिकरण न्यायपीठ रायपुर में।
IN THE INCOME TAX APPELLATE TRIBUNAL,
RAIPUR BENCH, RAIPUR

BEFORE SHRI RAVISH SOOD, JUDICIAL MEMBER
AND
SHRI ARUN KHODPIA, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.205/RPR/2019
निर्धारण वर्ष / Assessment Year : 2015-16

The Income Tax Officer
Ward-1(1), Bhilai (C.G.)

.....अपीलार्थी / Appellant

बनाम / V/s.

M/s. Shree Parvati Scrap Processor Pvt. Ltd.
4/1, Priyadarshini Parisar (W),
Bhilai (C.G.)
PAN : AADCS2007H

.....प्रत्यर्थी / Respondent

Assessee by : Shri R.B Doshi, CA
Revenue by : Shri Satya Prakash Sharma, Sr. DR

सुनवाई की तारीख / Date of Hearing : 16.10.2023

घोषणा की तारीख / Date of Pronouncement : 11.12.2023

आदेश / ORDER**PER RAVISH SOOD, JM:**

The present appeal filed by the revenue is directed against the order passed by the Commissioner of Income-Tax (Appeals)-II, Raipur, dated 05.07.2019, which in turn arises from the order passed by the A.O under Sec.143(3) of the Income-tax Act, 1961 (in short 'the Act') dated 28.12.2017 for the assessment year 2015-16. The revenue has assailed the impugned order on the following grounds of appeal:

"1. Whether on the facts and law and in the circumstances of the case, the Ld. CIT(A) was justified in holding that when a proper documentation has been done and the sales and purchases are supported by bills and vouchers and there is evidence of transportation and delivery of goods, the conclusion drawn by the A.O is erroneous.

2. The order of the Ld. CIT(A) is erroneous both in law and on facts."

2. Succinctly stated, the assessee company, which is engaged in the business of scrap processing, trading of cast iron, etc., had filed its return of income for A.Y.2015-16 on 28.09.2015 declaring an income of Rs.3,710/-. Subsequently, the case of the assessee company was selected for scrutiny assessment u/s. 143(2) of the Act.

3. During the course of the assessment proceedings, it was observed by the A.O that the comparative figures of the turnover and gross profit of the company were as under:

A.Yr.	Turnover	Gross profit	G.P rate
2013-14	6,75,15,960	16,92,071	2.51%
2014-15	10,07,31,158	10,02,889	9.96%
2015-16	1,21,28,005	7,86,845	6.49%

(emphasis supplied by us)

The assessee company on being queried about the reasons for the decrease in its G.P rate submitted before the AO as under:

"Due to increase in competition in the iron and steel industry, the sales price got decreased; therefore resulting in less Gross profit ratio in the assessment year 2015-16. It is quite appreciable that in spite of such a stiff competition and unhealthy market conditions, the assessee has been able to achieve a reasonably good profit rate of 6.49%. Complete books of accounts have been maintained by us. The inventory records have been kept. It can be seen from monthly sales purchase data submitted before you honor that we were not in a position to grab any good trading opportunity in almost ten months out of the whole year. In Isolation, if we compare the Gross Profit with the industry norms, you would find it to be in quite acceptable range."

4. Also, the A.O. called upon the assessee company to furnish quantitative details regarding its purchases & sales, valuation of closing stock, and confirmations of sundry debtors and creditors. The A.O. observed that the assessee company had no "Opening stock" of cast iron and had purchased 494.730 Mts during the year (mostly in the month of February & March 2015 only) and had sold 119.600 Mts during March 2015. It was, thus, observed by the AO that the assessee company, after carrying out the aforesaid purchase/sale transactions, was left with a "Closing

stock” of cast iron of 375.130 Mts on 31.03.2015. On a perusal of the record, the AO observed that the assessee company had on 28.03.2015 purchased 12.50 Mts of cast iron from M/s AMR Iron and Steel Pvt. Ltd. @ Rs. 27200/- per Mts, i.e, for a total purchase consideration of Rs.3,40,000/-. The A.O observed that the assessee company had valued its “Closing stock” of 375.130 Mts of cast Iron at Rs.94,27,016/- (which included carriage inwards), i.e., at an average rate of Rs.25,129/- per Mts. Upon perusal of the record, the A.O. noticed that the assessee company was valuing its stock as per the FIFO method. Referring to the record, the A.O observed that the net realizable value/cost price of cast iron per Mts was as under (as culled out from the body of the assessment order) :

