

**IN THE INCOME TAX APPELLATE TRIBUNAL,  
KOLKATA 'A' BENCH, KOLKATA**

**Before Shri P.M. Jagtap, Accountant Member  
and Shri S.S. Viswanethra Ravi, Judicial Member**

**I.T.A. No. 370/KOL/ 2013  
Assessment Year: 2009-2010**

**M/s. The Keshab Jewellers,.....Appellant**  
**Jessore Road, Habra,**  
**24-Parganas(North)-742 263,**  
**West Bengal**  
**[PAN: AABFT 5144 R]**

**-Vs.-**

**Income Tax Officer,.....Respondent**  
**Ward-50(2), Kolkata,**  
**54/1, Rafi Ahmed Kidwai Road,**  
**Kolkata-700 016**

**Appearances by:**

*Shri Manoj Kr. Tiwari, FCA, for the assessee*  
*Shri Saurabh Kumar, JCIT, Sr. D.R., for the Department*

Date of concluding the hearing : January 07, 2016  
Date of pronouncing the order : February 24, 2016

**O R D E R**

**Per Shri P.M. Jagtap :-**

This appeal is preferred by the assessee against the order of Id. Commissioner of Income Tax (Appeals)-XXXII, Kolkata dated 24.12.2012 for the assessment year 2009-10.

2. Ground No. 1 raised by the assessee in this appeal is general, while Ground No. 2 challenging the addition of Rs.93,612/- made by the Assessing Officer and sustained by the Id. CIT(Appeals) on account of unverifiable purchase of gold has not been pressed by the Id. Counsel for the assessee at the time of hearing before us. The same is accordingly dismissed.

3. The issue raised in Ground No. 3 relates to the disallowance of Rs.93,889/- made by the Assessing Officer and confirmed by the Id. CIT(Appeals) being 5% of the expenses incurred by the assessee on packing materials.

4. The assessee in the present case is a partnership firm, which is engaged in the business of manufacturing of jewellery. A survey under section 133A was carried out in the business premises of the assessee on 25.03.2009. Thereafter the return of income for the year under consideration was filed by it on 21.09.2009 declaring total income of Rs.4,95,389/-. During the course of assessment proceedings, it was noticed by the Assessing Officer that the claim of the assessee for expenditure of Rs.19,97,784/- incurred on packing material was partly supported by self-made vouchers. He, therefore, made a disallowance of 5% of such expenditure claimed by the assessee. On appeal, the Id. CIT(Appeals) confirmed the said disallowance.

5. We have heard the arguments of both the sides on this issue and also perused the relevant material available on record. As rightly submitted by the Id. Counsel for the assessee, the disallowance of 5% out of packing material expenditure is made by the Assessing Officer and confirmed by the Id. CIT(Appeals) merely on the ground that the claim of the assessee for the said expenditure is partly supported by self-made vouchers without pointing out any specific or material defects therein to show how the expenditure claimed by the assessee was not verifiable. In our opinion, in the absence of such specific or material defects pointed out in the supporting bills/ vouchers maintained by the assessee, the disallowance made by the Assessing Officer to the extent of 5% and confirmed by the Id. CIT(Appeals) merely on the basis of self-made vouchers maintained by the assessee cannot be sustained. We, therefore, delete the same and allow Ground No. 3 of the assessee's appeal.

6. In Ground No. 4, the assessee has challenged the addition of Rs.28,83,274/- made by the Assessing Officer on account of under-valuation of closing stock, which has been enhanced by the Id. CIT(Appeals) to Rs.32,68,177/-.

7. During the course of survey, the stock of jewellery of 12717.844 gms found was valued by the Departmental Valuer at Rs.1,86,77,034/-. Gold of 2003.912 gms available with the karigars was also valued at Rs.41,81,633/- @ Rs.1,440/- per gram. During the course of assessment proceedings, the purchases made by the assessee after the date of survey till 31.03.2009 were added by the Assessing Officer to the value of stock as found during the course of survey and after subtracting the sales of gold ornaments during the post-survey by the assessee, the value of closing stock as on 31.03.2009 was worked out by him at Rs.2,32,41,451/- Since the value of closing stock as on 31.03.2009 was shown by the assessee in the Profit & Loss Account at Rs.1,71,06,744/-, the Assessing Officer required the assessee to explain the difference. In reply, the following explanation was offered by the assessee:-

*"We had kept in stock of gold ornaments on first day of April, 2008 weight 3611.832 gram. Out of opening stock 14,083.210 gram which was continuing oin shop for display to the customers and the value of that stock 3611.832 gram is calculated at the rate of cost price of 01.04.2008.*

