

**IN THE INCOME TAX APPELLATE TRIBUNAL “SMC” BENCH, MUMBAI
BEFORE MS. KAVITHA RAJAGOPAL, JM AND SHRI GAGAN GOYAL, AM**

ITA No.1436/Mum/2024
(Assessment Year: 2011-12)

Pooja Metal Corporation 104 Durgadevi Street, Kumbharwada, Mumbai-400 004	Vs.	ITO-19(2)(5) Piramal Chamber, Mumbai
PAN/GIR No.AAHFP 6973 G		
(Assessee)	:	(Respondent)
Assessee by	:	Ms. Pooja Chhawachharia
Respondent by	:	Shri Avinash Karpe
Date of Hearing	:	22.10.2024
Date of Pronouncement	:	25.10.2024

ORDER

Per Kavitha Rajagopal, J M:

This appeal has been filed by the assessee, challenging the order of the learned Commissioner of Income Tax (Appeals)-2, Chennai ('ld.CIT(A) for short), National Faceless Appeal Centre ('NFAC' for short) passed u/s.250 of the Income Tax Act, 1961 ('the Act'), pertaining to the Assessment Year ('A.Y.' for short) 2011-12.

2. The assessee has challenged this appeal on the following grounds:

1. (a) *On facts and circumstances of the case and in law, Ld. CIT(A) erred in confirming the addition on the pretext that necessary explanation and supporting documents were not submitted ignoring the fact that all the response were given.*

2. *On facts and circumstances of the case and in law, Id. CIT (A) erred in confirming the opinion of the A.O on alleged bogus purchases without appreciating the facts that the opinion of the A.O is based on merely presumptions and sub conjectures and not on any material evidences corroborating the purchases when it is an accepted fact that material evidences super cedes all presumptions.*

(b) *The CIT (A) erred in confirming the addition without appreciating the understated vital facts that the purchases are duly supported with necessary documentary evidences including*

quantitative tally of purchases and sales and there appears no sign of it being bogus and the learned officer accepted the books of accounts.

(c) *The Appellant prays that the addition/ disallowance of entire Rs. 1124632/- made in respect of alleged purchases be deleted."*

3. *On the facts and circumstances of the case and in law, the CIT (A). Erred in dismissing the ground for the appellant's plea of withdrawal of initiation of penalty proceedings u/s 271(1) (c).*

3. The brief facts are that the assessee is a registered firm, engaged in the business of trading in ferrous and non ferrous metals in the name and style M/s. Pooja Metal Corporation and had filed its return of income on 29.09.2011 for the year under consideration, declaring total income at Rs.29,830/-. The assessee's case was reopened vide notice u/s. 148 of the Act dated 16.09.2014 for the reason that as per the information received from Sales Tax Department the assessee was one of the beneficiary of availing accommodation entries by way of bogus purchase bills from the following parties:

<i>Sr. No.</i>	<i>Name of the party</i>	<i>Amount</i>
1	<i>Surat Tube Corporation</i>	<i>5,04,504/-</i>
2	<i>Vidhi Metal Industries</i>	<i>3,71,475/-</i>
3	<i>Valianat Steel Engineering Co.</i>	<i>36,65,510/-</i>
4	<i>Pushpak Metak Industries</i>	<i>1,47,264/-</i>
5	<i>Padmavati Metal Industries</i>	<i>16,13,768/-</i>
6	<i>Real Steel (India)</i>	<i>26,94,536/-</i>
	<i>Total</i>	<i>89,97,057/-</i>

The Id. Assessing Officer ('A.O.' for short) then passed the assessment order u/s. 143(3) r.w.s. 147 of the Act on 18.03.2016, determining the total income at Rs.11,54,462/- after making an addition of Rs.11,24,632/- being 12.5% of the alleged bogus purchase, aggregating to Rs.89,97,057/-.

4. The assessee had challenged the assessment order before the Id. CIT(A).

5. The Id. CIT(A) vide an *ex parte* order dated 22.03.2024 had confirmed the additions made by the A.O. on the ground that the assessee has failed to furnish the

details to substantiate its transaction and has failed to discharge the burden casted upon the assessee.

6. The assessee is in appeal before us, challenging the order of the Id. CIT(A).

7. The Id. Authorized Representative (AR for short) for the assessee contended that the assessee's transactions were genuine and prayed for one more opportunity to present the assessee's case before the Id. CIT(A).

8. The Id. Departmental Representative (Id. DR for short) opposed to setting aside the issue to the Id. CIT(A) for the reason that the assessee was given several opportunities to present its case before the first appellate authority.

9. Having heard the rival submissions and perused the materials available on record. We deem it fit and proper to provide the assessee with one last opportunity to furnish the documentary evidence in support of its claim before the Id.CIT(A) in accordance with the principles of natural justice. The assessee is directed to co-operate in the proceedings before the Id. CIT(A) by furnishing all the relevant documentary evidence without causing any undue delay. The Id. CIT(A) is directed to peruse the same and to decide the case on merits. We hereby remand this appeal to the file of the Id. CIT(A) for *de novo* adjudication.

10. In the result, the appeal filed by the assessee is allowed for statistical purpose.

Order pronounced in the open court on 25.10.2024.

Sd/-

Sd/-

(Gagan Goyal)

(Kavitha Rajagopal)

Accountant Member

Judicial Member

Mumbai; Dated : 25.10.2024

Roshani, Sr. PS

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. CIT- concerned
4. DR, ITAT, Mumbai
5. Guard File

BY ORDER,

(Dy./Asstt.Registrar)
ITAT, Mumbai