

**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. 957/KOL/ 2010
Assessment Year : 2004-2005**

Syndicate Jewellers Pvt. Limited,Appellant
22, Camac Street, Block-'A', 1st Floor,
Kolkata-700 017
[PAN : AAGCS 6917 B]

-Vs.-

Income Tax Officer,.....Respondent
Ward-8(4), Kolkata,
Aayakar Bhawan,
P-7, Chowringhee Square,
Kolkata-700 069

Appearances by:

Shri S.D. Verma, Advocate, for the assessee
Shri Kalyan Nath, JCIT, for the Department

Date of concluding the hearing : November 17, 2015
Date of pronouncing the order : November 20, 2015

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)-VIII, Kolkata dated 17.02.2010 for the assessment year 2004-05.

2. Ground No. 1 raised by the assessee in this appeal involving the issue relating to the addition made by the Assessing Officer and confirmed by the Id. CIT(Appeals) by way of disallowance of Rs.2,27,475/- on account of assessee's claim for expenses incurred on repairs and renovation of showroom treating the same as capital in nature, has not been pressed by the Id. Counsel for the assessee at the

time of hearing before us. The same is accordingly dismissed as not pressed.

3. The issue involved in Ground No. 2 relates to the disallowance of Rs.4,53,533/- made by the Assessing Officer and confirmed by the Id. CIT(Appeals) on account of discount allowed by the assessee to various customers.

4. The assessee in the present case is a Company, which is engaged in the business of trading in jewellery. The return of income for the year under consideration was filed by it on 01.11.2004 declaring a loss of Rs.1,81,69,142/-. In the said return, a sum of Rs..4,61,883/- was debited by the assessee to the Profit & Loss Account on account of discount allowed. Since the expenditure claimed by the assessee on account of discount allowed in the immediately preceding year was only Rs.2,089/-, the Assessing Officer required it to explain the substantial increase in the amount of discount allowed during the year under consideration. In reply, it was submitted by the assessee that discount on sales was allowed at the pure discretion of the management and since there was substantial increase in the sales made to independent customers, the amount of discount allowed was on the higher side. This explanation of the assessee was not found acceptable by the Assessing Officer. According to him, no convincing reason was given by the assessee for allowing discount to the customers and there was also no documentary evidence filed by the assessee to support and substantiate its claim for discount allowed. He, therefore, allowed the claim of the assessee for discount to the extent of Rs.8,350/- on pro-rata basis taking the percentage of discount allowed on sales in the immediately preceding year as basis and disallowed the balance amount of Rs.4,53,533/-.

5. The disallowance made by the Assessing Officer on account of discount was challenged by the assessee in the appeal filed before the Id. CIT(Appeals). During the course of appellate proceedings before the Id.

CIT(Appeals), it was submitted that substantial portion of total sales of Rs.4.03 crores made during the year under consideration was to independent customers and discount in respect of such sales was allowed to these independent customers on making charges. This stand of the assessee was not found acceptable by the Id. CIT(Appeals) in the absence of any documentary evidence filed by the assessee in support and he proceeded to confirm the disallowance made by the Assessing Officer on this issue.

6. We have heard the arguments of both the sides and perused the relevant material available on record. The Id. Counsel for the assessee has invited our attention to the copy of letter dated 07.12.2006 filed before the Assessing Officer (page 18 of the paper book) to show that all the relevant details of sales made to the third parties or independent customers during the year under consideration were furnished by the assessee during the course of assessment proceedings. He has contended that the said details were sufficient to show that there was substantial increase in the sale of jewellery made by the assessee during the year under consideration to independent customers and this substantial increase was mainly attributed to the discount allowed by the management of the assessee-Company to these independent customers on making charges. Id. D.R., on the other hand, has contended that making charges in case of jewellery business are generally very nominal and, therefore, the discount claimed to be allowed by the assessee on such service charges is highly excessive. However, as clarified by the Id. Counsel for the assessee from the Profit & Loss Account of the assessee-Company placed at page no. 25 of the paper book, the making charges received by the assessee-Company during the year under consideration were Rs.77.64 lakhs and, therefore, the discount allowed was only about 6% of the total making charges, which, by no stretch of imagination, can be said to be excessive or unreasonable. Keeping in view all these relevant facts and figures of the assessee's case and the substantial increase achieved by the assessee in sales made to the independent

customers during the year under consideration as a result of discount allowed in respect of making charges, we are of the view that the expenditure claimed by the assessee on discount allowed was wholly and exclusively for the purpose of its business and the same being fair and reasonable in the facts and circumstances of the case, the disallowance made by the Assessing Officer and confirmed by the Id. CIT(Appeals) on this issue is not sustainable. We, therefore, delete the said disallowance and allow Ground No. 2 of the assessee's appeal.

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

Order pronounced in the open Court on November 20, 2015.

Sd/-

(S.S. Viswanethra Ravi)
Judicial Member

Sd/-

(P.M. Jagtap)
Accountant Member

Kolkata, the 20th day of November, 2015

Copies to : (1) ***Syndicate Jewellers Pvt. Limited,***
22, Camac Street, Block-'A', 1st Floor,
Kolkata-700 017

(2) ***Income Tax Officer,***
Ward-8(4), Kolkata,
Aayakar Bhawan,
P-7, Chowringhee Square,
Kolkata-700 069

(3) ***Commissioner of Income-tax (Appeals)-VIII, 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