1. The net realizable value per MT : Rs.27,018/-
2. The cost price per MT : Rs.27,200/-
3. The closing stock has been valued per MT : Rs.25,129/-

5. The AO observed that though the assessee company had w.e.f 14.02.2015 valued its “closing stock” based on the date-wise input of its purchases, i.e., by taking the cost price but had not considered the sales which were carried out till 31.03.2015. Accordingly, the AO held a conviction that the value adopted by the assessee company for valuing its “Closing stock” was not correct as per the FIFO method. The AO was of the view that if the net realizable value of Rs. 27,018/- (i.e., lower than the purchase price) was to be adopted for the valuation of the “closing stock”, then, the valuation of the same by the assessee company @ Rs. 25,129/- per Mts would reveal an understatement of the value of the stock by an amount of Rs.1889 per Mts

[Rs. 27,018/- (minus) Rs. 25,129/-]. Accordingly, the AO worked out the value of the suppressed/understated "Closing stock" of 375.130 Mts of cast iron at Rs. 7,08,260/- [375.130 Mts X Rs. 1889/-].

6. The A.O. further observed that the assessee company had in its profit & loss a/c debited an amount of Rs.24,737/- towards carriage inwards. He observed that the assessee company had purchased a total quantity of 494.730 Mts of cast iron against which it had incurred the carriage inward charges of Rs. 24,737/- only, i.e., @ Rs. 20/- (*sic*) per Mts. Referring to the fact that most of the purchases were made by the assessee company from M/s AMR Iron and Steel Pvt. Ltd., Bhilai, i.e., its associate concern, the AO was of the view that the incurring of the said minuscule amount of transportation charges was beyond comprehension. Apart from that, the AO observed that the assessee company had claimed to have incurred the transportation charges in cash. The AO observed that the narrations in the "cash book" of the assessee company revealed cash payments towards transportation charges @Rs. 50/- per Mts for 500 Mts. Also, the AO noticed that there was no mention of truck nos. in the narration in the cash book. Apart from that, the AO observed that the assessee company had not booked any loading/unloading charges w.r.t cast iron that it had purchased. On being queried, the assessee company filed a reply on 20.12.2017 which reads as under:

"As desired by your honor. we attach herewith the copy of ledger account of Transportation expenses and produce herewith the bills of transportation for your kind perusal'

&

"It is respectfully submitted that the loading and unloading charges of material is included in the transportation cost of the goods. Due to the aforesaid reason no separate account has been maintained for the said expenses"

As the assessee company failed to substantiate the authenticity of its claim of transportation expenditure on the basis of supporting documentary evidence, the AO, thus, doubted the veracity of the said claim for the reason that it was incomprehensible that such minuscule charges @20/- per Mts (inclusive of loading/unloading charges) would have been incurred for transportation of goods.

7. Further, the AO on a perusal of the purchase register that was produced by the assessee company before him, observed, that though the assessee company had during the year made purchases aggregating to Rs.1,28,17,245/-, but in its profit and loss account it had disclosed the same at Rs.1,22,06,900/-. Accordingly, the A.O. called upon the assessee company to explain why its books of account were not to be rejected. In reply, the assessee vide its reply dated 23.12.2017 reiterated the same contentions w.r.t the issue of undervaluation of the "closing stock". As regards the transportation expenses, it was the claim of the assessee company before the A.O that the freight inward charges on goods purchased were only Rs.24,737/-, which worked out at a minuscule figure of 0.20% of the value of total purchases of Rs.1,22,06,900/-. However, the A.O., considering the sum debited with respect to transportation charges and the quantum of goods transported, concluded that the assessee company had factually not carried out any actual transportation.

