

IN THE INCOME TAX APPELLATE TRIBUNAL  
PUNE BENCH, 'A' PUNE

BEFORE SHRI R.S. SYAL, VICE PRESIDENT AND  
SHRI S.S. VISWANETHRA RAVI, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.586/PUN/2018  
निर्धारण वर्ष / Assessment Year : 2011-12

ACIT, Jalna Circle, Jalna	Vs.	M/s.Saptashruni Alloys Pvt. Ltd., Plot No.C-3/1, Addl. MIDC Area, Jalna – 431 203 PAN : AAICS2970E
Appellant		Respondent

Assessee by None  
Revenue by Shri A.M. Mahadevan Krishnan  
Date of hearing 13-09-2021  
Date of pronouncement 13-09-2021

आदेश / ORDER

PER R.S.SYAL, VP :

This appeal by the Revenue is directed against the order passed by the Id. CIT(A)-1, Aurangabad on 10-01-2018 in relation to the assessment year 2011-12.

2. The only issued raised herein is against restricting the addition by the CIT(A) on account of suppressed production from Rs.5,05,56,718 to Rs.22,54,480.

3. Briefly stated, the facts of the case are that the assessee is engaged in manufacturing of MS billets from Sponge Iron and MS scrap. The assessee filed e-return declaring loss of Rs.3,73,611/-.

The Assessing Officer completed assessment at total income of

Rs.4,28,960. Thereafter, the Pr. CIT, vide his order u/s.263 dated 31-03-2016, held the assessment order to be erroneous and prejudicial to the interest of the revenue. The AO, in the consequential proceedings, found that the assessee was involved in clandestine removal of goods without payment of excise duty to the tune of Rs.58,05,287 on the value of goods amounting to Rs.5,63,62,005/. After deducting such amount of excise duty paid by the assessee, the AO made an addition of Rs.5,05,56,718/- on account of unaccounted sales. The Id. CIT(A), relying on the Pune Tribunal orders in M/s. Rajuri Steel Pvt. Ltd. and M/s. Meta Rolls & Commodities Pvt. Ltd., held that the addition should be made only for the profit element embedded in such sales and not the entire amount of sales. Taking cognizance of the Tribunal view in identical circumstances, he restricted the addition to 4% of such sales. Aggrieved thereby, the Revenue has approached the Tribunal.

4. We have heard the Id. DR and gone through the relevant material on record. There is no appearance from the side of the assessee despite notice. It is seen that the AO found the assessee to be involved in making unaccounted sales without payment of excise duty on such goods manufactured by it. This factual matrix is not controverted. For selling goods outside the books of account, one

needs to manufacture the same, which entails costs. In such circumstances, it is the profit element plus basic investment, which can be taxed. It is discernible from the impugned order that the Pune Tribunal in identical facts and circumstances has restricted the addition to 4%. The ld. DR could not point out that the view taken by the Tribunal in such orders, as taken note of by the ld. first appellate authority in the impugned order, has been modified or overturned by the Hon'ble High Court. In that view of the matter, no infirmity can be traced in the impugned order restricting the addition to this level. We, therefore, uphold the same.

5. In the result, the appeal is dismissed.

Order pronounced in the Open Court on 13<sup>th</sup> September, 2021.

Sd/-  
**(S.S. VISWANETHRA RAVI)**  
**JUDICIAL MEMBER**

Sd/-  
**(R.S.SYAL)**  
**VICE PRESIDENT**

पुणे Pune; दिनांक Dated : 13<sup>th</sup> September, 2021  
सतीश

**आदेश की प्रतिलिपि □ प्रेषित/Copy of the Order is forwarded to:**

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The CIT(A)-1, Aurangabad
3. The Pr.CIT-1, Aurangabad
4. DR, ITAT, 'A' Bench, Pune
5. गार्ड फाईल / Guard file.

**आदेशानुसार/ BY ORDER,****// True Copy //**

Senior Private Secretary  
आयकर अपीलीय अधिकरण ,पुणे / ITAT, Pune

		Date	
1.	Draft dictated on	13-09-2021	Sr.PS
2.	Draft placed before author	13-09-2021	Sr.PS
3.	Draft proposed & placed before the second member		JM
4.	Draft discussed/approved by Second Member.		JM
5.	Approved Draft comes to the Sr.PS/PS		Sr.PS
6.	Kept for pronouncement on		Sr.PS
7.	Date of uploading order		Sr.PS
8.	File sent to the Bench Clerk		Sr.PS
9.	Date on which file goes to the Head Clerk		
10.	Date on which file goes to the A.R.		
11.	Date of dispatch of Order.		

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