*(ii) And due to fluctuation of market price of gold in the financial year 2008-09 the stock of gold 10227.226 gram is calculated at the average rate of cost price.*

*(iii) And gold 2140.320 which was purchased in the month of March, 2009 is valued at the rate of cost price. Therefore, total stock valuation as on 31.03.2009 is calculated as under:-*

<i>Weight(Gms.)</i>	<i>Rate per gram</i>	<i>Value</i>
<i>3611.832</i>	<i>Rs.1,109/-</i>	<i>Rs. 40,05,521/-</i>
<i>10227.226</i>	<i>Rs.1,202/-</i>	<i>Rs.1,22,93,125/-</i>
<i>2140.320</i>	<i>Rs.1,440/-</i>	<i>Rs. 30,82,060/-</i>
<i>15979.378</i>	<i>Total:-</i>	<i>Rs.1,93,80,706/-</i>

8. The above explanation of the assessee was not found acceptable by the Assessing Officer for the following reasons:-

*"The assessee could not produce the documents related to the purchase of gold found as closing stock on the date of survey. Hence, the assessee could not determine the value of closing stock as per cost price.*

*(ii) The major purchase of the assessee was in the form of gold bar and from there the jewellery is manufactured by the Karigar. It is generally applicable that the ornaments are manufactured as per the demand of the customer and as per the new fashions. Therefore, the stock of jewellery of gold bar is not the old stock. It is generally sold within a very short period. Hence, the jewellery or gold bar found during the course of survey or as on 31.03.2009 is the purchase within very short period.*

*(iii) The gold bar which was sent to Karigarh for making ornaments was 2903.912 gram. Gold bar purchased after the survey date, i.e. after 25.03.2009, found as closing stock was 1074.825 grams. Old gold purchased after the date of survey was 53.000 grams and exchange gold 194.000 gram. Total gold on account of above four purchases was 4,225.737 grams. As per assessee's claim the rate of above purchase is Rs.1,440/- per gram. Hence, the value of 4,225.737 grams of gold and ornaments, @ Rs.1,440/- per gram, comes at Rs.60,85,061/-.*

*(iv) The remaining ornaments of gold weighting at 11,433.422 gram is taken @ Rs.1,202/- per gram, on the basis of average purchase price from April, 2008 to February, 2009, which was also admitted by the assessee in his submission. The average value of such closing stock comes to Rs.(11,433.422 gram x Rs.1,202) = Rs.1,37,42,973/-. Therefore, total value of closing stock comes to (Rs.60,85,061/- + Rs.1,37,42,973/-) = Rs.1,98,28,034/-".*

9. For the reasons given above, the Assessing Officer held that the value of closing stock was suppressed by the assessee to the extent of Rs.27,21,290/- (Rs.1,98,28,034/- minus Rs.1,71,06,744/-) and after adding making charges of Rs.1,61,984/- incurred by the assessee, the total suppression in the value of closing stock was worked out by him at

Rs.28,83,274/- and addition to the extent was made by him to the total income of the assessee.

10. The addition of Rs.28,83,274/- made by the Assessing Officer on account of under-valuation of closing stock was challenged by the assessee in the appeal filed before the Id. CIT(Appeals), and a detailed submission was made on behalf of the assessee before the Id. CIT(Appeals) to support and substantiate the valuation of closing stock as made by it as follows:-

	<i>Closing stock quantity (gms.) as on</i>			
	<i>31.3.2006</i>	<i>31.3.2007</i>	<i>31.3.2008</i>	<i>31.3.2009</i>
<i>Raw materials</i>	<i>2788.100</i>	<i>3063.810</i>	<i>2290.110</i>	<i>1200.500</i>
<i>Finished goods</i>	<i>10291.090</i>	<i>12756.120</i>	<i>11793.100</i>	<i>14778.878</i>
<i>Total</i>	<i>13079.190</i>	<i>15819.930</i>	<i>14083.210</i>	<i>15979.378</i>
	<i>Closing stock value (Rs.) as on</i>			
	<i>31.3.2006</i>	<i>31.3.2007</i>	<i>31.3.2008</i>	<i>31.3.2009</i>
<i>Raw materials</i>	<i>1922,185.00</i>	<i>2729,179.00</i>		
<i>Finished goods</i>	<i>7923.894.00</i>	<i>11941.124</i>		
<i>Total</i>	<i>9846.079.00</i>	<i>14670,303.00</i>	<i>15602,490.00</i>	<i>17106,744.00</i>