8. The A.O called for the bank accounts of the assessee company, which, as reproduced in its assessment order is culled out as under:

Shri Parwati Scrap Processors Pvt.Ltd (SPSPPL). SBI-0000030682948502			
Date	Narration	Dr.	Cr.
21/01/15	By Trans.-IBN Tr SE-SPSPPL		20,00,000
23/01/15	To Tras-IBN Tr.SPSPPL-AMR	20,00,000	
24/01/15	By Trans-INB Tr MS SPSPPL		20,00,000
24/01/15	To Trans-INB Tr SPSPPL – AMR	20,00,000	
24/01/15	By Trans-INB Tr SE-SPSPPL		20,00,000
27/01/15	To Trans INB Tr SPSPPL	20,00,000	
28/01/2015	By Trans INB Tr MS SPSPPL		20,00,000
28/01/15	To Trans IBN Tr SPSPPL – AMR	20,00,000	
28/01/15	By Trans INB Tr SE SPSPPL		10,00,000
16/02/15	To Trans IBN Tr SPSPPL – AMR	10,00,000	
16/02/15	By Trans INB Tr MS SPSPPL		20,00,000

16/02/15	To Trans IBN Tr SPSPPL – AMR	20,00,000	
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Observing, that M/s. AMR Iron and Steel Pvt. Ltd. was a creditor in the books of account of the assessee company w.r.t the goods that were purchased from it; the A.O. called for information from M/s. AMR Iron and Steel Pvt. Ltd. It was observed by the A.O. that the directors of M/s AMR Iron and Steel Pvt. Ltd. were the relatives of the directors of the assessee company. The A.O. observed that the assessee

company had made purchases from M/s. AMR Iron and Steel Pvt. Ltd. (supra) in the month of February 2015., while for in the period prior thereto, there were no business transactions between them. Further, the AO on a perusal of the ledger account of M/s. AMR Iron and Steel Pvt. Ltd. (supra) observed that the assessee company had discharged only the liability of the opening balance during the year, and no payments were made for the purchases that were made during the year. Accordingly, the A.O observed that the money of the assessee company was being rotated from one account to another without any specific purpose since none of the concerns were retaining the amounts for, say, more than one or two days and, thus, holding a conviction that there was no actual purchase of material by the assessee company, rejected the purchase transactions by treating them as sham transactions.

9. The AO, further holding a conviction that the books of account of the assessee company were not correct and complete and did not reflect the true, correct and complete state of affairs of the business, thus rejected the same u/s. 145(3) of the Act. Accordingly, the A.O., considering the purchases amounting to Rs.1,28,17,245/- as not genuine, made an addition of the same to the assessee's returned income.

10. Based on his aforesaid observations, the AO held the "sales" of Rs. 1,27,34,406/- credited in the books of account of the assessee company as ingenuine and made an addition of the same u/s. 68 of the Act. Also, the A.O holding a conviction that the expenses claimed by the assessee company in its profit and loss account were not incurred for its business purpose since there were no genuine

purchases and sales of material as claimed, thus, made an addition of Rs.10,93,717/- (excluding purchase expenses) u/s. 69C of the Act.

11. Accordingly, the A.O., based on his aforesaid deliberations, vide his order passed u/s. 143(3) dated 28.12.2017 after, inter alia, making the aforesaid additions, determined the income of the assessee company at Rs.2,66,49,080/-.

12. Aggrieved the assessee company carried the matter in appeal before the CIT(Appeals), who, finding favor with the contentions advanced by the assessee company vacated the additions made by the AO.

13. The revenue being aggrieved with the order of the CIT(Appeals) has brought the matter in appeal before us.

14. The Ld. Departmental Representative (for short 'DR') submitted that the CIT(Appeals) had wrongly vacated the well-reasoned additions made by the AO vide his order u/s 143(3), dated 28.12.2017; therefore, his order be set aside, and that of the AO be restored.

