

आयकर अपीलीय अधिकरण, “एस.एम.सी” न्यायपीठ, कोलकाता**IN THE INCOME TAX APPELLATE TRIBUNAL “SMC” BENCH KOLKATA****श्री जार्ज माथन, न्यायिक सदस्य के समक्ष ।****BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER****आयकर अपील सं/ITA No.743/KOL/2025****(निर्धारण वर्ष / Assessment Year :2011-2012)**

Asiatic Industries 4, Santosh Roy Road, Barisha, Kolkata-700008	Vs	ITO, Ward-26(4), Kolkata
PAN No. :AAEFA 4839 R		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)
निर्धारिती की ओर से /Assessee by	:	Shri Rajesh Kumar Mishra, AR
राजस्व की ओर से /Revenue by	:	Shri Sanjib Kumar Paul, Sr.DR
सुनवाई की तारीख / Date of Hearing	:	21/07/2025
घोषणा की तारीख/Date of Pronouncement	:	21/07/2025

आदेश / O R D E R

This is an appeal filed by the assessee against the order of the Id. CIT(A), National Faceless Appeal Centre (NFAC), Delhi, dated 12.02.2025 for the Assessment Year 2011-2012.

2. Shri Rajesh Kumar Mishra, Id. AR appeared on behalf of the assessee and Shri Sanjib Kumar Paul, Id. Sr.DR appeared on behalf of the revenue.

3. It was submitted by the Id. AR that there was a survey in the premises of the assessee and in the assessment which was done in the case of the assessee. The Assessing Officer has treated the purchases from Durga Trading Corporation, Tarama Ferrous & Nonferrous Trading Co. Pvt. Ltd. and Kaustri Metal Trading (P) Ltd. total to an extent of Rs.8,79,300/- as bogus purchases. It was the submission that the Id. CIT(A) has also confirmed the addition as made by the Assessing Officer. It was the submission that in the worst case scenario only the profit elements of the

said bogus purchases is liable to be assessed. It was the submission that the Assessing Officer had issued notice u/s.133(6) of the Act. The Assessing Officer could have issued notice u/s.131(1) of the Act but he did not do so. It was the prayer that the addition made by the Id. Assessing Officer and confirmed by the Id.CIT(A) is liable to be deleted.

4. Ld Sr.DR vehemently supported the orders of the Assessing Officer and Id. CIT(A).

5. I have considered the rival submissions. A perusal of the assessment order at page 2 shows that the Assessing Officer has issued notice u/s.133(6) of the Act to the three suppliers from whom the assessee has made the alleged bogus purchases. The notices were returned with the remarks "Not Known". The assessee was asked by the Assessing Officer to provide the current addresses of those suppliers. That was also not provided by the assessee. A perusal of the order of the Id. CIT(A) shows that the assessee has practically not produced any evidence before the Id.CIT(A) to revert the findings of the Id. Assessing Officer. However, the assessee has taken a stand that the gross profit in regard to the bogus purchases could be added. In normal circumstances there should obviously mean that bogus purchases as identified by the Assessing Officer is not explained. However, considering the facts that the assessee has been claiming that there were other methods for the Assessing Officer to examine the suppliers from whom the purchases have been made, in the interest of justice, the issues in this appeal are restored to the file of the Id.AO for readjudication after granting the assessee adequate opportunity

of being heard. The assessee shall produce the sellers/suppliers before the Assessing Officer the sellers/suppliers have not responded to the notice u/s.133(6) of the Act. If the assessee is unable to produce the sellers/suppliers before the Assessing Officer, liberty is granted to the Assessing Officer to draw adverse inference. Here, I am directing the assessee to produce the said sellers/suppliers before the Assessing Officer because the alleged ledger account produced by the assessee in respect of three suppliers show that it is a running account and the business of the assessee is still operational.

6. In the result, appeal of the assessee is partly allowed for statistical purposes.

Order dictated and pronounced in the open court on 21/07/2025.

Sd/-

(जार्ज माथन)

(GEORGE MATHAN)

न्यायिक सदस्य / JUDICIAL MEMBER

कोलकाता Kolkata; दिनांक Dated 21/07/2025

Prakash Kumar Mishra, Sr.P.S.

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant-
2. प्रत्यर्थी / The Respondent-
3. आयकर आयुक्त(अपील) / The CIT(A),
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, **कोलकाता** / DR,
ITAT, Kolkata
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

(Assistant Registrar)

Income Tax Appellate Tribunal, Kolkata