

IN THE INCOME TAX APPELLATE TRIBUNAL
 DELHI BENCH: 'SMC-I', NEW DELHI
 BEFORE SHRI H.S. SIDHU, JUDICIAL MEMBER
 (THROUGH VIDEO CONFERENCE)

ITA NO. 1561/DEL/2019
 A.Y. : 2014-15

SHRI ANANT STEEL PRIVATE LIMITED, MAUZA KHARAR ALIPUR, KHASRA NO. 142, VILLAGE MAYAR NH-10, DELHI ROAD, HISAR (PAN: AAQCS5464D)	Vs.	INCOME TAX OFFICER, WARD-4, HISAR
(Appellant)		(Respondent)

Assessee by	Sh. Gaurav Jain, Adv. & Sh. Himanshu Aggarwal, CA
Department by	Sh. Prakash Dubey, Sr. DR.

ORDER

PER H.S. SIDHU, JM:

This appeal filed by the Assessee is directed against the impugned order dated 12.12.2018 passed by the Ld. CIT(A), Hisar in relation to assessment year 2014-15 on the following grounds:-

1. That the impugned order is against facts and bad in law.
2. That on the facts and circumstances of the case, the Ld. CIT(A) has erred in confirming the addition of Rs.

5,41,426/- on account of burning losses during the process of manufacture of ingots.

3. That on the facts and circumstances of the case, the Id. CIT(A) has erred in confirming the addition of Rs. 3,50,000/- on account of loan from Smt. Bimla Devi alleging an accommodation entry whereas:-
 - a. the loan from Smt. Bimla Devi has been received through NEFT through proper banking channel.
 - b. that Smt. Bimla Devi is an income tax assessee.
 - c. the addition has been made u/s. 115BBA and the provisions of said section are not applicable.
4. That on the facts and circumstances of the case, the Ld. CIT(A) has erred in confirming the addition of Rs. 10,00,000/- made by the Assessing Officer out of cartage outward for alleged inflated expenses claimed.
5. The appellant craves leave to add, alter, amend or vary the above ground(s) of appeal before or at the time of hearing.

2. The brief facts relating to the case are that the assessee filed its e-return of income on 01.10.2014 declaring loss of Rs.9,65,047/- (unabsorbed depreciation) for the AY 2014-15. The assessee had shown its deemed income of Rs. 6,89,308/- in terms of Section 115JB and paid taxes due thereon under MAT provision. The case of the assessee was selected under CASS. Accordingly, statutory notice u/s. 143(2) and 142(1) of the Income Tax Act, 1961 (hereinafter referred to as "the Act")

were issued and served alongwith questionnaire which were complied with by the assessee. In response thereto the AR of the assessee attended the proceedings from time to time and filed necessary details of information. After discussions, the Assessing Officer made the addition of Rs. 5,41,426/- on account of disallowance of burning loss; Rs. 3,50,000/- on account of disallowance of unsecured loan raised from Bimla Devi and Rs. 10,00,000/- on account of disallowance out of cartridge outward and assessed the total income of the assessee at Rs. 9,25,350/- u/s. 143(3) of the Income Tax Act, 1961 vide order dated 27.12.2016. Aggrieved with the assessment order, assessee appealed before the Ld. CIT(A), who vide his impugned order dated 12.12.2018 has dismissed the appeal of the assessee. Against the impugned order dated 12.12.2018, assessee is in appeal before the Tribunal.

3. At the time of hearing, with regard to addition of Rs. 5,41,426/- on account of disallowance of burning loss is concerned, Ld. Counsel for the assessee stated that during the year the burning loss in their plant was to the extent of 5.81% which is accurate and as per consumption and production of the finished goods and they purchased mainly turning boring scrap from the factories which has high burning loss in comparisons to other

materials and burning loss depends upon the material used by manufacturers and if they use more quantity of sponges iron it will increase. It was also submitted that there is no standard % of burning loss in furnace it only depends furnace to furnace and only one kind of scrap cannot be used, they used different kind of scrap which has different % burning loss. It was further submitted that in financial year 2013-2014 using of turning boring scrap is more than the turning boring scrap used in financial year 2012-13 and their burning loss is actual derived during the production process. It was further submitted that all the purchases are recorded in the books of accounts and details of sponge Iron used along with the documentary evidence are enclosed. Hence, it is requested that addition in dispute may be deleted. On the contrary, Ld. DR relied upon the orders of the authorities below on this issue.

3.1 I have heard both the parties on the issue in dispute and perused the orders of the authorities below. I find considerable cogency in the contention of the Ld. Counsel for the assessee that there is no standard % of burning loss in furnace it only depends furnace to furnace and only one kind of scrap cannot be used, they used different kind of scrap which has different % burning loss. It was noted that all the purchases are recorded in the books of accounts and details of sponge Iron used along with the

documentary evidence which were filed before the authorities below, which have not been properly appreciated. It was also noted that during the year the burning loss in the assessee's plant was to the extent of 5.81% which is accurate and as per consumption and production of the finished goods. In view of above, the addition in dispute is not tenable. Even otherwise, as per settled law, the addition made by the AO was on estimate basis, which is not sustainable, hence, the same is deleted as such.

4. As regards addition of Rs. 3,50,000/- on account of disallowance of unsecured loan raised from Bimla Devi is concerned, Ld counsel for the assessee submitted that assessee has taken unsecured loan from Bimla Devi by account payee cheque. The loan was taken in routine course of business. Smt. Bimla Devi is the relative of the directors of the company. She is regular income tax assessee and filing her income tax return. It was further submitted that Cash and Bank statement of Bimla Devi for the year 2013-14 alongwith its ITR, computation of income and balance sheet was filed before the authorities below, but could not properly appreciated. Hence the loan taken from Bimla Devi is genuine, it can't be considered out income and therefore, requested to delete the addition in dispute. On the contrary, Ld. DR relied upon the orders of the authorities below

on this issue.

4.1 I have heard both the parties on the issue in dispute and perused the orders of the authorities below. I find considerable cogency in the contention of the Ld. Counsel for the assessee, that the loan from Smt. Bimla Devi has been received through NEFT through proper banking channel; Mrs. Bimla Devi is an income tax assessee, who is relative of the Director of the Company. It was noted that the cash and bank statement of Bimla Devi for the year 2013-14 alongwith its ITR, computation of income and balance sheet was filed before the authorities below. In this case, as per settled law, the genuineness of the transaction has been established for which assessee is not required to prove source of source and the onus is on the revenue to prove that the transaction is not genuine, which they have failed to prove. Hence, I delete the addition in dispute.

5. As regards addition of Rs. 10,00,000/- on account of cartage outward for alleged inflated expenses is concerned, Ld counsel for the assessee submitted that during the year the assessee had paid Rs. 1182164/- as carriage outward for carriage of finished goods and dispatched goods to different locations and paid freight to the transporters. All the payments have been duly supported by the biliti. Copy of all the bilties as a proof of payment was

enclosed before the authorities below. Merely because of comparison with last year the AO has disallowed the carriage outward expenses. All the expenses are properly supported by the evidence of payment. There was a expenditure debited in the profit & Loss account Vehicle running & maintenance account which has been decreased from Rs.2453172 to Rs. 548165. Despite that AO did not consider the decrease in the related expenses the expenses of carriage outward is directly related with the expenses vehicle upkeep and maintenance. It was further submitted that if the assessee clubbed together both the expenses there will a sharp decrease in the expenditure. So the base of disallowance of carriage outward is not valid or supported by the evidence. Hence the addition in dispute is not sustainable and liable to be deleted. On the contrary, Ld. DR relied upon the orders of the authorities below on this issue.

5.1 I have heard both the parties on the issue in dispute and perused the orders of the authorities below. I find considerable cogency in the contention of the Ld. Counsel for the assessee, submitted that during the year the assessee had paid Rs. 1182164/- as carriage outward for carriage of finished goods and dispatched goods to different locations and paid freight to the transporters. All the payments have been duly supported by the biliti. Copy of all the

bilities as a proof of payment were filed. Merely because of comparison with last year the AO has disallowed the carriage outward expenses. All the expenses are properly supported by the evidence of payment. There was a expenditure debited in the profit & Loss account Vehicle running & maintenance account which has been decreased from Rs.2453172 to Rs. 548165, however, the AO has not considered the decrease in the related expenses the expenses of carriage outward is directly related with the expenses vehicle upkeep and maintenance. In view of above, the addition made by the AO is not tenable, hence, the same is deleted as such.

6. In the result, the Assessee's Appeal is allowed.

The decision is pronounced in the Open Court on 07.01.2021.

Sd/-

(H.S. SIDHU)
JUDICIAL MEMBER

"SRB"

Copy forwarded to:

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

Asstt. Registrar, ITAT, New Delhi