11. The submissions made by the assessee were forwarded by the Id. CIT(Appeals) to the Assessing Officer seeking the latter's comments. In the remand report submitted to the Id. CIT(Appeals), the Assessing Officer offered his comments on the issue as under:-

*"The AO had rightly taken the rate of Closing Stock as put forward by the assessee during the hearing stage but not the quantity of Closing Stock which would be 15979.378 gm. upto 31.3.2009, as put forward by the assessee, As was discussed in para no.6(a), 6(b), 6(c) & 7 of the assessment order, the AO had taken valuation of part of Closing Stock of 4225.737 gm. @*

*Rs.14401- per gm. as discussed at para 6(c)(iii) and the Balance 11753.641 gm. should be taken @ 1202/- per gm. as put forward by the assessee. And again the assessee did not consider the Making Charge as was discussed in para 7 of the assessment order. The corrected valuation of Closing Stock would be as follows:*

<i>(i) 4225.737 gm. @ 14401-</i>	<i>Rs. 60,85,061/-</i>
<i>(ii) 11753.641 gm. @ 1202/-</i>	<i>Rs.141,27,876/-</i>
<i>(iii) Making Charges</i>	<i>Rs. 1,61,984/-</i>
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<i>Total of Closing Stock</i>	<i>Rs.203,74,921/-</i>
<i>Less: C/Stock as shown in the</i>	
<i>Return.....</i>	<i>Rs.171,06,744/-</i>
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<i>Total under valuation</i>	
<i>of closing stock.....</i>	<i>Rs. 32,68,177/-</i>
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12. On the basis of valuation made by the Assessing Officer in the remand report, enhancement notice was issued by the Id. CIT(Appeals) to the assessee and adopting the valuation as made by the Assessing Officer in the remand report, the addition of Rs.28,83,274/- made by the Assessing Officer on account of undervaluation of closing stock was enhanced by the Id. CIT(Appeals) to Rs.32,68,177/-.

13. We have heard the arguments of both the sides on this issue and also perused the relevant material available on record. It is observed that there is no dispute as regards the quantity of jewellery lying in the closing stock of the assessee as on 31.03.2009 and the dispute is only as regards the valuation of said jewellery. In the valuation made by the assessee, the rates of purchase of jewellery as prevailing in the earlier years are adopted by the assessee as if it is following LIFO method and the same is not correct as agreed even by the Id. Counsel for the assessee. Keeping in view the various transactions regularly entered into by the assessee of purchase and sale of jewellery during the subsequent period

including the year under consideration, we are of the view that even the method adopted by the Assessing Officer for determining the value of closing stock of jewellery by taking into consideration the valuation of jewellery made during the course of survey and by taking average rate of purchase of jewellery for the post-survey period is not correct and this position is not disputed even by the Id. D.R. In our opinion, a uniform method is required to be followed to value the closing stock of jewellery and as agreed by the Id. Representatives of both the sides, weighted average method is the one, which can appropriately be followed keeping in view the nature of product dealt with by the assessee, the value of which is always variable. They have also agreed that weighted average of one year should be considered for determining the value of jewellery lying in the closing stock as on 31.03.2009. Keeping in view these averments made by the Id. Representatives of both the sides, we set aside the impugned order of the Id. CIT(Appeals) on this issue and restore the matter to the file of the Assessing Officer for determining the value of closing stock of jewellery on the basis of weighted average cost of one year. The assessee is directed to prepare and furnish the working in this regard before the Assessing Officer, who shall verify the same and decide this issue in accordance with law. Ground No. 4 is accordingly treated as allowed for statistical purposes.

14. In the result, the appeal of the assessee is partly allowed.

Order pronounced in the open Court on February 24, 2016.

Sd/-

Sd/-

**(S.S. Viswanethra Ravi)**  
**Judicial Member**

**(P.M. Jagtap)**  
**Accountant Member**

*Kolkata, the 24<sup>th</sup> day of February, 2016*

Copies to : (1) **M/s. The Keshab Jewellers,**  
**Jessore Road, Habra,**  
**24-Parganas(North)-742 263,**  
**West Bengal**

**(2) Income Tax Officer,  
Ward-50(2), Kolkata,  
54/1, Rafi Ahmed Kidwai Road,  
Kolkata-700 016**

- (3) Commissioner of Income-tax (Appeals)-XXXII, Kolkata
- (4) Commissioner of Income Tax, Kolkata
- (5) The Departmental Representative
- (6) Guard File

*By order*

*Assistant Registrar,  
Income Tax Appellate Tribunal,  
Kolkata Benches, Kolkata*

**Laha/Sr. P.S.**