

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

Before Sh. N. K. Saini, AM And Sh. A. T. Varkey, JM

ITA No. 2231/Del/2015 : Asstt. Year : 2006-07

M/s Jaipur Jewellers, Shop No.-05, Hotel Lalit, Barkhamba Road, New Delhi	Vs	DCIT, Circle-31(1), New Delhi
(APPELLANT)		(RESPONDENT)
PAN No. AACFJ4973H		

**Assessee by : Sh. M.P Rastogi & Deepak Malik, Advs.
Revenue by : Sh. K. K. Jaiswal, Sr. DR**

Date of Hearing : 18.11.2015	Date of Pronouncement : 15.01.2016
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ORDER

Per N. K. Saini, AM:

This is an appeal by the assessee against the order dated 09.03.2015 of Id. CIT(A)-XVIII, New Delhi.

2. The only grievance of the assessee in this appeal relates to the sustenance of addition of Rs.2,70,000/-.

3. Facts of the case in brief are that the assessee filed the return of income on 31.10.2006 declaring an income of Rs.9,85,310/- which was processed u/s 143(1) of the Income Tax Act, 1961 (hereinafter referred to as the Act). Later on,

the AO get the information from the DIT(Inv.) Wing, Jaipur, that the assessee was making bogus purchases for which cheques had been issued and bogus bills were obtained without any physical delivery of goods. On being satisfied, the AO after obtaining prior approval of JCIT, Range-31, New Delhi, initiated proceedings u/s 147 of the Act. During the course of assessment proceedings, the AO noticed that the assessee had shown purchases of Rs.8,01,57,483/- which included the purchases made from Royal Gems & Arts, Jaipur amounting to Rs.2,70,000/-. The AO asked the assessee to furnish the copy of bills issued by M/s Royal Gems & Arts, Jaipur. The assessee submitted that the payment of the said bill was made through account payee cheque drawn on current account maintained with HDFC Bank Ltd., New Delhi and the photocopy of the bank statement in support of amount being debited for the said purchases had been already placed on record. The AO however made the addition of impugned amount by observing that no evidence such as purchase bill issued by M/s Royal Gems & Arts, Jaipur for the amount of Rs.2,70,000/- was produced on the ground that the same was not readily traceable.

4. Being aggrieved the assessee carried the matter to the Id. CIT(A) and submitted that the genuineness of the purchases could not be doubted on the basis of the following:

- i. The payment has been made through account payee cheque on HDFC Bank on 21.09.2005.*
- ii. The party is assessed to sales tax as per TIN No. 08762253881 given on purchase invoice.*
- iii. The Party is assessed to income tax at PAN-AVHPS2722D, and*
- iv. The party is registered to RST/CST as per registration number given on purchase invoice.*

5. It was further submitted that all the sales and purchases including other expenses were fully vouched and the books of accounts were duly audited. It was stated that the AO made the disallowance on the basis of report of the DDI (Inv.), Jaipur without examining the adverse material, if any, in possession of DDIT (Inv.), Jaipur. It was further stated that the assessee had shown 8.85% gross profit rate on the sales of Rs.7,24,23,297/- and the net profit rate of 1.36% was shown. It was submitted that the assessee had purchased Gold Jewellery, weighing 102.818 grms. For Rs.2,70,000/- under Invoice No. 358 dated 10.09.2005 from M/s Royal Gems & Arts, Jaipur and the said Necklace was sold under Bill No. 1007 dated 05.12.2005 for Rs.2,92,079/-

including VAT through credit card and the delivery of the item was taken by the party itself. It was further stated that the payment was made through account payee cheque drawn on HDFC Bank on 21.09.2005. The Id. CIT(A) however, did not find merit in the submissions of the assessee and confirmed the addition made by the AO.

6. Now the assessee is in appeal. The Id. Counsel for the assessee reiterated the submissions made before the authorities below and further submitted that the assessee made the purchases from M/s Royal Gems & Arts, Jaipur through Bill No. 358 dated 10.09.2005 and made the payment against the said purchases by account payee cheque drawn on HDFC Bank on 21.09.2005. However, the original purchase voucher was not traceable and the assessee furnished photocopy of the purchase voucher. It was further submitted that the sale amounting to Rs.2,92,079/- vide Bill No. 1007 dated 05.12.2005 against the said purchases had been accepted, therefore, the addition made by the AO and sustained by the Id. CIT(A) was not justified.

7. In his rival submissions the Id. DR strongly supported the orders of the authorities below.

8. We have considered the submissions of both the parties and carefully gone through the material available on the record. In the present case, it appears that the addition had been made by the AO only on this basis that the assessee furnished photocopy of the purchase voucher instead of original purchase voucher for the purchase of Rs.2,70,000/- from M/s Royal Gems & Arts, Jaipur. The Explanation given by the assessee was that the original voucher was not traceable. In the present case, it is noticed that the sales amounting to Rs.2,92,079/- under Bill No. 1007 dated 05.12.2005 against the said purchases of Rs.2,70,000/- under Invoice No. 358 dated 10.09.2005 had not been doubted. In our opinion, when the sales of Necklace weighing 102.818 grms. was accepted, there was no reason to make the additions on account of the purchase amounting to Rs.2,70,000/- merely on this basis that the photocopy of the purchase voucher was furnished instead of original purchase voucher which had been claimed to be non-traceable. We are of the view that when the sales value of a particular item has been accepted the purchase value of the same item cannot be disallowed, for the reason that there can be no sale without making the purchase in the trading business. We, therefore, by considering the totality of the

facts as discussed here in above, delete the addition made by the AO and sustained by the Id. CIT(A).

9. In the result, appeal of the assessee is allowed.

(Order Pronounced in the Court on 15/01/2016)

Sd/-

(A. T. Varkey)

JUDICIAL MEMBER

Dated: 15/01/2016

Subodh

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

Sd/-

(N. K. Saini)

ACCOUNTANT MEMBER

ASSISTANT REGISTRAR