

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'H', NEW DELHI**

**BEFORE SH.M. BALAGANESH, ACCOUNTANT MEMBER
AND
SH. SUDHIR KUMAR, JUDICIAL MEMBER**

ITA No.5433/Del/2019
Assessment Year: 2011-12

ITO Ward- 27 (1) New Delhi	Vs.	Unnati Alloys Pvt. Ltd. 211, 4637, SF hair Sadan Kothi No.20, Ansari Road, Darya Ganj, New Delhi- 110002 PAN No.AABCU1531E
(APPELLANT)		(RESPONDENT)

Appellant by	Sh. Pravin Rawal, CIT DR
Respondent by	None

Date of hearing:	16/10/2024
Date of Pronouncement:	14/11/2024

ORDER

PER SUDHIR KUMAR, JM:

This appeal by the revenue is directed against the order of the Commissioner of Income Tax (Appeals)-23, New Delhi [hereinafter referred to as "CIT(A)"] vide order dated 14.03.2019 pertaining to A.Y. 2011-12 pertaining to arises out of the assessment order dated 30.03.2014 under section 143(3) of the Income Tax Act 1961 [hereinafter referred to as 'the Act'].

2. The assessee has raised following grounds of appeal :-
1. *That the Ld. CIT(A) erred in law and on facts in admitting the additional evidences under Rule 46 (2) furnished by the assessee without properly appreciating that proper and sufficient opportunity was given to the assessee and assessee was not prevented by any reasonable cause to furnish such evidence before the Assessing Officer.*
 2. *That the Ld. CIT(A) erred in law and on facts in deleting the additions of Rs.88,73,513/- made by AO on account of brokerage or commission on amount of accommodation entries provided by assessee without properly appreciating the facts and circumstances of the case.*
 3. *That the Ld. CIT(A) erred in law and on facts in deleting the addition of Rs.21,17,25,385/- out of total addition of Rs.21,39,40,468/- made on account of bogus purchase, without properly appreciating the facts and circumstances of the case.*
 4. *That the order of the CIT(A) is erroneous and not tenable in law and on facts and it is prayed that the order*

of the learned CIT(A) may be set aside and the order of the AO be restored.

3. The brief facts of the case are that the company is stated to be engaged in trading and Alloys. The assessee company has filed his return of income declaring Rs 7,19070/- for the A.Y. 2011-12 on 26-09-2011. The case was selected for scrutiny through CASS and notice u/s 143(2) of the Act was issued accordingly. In the response of the notice the authorized representative attended the proceedings. The assessee company during the year under consideration has shown a turnover of Rs.276,60,05,167/- as compared to the turnover of Rs.5,500/- in the immediate preceding year. Necessary notices u/s.133 (6) of the Act were issued to gather information from sale and purchase parties. The AO has made the total addition of Rs 22,35,33,050/- u/s 68 of the Act and penalty proceedings u/s. 271 (1)(c) read with section 274 for concealment / filing of inaccurate particulars of income has already been initiated.

4. Aggrieved by the order of the AO, the assessee has filed the appeal before Ld CIT(A) who vide order dated 14.03.2019 has partly allowed the appeal. Aggrieved the order dated 14-03-2019 the revenue is in appeal before us.

5. None present on behalf of the assessee. We have heard the Ld.DR and perused the material available on record.

6. The Ld. DR has filed an affixure report and submitted that the notice issued by the Hon'ble H Bench ITAT in ITA No.5433/Del/2019 for A.Y.2011-12 have been affixed by Sh. Adhtiya Kumar, Tax Assistant on 01.11.2023 in his presence at above mentioned address which is the last known address of the assessee, as notice could not be served on him personally.

7. We have heard the ld. DR and perused the material available on record. The Ld. DR has submitted that the notice has not been served to the assessee as the assessee was not residing at the given address. The notice returned back as un-served as per the report submitted by the Inspector himself.

8. On perusal of the order of the Ld CIT(A) reveals that some letters issued u/s 133(6) of the Act were returned back un-served. The authorized representative did not show any reasonable cause why the notices were received un-served. The Ld.CIT(A) has relied the cross examination of Sh. Amit Gupta conducted on 10-04-2018. Shri Amit Gupta has retracted his statement after 6 years. Ld CIT(A) has erred in deleting the addition made by AO. The appeal of the revenue is liable to be allowed for statistical purpose. Therefore, in the interest of

justice and fair play we restore the issue to the files of the Ld CIT(A). The Ld CIT(A) is directed to pass the fresh order after proper service of the notice upon the assessee.

9. In the result the appeal of the revenue is allowed for statistical purpose.

Order pronounced in the open court on 14.11.2024.

Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER

NEHA, Sr. PS

Date:- .11.2024

Copy forwarded to:

- 1.Appellant
- 2.Respondent
- 3.CIT
- 4.CIT(Appeals)
- 5.DR: ITAT

Sd/-
(SUDHIR KUMAR)
JUDICIAL MEMBER

ASSISTANT REGISTRAR
ITAT NEW DELHI