

**IN THE INCOME TAX APPELLATE TRIBUNAL, 'E' BENCH
MUMBAI**

**BEFORE: SHRI AMIT SHUKLA, JUDICIAL MEMBER
&
SHRI GAGAN GOYAL, ACCOUNTANT MEMBER**

**ITA No.2181/Mum/2024
(Assessment Year :2009-10)**

Shri Hemantkumar Sumermal Bhansali Prop. Of Pushpak Steel & Engineering Co.6/B, 52/54 1 st Floor, C.P. Tank Mumbai-400004	Vs.	Commissioner of Income Tax Appeal (NFAC) ACIT-15(3) Matru Mandir Mumbai
PAN/GIR No.AABPB6379C		
(Appellant)	..	(Respondent)

Assessee by	Shri Vimal Punmiya
Revenue by	Shri P.D.Chougule
Date of Hearing	09/07/2024
Date of Pronouncement	25/07/2024

आदेश / O R D E R

PER AMIT SHUKLA (J.M):

The aforesaid appeal has been filed by the assessee against order dated 30/03/2024 passed by NFAC, Delhi for the quantum of assessment passed u/s. 143(1) for the A.Y.2009-10.

2. The only ground raised by the assessee is confirming the addition of Rs.21,28,985/- made by the ld. AO u/s.69C on

account of peak credit of alleged bogus purchases made from six parties.

3. Assessee is a dealer in ferrous and non-ferrous metals. He has filed the return of income on 29/09/2009 declaring returned income Rs.12,04,450/-. Later on, an information was received from office of DGIT (Investigation) that assessee has taken accommodation entries from certain parties to inflate its purchases and based on such information notice u/s.148 was issued. The ld. AO noted that assessee made purchases from such alleged six hawala parties for sums aggregating to Rs.21,28,985/-. Based on this information alone he has added the entire purchases of Rs.21,28,985/-. The ld. CIT(A) too has confirmed the said addition holding that the Investigation Wing has sent notices u/s.133(6) to these parties and which remain unserved and since, these parties appear in the list of hawala dealers identified by the sales tax department to confirm the entire purchases made from such parties.

4. Before us ld. Counsel submitted that before the ld. AO assessee had furnished ledger account of the parties quantity wise purchase register, quantity wise sales register and not only that, assessee has also produced sale invoices made out of the purchases made from such parties alongwith lorry receipt copy and other related documents. List of these documents have been placed from pages 44 to 164. Apart from that, assessee has also furnished details of every sale against 'C' form alongwith copy of bank statements highlighting payments through account payee

cheques to the purchase parties and also cheques received out of sales. He submitted that assessee had shown gross profit of 5.61% and in fact the GP from the alleged purchases is 8.35%. Thus, he submitted that no addition should have been made. Ultimately he submitted that in the case of trader of ferrous and non-ferrous metal, the GP rate is not more than 5% and assessee had already shown more than 5%. On the other hand, ld. DR strongly relied upon the order of the ld. AO and ld. CIT(A).

5. We have heard both the parties and also perused the relevant finding given in the impugned orders. The entire basis for making the addition on account of bogus purchases is that firstly, there was information received from Investigation Wing that sales tax department has published the list of hawala dealers. Assessee has also made purchases from following six parties during the year.

Sr. No.	Name of the purchase party	TIN	Amount of alleged Purchases (Rs.)
1	ROHAN STEEL IMPEX	27410650544V	4,38,663/-
2	SHIVAM METAL INDUSTRIES	27930647057V	7,58,032/-
3	NEW EVEREST STEEL	27140622126V	62,302/-
4	SHREE GURURAJ METAL CORP	27890570352V	2,50,371/-
5	DINESH STEEL (INDIA)	27370384786V	3,09,271/-
6	MINAXI METAL INDIA	27830663214V	3,10,346/-
	Total		21,28,985/-

6. The second reasoning given by the ld. AO is that notices u/s .133(6) issued to some of the parties remain unserved. Based on this reasoning, the entire purchases of Rs.21,28,985/- has been added. From the perusal of the documents furnished before us it is seen that to prove the genuineness of the purchases, assessee had filed audit report wherein the entire purchases and sale quantity wise has been given. Apart from that assessee had also filed quantity wise purchase register and quantity wise sale register made during the entire year. Further, assessee had also filed purchase invoice, sale invoice, lorry receipt copy for delivery of goods and various other documents and pointed out that the purchase quantity made from these parties have been sold and there is no difference between the purchase quantity and quantity sold. One important fact is that ld. AO has not disputed the quantity of purchases recorded in the books of accounts or in the trading account or doubted the corresponding sales. Once the quantities are verifiable from the tax invoice, delivery challans and corresponding tax invoice / sales which were made to parties like Tata Steel Ltd., Larsen & Toubro Ltd, Tata Chemicals Ltd and other big companies, etc., thus, it cannot be held that purchases made by the assessee are bogus, especially when entire trading results have been accepted by the ld. AO. Accordingly, we hold that purchases could not have been added here in this case. Assessee had filed voluminous documents alongwith copy of sales tax/ VAT returns wherein the purchases and sales have been accepted. The assessee has also produced delivery challans of the purchases. Thus, under these facts and

circumstances, we hold that purchases cannot be disallowed at all. Accordingly, the addition of Rs.21,28,985/- is deleted.

7. In the result, appeal of the assessee is allowed.

Order pronounced on 25th July, 2024.

Sd/-
(GAGAN GOYAL)
ACCOUNTANT MEMBER
Mumbai; Dated 25/07/2024
KARUNA, *sr.ps*

Sd/-
(AMIT SHUKLA)
JUDICIAL MEMBER

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai