

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

**BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER  
AND  
SHRI S. RIFAUR RAHMAN, ACCOUNTANT MEMBER**

ITA No.861, 2648 & 2647/Del/2022  
Assessment Year: 2016-17, 2017-18 & 2018-19

DCIT, Central Circle-25, Delhi	<b>Vs.</b>	M/s. ANS Steel Tubes Ltd., 601, Hemkunt Chambers, 89, Nehru Place, Delhi
<b>PAN:AAGCA3693Q</b>		
<b>(Appellant)</b>		<b>(Respondent)</b>

Assessee by	Sh. Salil Aggarwal, Sr. Adv. Sh. Shailesh Gupta, CA
Department by	Ms. Baljeet Kaur, CIT(DR)

Date of hearing	28.01.2025
Date of pronouncement	28.01.2025

**ORDER**

**PER SATBEER SINGH GODARA, JM**

These Revenue's three appeals ITA Nos. 861, 2648 & 2647/Del/2022 for assessment years 2016-17, 2017-18 & 2018-19 are directed against the Commissioner of Income Tax (Appeals)-29 [in short, the "CIT(A)"], Delhi's orders dated 21.02.2022, 24.08.2022 passed in case nos. 10928/2015-16, 10601/2016-17 and 10475/17-18 involving proceedings under sections

153C/143(3) and 143(3) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act'), respectively.

2. Heard both the parties. Case files perused.

3. It emerges at the outset that the Revenue's first and foremost appeal herein ITA No. 861/Del/2022 involves tax effect of Rs.52,29,218/-, which is less than the minimum tax effect prescribed of Rs.60 lakhs in the CBDT latest Circular No. 9/2024, dated 17.09.2024 with retrospective effect. We thus reject the Revenue's instant appeal ITA No. 861/Del/2022 for this precise reason subject to all just exceptions.

4. Next comes the Revenue's latter twin appeals ITA No. 2648 & 2647/Del/2022 involving section 153C read with section 143(3) proceedings involving identical set of facts. Both the parties very fairly take us to the Assessing Officer's former assessment framed on 20.04.2021, in furtherance to the department's search action dated 05.10.2017 carried out in case of M/s. JBM group of cases, making under invoicing and scrap sales suppression additions of varying sums, aggregating to Rs.1,76,25,457/-, as reversed in the CIT(A)'s order under challenge as follows:

*"10. In the present case no evidence or material indicating any suppressed sales in respect of the relevant assessment year was stated to have been found during search by the AO. Therefore, the AO*

*was not justified to assume and extrapolate suppressed sale of scrap for the assessment year in consideration. Addition on account of suppressed sales are to be made only for the year for which evidence or documents have been found/ seized for a part of the accounting period and not for the period for which no information is available on the basis of seized record. Additions are required to be made on basis of tangible evidence and not solely on basis of estimations and extrapolation theory.*

*Accordingly, I am of the view that the extrapolation of the scrap sales worked out by AO by enhancing the rate and quantity of sale of scrap is not justifiable. Respectfully following the legal pronouncements as discussed above, it is held that the additions made by the AO were contrary to provisions of law. In view of the above, the additions made by AO on account of under invoicing of scrap sales of Rs 1,04,80,001/- and on account of unrecorded sales (in quantity) of Rs 71,45,456/- are deleted. Accordingly, the appellant gets relief on these grounds of appeal.”*

5. Learned senior counsel further invites our attention to the tribunal's recent common order in M/s. Neel Metal Products Ltd, dated 09.07.2024 involving the very search action wherein the Revenue's all corresponding appeals stand dismissed holding that there was not even an iota of evidence found/seized during the course of search pinpointing either under invoicing or suppression of scrap sales; as the case may be. The Revenue is equally fair in not disputing all these intervening legal developments.

6. That being the case, we adopt judicial consistency to uphold the learned CIT(A) findings deleting the impugned twin additions made by the Assessing Officer's in assessee's hands alleging under invoicing and suppression of scrap sales, as the case may be.

7. Learned senior counsel at this stage seeks to buttress the point in assessment year 2018-19 that their arises yet another issue of validity of section 153C proceeding/assessment in assessee's case which deserve to be decided against the department. We are of the considered view that once we have already rejected the Revenue's main appeal in last assessment year 2018-19 on merits; the same need not be decided at this stage for the sake of brevity. Mr. Aggarwal submits that as a matter of abundant caution, the instant last legal ground may be kept open. Ordered accordingly.

8. These Revenue's three appeals ITA No. 861, 2648 & 2647/Del/2022 are dismissed in above terms. A copy of this common order be placed in the respective case files.

***Order pronounced in the open court on 28<sup>th</sup> January, 2025***

***Sd/-***  
**(S. RIFAUR RAHMAN)**  
**ACCOUNTANT MEMBER**

***Sd/-***  
**(SATBEER SINGH GODARA)**  
**JUDICIAL MEMBER**

Dated: 28<sup>th</sup> January, 2025.

RK/-

Copy forwarded to:

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

Asst. Registrar, ITAT, New Delhi