15. Per contra, the Ld. Authorized Representative (for short 'AR') for the assessee company relied on the order of the CIT(Appeals). The Ld. AR submitted that as the CIT(Appeals) had passed a reasoned order, the same, thus, does not call for any interference. The Ld. AR relying on the order of the CIT(Appeals) has filed written submissions, which read as under:

“1. Transactions of assessee are genuine

- Books of accounts, purchase and sale bills etc. produced before the AO. No enquiry or verification carried out by the AO.
- In the purchase & sale bills, all details are mentioned, including truck number.
- Turnover disclosed in VAT return also. No adverse finding by VAT authorities.
- Purchase & sale consideration paid/received through banking channel.
- No material brought on record to disprove any of the claim of assessee.
- Buyers are business entities. Transaction with such entities were fully verifiable & could not have been discarded light heartedly.
- Assessment made on presumption and surmises, without bringing absolutely anything on record.

2. Observations of AO & explanation thereon:

i) Closing stock valuation

- Details of closing stock submitted before AO, at PN 4 & 5 of PB.
- Assessee is a company and auditors have also not expressed any qualification about there being anything wrong in stock valuation.
- Method of valuation is lower of cost and NRV. Cost was determined on FIFO basis, which is not doubted by the AO.
- As per FIFO, closing stock would be constituted of last purchases. Quantity of closing stock was 375.130 MT, which is not disputed. Entire details of last purchases of this quantity submitted, at PN 4 & 5 of PB. Purchase bills produced before AO. Nothing wrong found in these details.
- AO considered purchase quantity and purchase cost of goods purchased in the month of March only whereas quantity lying in stock included purchases of March as well as some part of purchases of February and therefore, cost of the purchases made in February was also required to be considered. Entire stock could not have been valued on the basis of purchase rate of March.
- Valuation of closing stock is in accordance with the provisions Accounting Standards. No qualification by the auditors.

ii) Difference in figure of purchases & sales

- There was no difference. The difference of Rs. 6,10,345/- in purchases was on account of VAT on purchases, due to exclusive method of accounting followed, as prescribed by the Accounting Standards of ICAI which are mandatory for a company. Explained to AO vide para 2 of letter dated 23.12.2017.

-Purchase register includes purchase price as well as VAT element whereas since exclusive method was followed, net purchases were debited in the profit and loss account. VAT routed separately.

- Purchase register at PN 61 & 62 of PB.

- Sales register at PN 63 & 64 of PB. Similar reason for difference. AO has not mentioned figures.

iii) Transactions in bank a/c of assessee & supplier AMR Iron & Steel

-Only on the basis of transactions in the bank account, no adverse inference could have been drawn. It could have at the most, triggered an enquiry.

- Since supplier confirmed the transaction in direct enquiry by AU, drawing adverse inference is not justified.

- The transactions in the bank account does not disprove anything against the assessee.

iv) Payment not made to supplier AMR Iron & Steel

-Since supplier was a group company and since purchases were made only in February and March, payments were pending, which were made in the subsequent year.

-Copy of a/c of supplier of subsequent year at PN 70 to 79 of PB. Entire payment made. It was totally assessee's prerogative to manage his financial affairs.

3. Rejection of books totally uncalled for. Even if observations of AO were correct, books could not have been rejected but addition could have resulted on a/c of stock valuation. No discrepancy found in respect of purchases, sales & expenses.

4. AO carried out third party enquiry and received necessary confirmation. Nothing adverse seems to have been brought on record. Still adverse inference drawn. Not. justified.

5. Sales remained totally undoubted. Business could not have been held to be in-genuine.
6. After rejecting books, AO made additions on the basis of entries in same books. Arbitrary.
7. Additions made are arbitrary. Everything could not have been added.”

