

**IN THE INCOME TAX APPELLATE TRIBUNAL,
MUMBAI BENCH "G", MUMBAI**

**BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER
AND SHRI AMARJIT SINGH, ACCOUNTANT MEMBER**

**ITA Nos.1680 & 1681/Mum/2024
Assessment Year: 2009-10**

M/s. Special Steels & Alloys Sai Prathmesh Building No. 1, 1 st Floor, Room 110, Vijay Nagar Nalasopara East, Mumbai-401209. PAN: ABLFS 4534 K (Appellant)	Vs.	ITO Ward 19(3)(4), Mumbai (Respondent)
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Present for:

Assessee by : None
Revenue by : Shri B. Laxmi Kanth, Sr. DR

Date of Hearing : 08.07.2024
Date of Pronouncement : 11.07.2024

ORDER

PER AMARJIT SINGH, ACCOUNTANT MEMBER:

Both these appeals of the assessee for the assessment year 2009-10 are directed against different orders passed by the Id. Commissioner of Income-tax, Appeals, NFAC, Delhi [hereinafter referred to as 'the Id. CIT(A)']. Since common issue and identical facts involved in these appeals therefore these people are adjudicated together by this common order.

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2. Fact in brief is that return of income declaring total income of Rs. 1,81,890/- was filed on 26.09.2009. The return was processed u/s 143(1) of the Income-tax Act, 1961. Subsequently information was received from the DDIT (Inv.), Mumbai that assessee has

obtained accommodation entries of bogus purchases from the following parties:

“i. Navkar Impex

ii. Gravity Metal & Alloys Pvt. Ltd.”

3. On the basis of information, the case of the assessee was reopened u/s 147 of the Act by issuing of notice u/s 148 of the Act on 25.02.2014. During the course of assessment proceeding neither the assessee has filed return of income in response to notice u/s 148 of the Act nor made any compliance during the course of assessment proceedings before the assessing officer. Therefore, the assessing officer has treated the whole amount of purchases of Rs. 28,08,416/- made from the accommodation entry provider as bogus purchases and added to the total income of the assessee.

4. The assessee filed appeal before the ld. CIT(A). The ld. CIT(A) has dismissed the appeal of the assessee for non-prosecution since has not made any compliance to the notices issued during the course of appellate proceedings.

5. Heard the ld. DR and perused the material on record. The assessing officer has completed the assessment u/s 144 r.w.s. 147 of the Act by treating the whole amount of purchases made from the alleged two accommodation entry providing parties as non-genuine and added to the total income of the assessee. The ld. CIT(A) has dismissed the appeal of the assessee without adjudicating on merit as the assessee has failed to make any compliance before the ld. CIT(A). In the order of the ld. CIT(A) no information has been provided relating to servicing of different

notices issued during the course of appellate proceedings by the ld. CIT(A). We have perused the copy of Form No. 35 filed by the assessee before the ld. CIT(A) and found that in Form No. 35, assessee has given e-mail address as umeshkjain29@gmail.com. However, we find that in Form No. 36 filed before us, the assessee has given new e-mail ID as vikasfgl@rediffmail.com. It appears that changed in the e-mail ID will be the possible reasons for not making compliance before the First Appellate Authority. Since in the case of the assessee neither the CIT(A) has decided the appeal of the assessee on merit nor the assessee has made compliance during the course of appellate proceedings, therefore, we consider it appropriate to restore this case to the file of the ld. CIT(A) for deciding on merit as contemplate u/s 250(6) of the Act after providing more opportunity to the assessee. The ld. CIT(A) is requested to take on record the e-mail ID provided by the assessee in Form No. 36 filed before us for the purpose of making communication relating to appellate proceedings. The assessee is directed to make compliance without any failure this time before the ld. CIT(A) therefore, the appeal of the assessee is allowed for statistical purposes.

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6. Similar to the facts and circumstances, the ld. CIT(A) has dismissed the appeal of the assessee against the penalty levied by the assessing officer of Rs. 7,84,843/- as the assessee has not made any compliance to the notices issued by the ld. CIT(A). On the same reason as discussed supra while adjudicating the appeal of the assessee vide ITA 1680/Mum/2024 this appeal is also

restored to the file of ld. CIT(AJ) for deciding afresh on merit after providing more opportunity to the assessee. The assessee is also directed to make compliance before the ld. CIT(A) without any failure. Therefore, this appeal of the assessee is also allowed for statistical purposes.

7. In the result, both appeals of the assessee are allowed for statistical purposes.

Order pronounced in the open court on 11.07.2024.

Sd/-
(SATBEER SINGH GODARA)
JUDICIAL MEMBER

Sd/-
(AMARJIT SINGH)
ACCOUNTANT MEMBER

Mumbai, Dated: 11.07.2024
Biswajit, Sr. P.S.

Copy to:

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

//True Copy//

By Order

Assistant Registrar
ITAT, Mumbai Benches, Mumbai