16. We have heard the Id. Authorized Representatives of both the parties, perused the orders of the lower authorities and the material available on record. The CIT(Appeals) while concurring with the claim of the assessee company had vacated the additions made by the AO, observing as under:

“2.3 I have gone through the facts of the case and the submissions of the appellant. As per the above facts, the AO has commented that assessee has done mere money rotation with M/s. AMR Iron and Steel P Ltd. AO has added the purchases of the assessee as well as sales. He has also disallowed the expenses. If the AO is not convinced that the assessee is actually doing business activities he can either treat the sales receipts as unexplained credit or purchase debits as unexplained expenditure. The AO cannot add both the debit and credit entries.

The conclusion derived by the AO that the assessee is merely doing money rotation is not borne out of facts. Assessee has purchased scrap from M/s. AMR Iron and Steel Private Limited as per the ledger. Various quantities have been purchased starting from 02.01.2015 up to 19.3.2015. Payments have been made on various dates as have been reproduced at pages 5-8 of the assessment order. The amounts credited in bank account of the assessee have been used to make payment of M/s. AMR Iron and Steel P Ltd. There are identical entries of debit of Rs. 20 lakhs and credit of the same amount to M/s. AMR Iron and Steel P Ltd. Appellant has duly maintained books of accounts wherein expenses of loading, unloading, transportation, salary etc. are debited. Ld. AO has not made any attempt to verify these expenses. He has simply disallowed the expenses without making an attempt to show that the expenses are bogus. The appellant has maintained details of closing stock which shows that the appellant has actually carried out trading and is not merely rotating the money from one account to another account. Further the Id. AO has called for

3rd party confirmation but has not taken note of the same before arriving at a conclusion that assessee has not done any business. Even the VAT return filed with the Commercial Tax Department has been ignored. There is no ground to disbelieve that the business done by the assessee and making addition of purchase of Rs.1,28,17,245/- and sale of Rs. 1,27,34,406/-, further there is no material with the AO to conclude that the expenses of Rs.10,97,717/- were not incurred. Assessee has produced bills and vouchers of purchases and sales. The sale bills are duly vouched and contained Truck no, VAT registration no, date, quantity, amount and name of sellers. Appellant has also produced purchase bills received from the sellers which duly contains the bills of sellers, date, quantity, amount, truck registration number and VAT no, of sellers. Merely because the payments received by the appellant from the buyers have been. paid to the seller M/s. AMR Iron and Steel P Ltd, the AO has concluded that the assessee has not done actual business. In fact examination was done of books of accounts of the appellant and sales and purchases. When a proper documentation has been done and the sales and purchases are supported by bills and vouchers and there is evidence of transportation and delivery of goods, the conclusion drawn by the AO is erroneous. Any denial of these evidence must be based on adverse findings of inquiry which are not present. Therefore, the additions of purchases and sales figures as assessee's income, as well as the disallowance of expenditure are hereby deleted.

3.0 Ground 6 is against initiation of penalty u/s 271(1)(c) which is premature. Ground 7 is against levy of interest which is consequential of main addition. These are disposed.

4.0 The appeal is allowed.”

17. At the threshold, we may herein observe that the addition/disallowance made by the AO of the entire amount of purchases and sales disclosed by the assessee company in its profit & loss account is beyond comprehension and is devoid of any bereft of any reasoning. If the AO was of the view that the assessee company had not carried out any business during the year, then the proper recourse available to him was to have held the sale receipts as unexplained cash credits u/s 68 of the Act. However, there was no justification for him to have made an addition of both the

purchases and sales of the assessee company. As observed by the CIT(Appeals), and rightly so, there is no material discernible from the record that would substantiate the claim of the AO that the assessee company had not carried out any genuine business transactions during the year. On the contrary, it transpires that the assessee company had purchased 494.730 Mts of scrap over the period 02.01.2015 up to 19.3.2015, out of which it sold 119.600 MTS during the year itself. The assessee company had paid consideration towards the purchase of cast iron through its bank account. The observation of the AO that there are identical entries of credit of an amount of Rs. 20 lac and debit of the same amount within a short span towards payments to M/s AMR Iron and Steel Pvt. Ltd., i.e., the supplier party, had not been appreciated in the right perspective by the AO. As observed by the CIT(Appeals), and rightly so, the amounts credited in the bank account of the assessee company have been used by it to make payment of the purchase consideration to M/s. AMR Iron and Steel P Ltd., i.e., the supplier party. Also, we concur with the CIT(Appeals) that as the assessee company had duly maintained its books of accounts wherein expenses of loading, unloading, transportation, salary, etc., were debited, the AO, without making any attempt to verify the veracity of the assessee's claim for deduction of the said expenses could not have summarily disallowed the same by treating those as bogus. Also, we concur with the CIT(Appeals) that as the assessee company had maintained details of "closing stock", thus, in the absence of any material disproving the authenticity of the same it could safely be concluded that it had during the year actually carried out trading in cast iron and was not merely

rotating the money from one account to another account. Apart from that, we find that though the AO in the assessment proceedings had called for confirmations of the sundry debtors and creditors, but had not raised any doubts as regards the same before concluding that the assessee company had not done any business. Rather, the VAT return filed by the assessee company with the Commercial Tax Department, which, though had been ignored by the AO, in the absence of any material disproving the authenticity of the same, further fortifies the genuineness of the purchase/sales transactions carried out by the assessee company. As such, the CIT(Appeals) had rightly concluded that as the AO had failed to place on record any material that would prove that the assessee company had not carried out any genuine business during the year under consideration, the addition/disallowance of purchases of Rs.1,28,17,245/- and sales of Rs. 1,27,34,406/-, as well as the expenses of Rs.10,97,717/- could not be sustained. We find substance in the observation of the CIT(Appeals) that as the assessee company had produced bills/vouchers of purchases/sales which are duly vouched and contain the Truck nos., VAT registration no., date, quantity, amount, and name of sellers; therefore, merely because the payments received by the assessee company from its buyers were utilized for making payments to the seller, viz. M/s. AMR Iron and Steel P Ltd, therein, could not justifiably form a basis for concluding that the assessee company had not done actual business. As observed by the CIT(Appeals), now when the books of account of the assessee company have been examined, the sales and purchases are supported by bills and vouchers, and there is evidence of transportation and

delivery of goods, the conclusion drawn by the AO is erroneous. Any denial of the aforesaid documentary evidence must be based on adverse findings of the inquiry, which, as observed by the CIT(Appeals), the AO in the present case had failed to carry out to bring his conclusion to a logical end. We, thus, finding no infirmity in the view taken by the CIT(Appeals), uphold the same, though subject to our observation recorded hereinbelow.

18. As is discernible from the assessment order, the assessee company, which was admittedly following the FIFO method for valuing its "Closing stock", had valued its closing stock of 375.130 Mts of cast iron @Rs. 25,129/- per Mts. As observed by the AO, and rightly so, the assessee, as per the accounting standards r.w the FIFO method was supposed to take either the net realizable value of the stock or the cost price, whichever was less. As the net realizable value amounted to Rs. 27,018/- per Mts (i.e. lower than the cost price of Rs. 27,200/- per Mts; therefore, the assessee company ought to have valued the "Closing stock" of 375.130 Mts @Rs. 27,018/- (as against the value of Rs. 25,129/- per Mts). The Ld. AR had not placed on record any material that would support the valuation of "Closing stock" by the assessee company @Rs. 25,129/- per Mts. We, thus, in terms of our aforesaid observations, modify the order of the CIT(Appeals) and sustain the addition of Rs. 7,08,620/- (supra) made by the AO towards understatement/suppression of the value of "Closing stock".

19. Resultantly, the appeal filed by the revenue is partly allowed in terms of our aforesaid observations.

Order pronounced in open court on 11th day of December, 2023.

Sd/-
ARUN KHODPIA
(ACCOUNTANT MEMBER)

Sd/-
RAVISH SOOD
(JUDICIAL MEMBER)

रायपुर/ RAIPUR ; दिनांक / Dated : 11th December, 2023

***SB

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

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