



ITA NO. 5738/Mum/2016
M/s Kapoor Enterprises
Assessment Year 2012-13

आयकर अपीलीय अधिकरण “ए” न्यायपीठ मुंबई में।

**IN THE INCOME TAX APPELLATE TRIBUNAL
“A” BENCH, MUMBAI**

श्री सी. नागेंद्र प्रसाद, न्यायिक सदस्य एवं
श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष ।

**BEFORE SHRI C.N. PRASAD, JM AND
SHRI MANOJ KUMAR AGGARWAL, AM**

आयकर अपील सं./I.T.A. No. 5738/Mum/2016
(निर्धारण वर्ष / Assessment Year: 2012-13)

M/s KAPOOR ENTERPRISES (Prop. Zaveri Kapoorchand Dalichand & Sons) Shop No. 11 Dagina Bazar Mumbai-400002	बनाम/ Vs.	ITO 18(2)(1) Mumbai
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. AAAFK-1931-C		
(अपीलार्थी /Appellant)	:	(प्रत्यर्थी / Respondent)
Assessee by	:	Shri Vimal Punmiya, AR
Revenue by	:	Shri Rajesh Kumar Yadav, JCIT DR
सुनवाई की तारीख / Date of Hearing	:	29/11/2016
घोषणा की तारीख / Date of Pronouncement	:	25/01/2017



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आदेश / ORDER

Per Manoj Kumar Aggarwal (Accountant Member)

1. The captioned appeal by assessee for Assessment Year [AY] 2012-13 assails order of Ld. Commissioner of Income Tax (Appeals)-29 [CIT(A)], Mumbai dated 27/07/2016 *qua* confirmation of addition of Rs.28,31,525/- on account of '*process loss*'.

2. Briefly stated, the assessee was resident firm engaged in the business of Gold Trading and making of Gold Ornaments. It e-filed its return of income for impugned AY on 27/09/2012 declaring total income of Rs.11,23,568/- which was subjected to scrutiny assessment u/s 143(3) vide Assessing Officer [AO] order dated 30/03/2015 wherein the total income was determined at Rs.39,55,090/- after making sole addition of Rs.28,31,525/- on account of '*process loss*'. The assessee claimed '*process loss*' of 1132.61 Grams. The assessee explained that gold ornaments could not be made out of pure gold but certain metals are added to make it usable. Therefore, the quantity of actual jewellery would always be more than pure gold purchased by the assessee. Similarly, the assessee purchased old gold jewellery which was sent to refineries to extract pure gold which reduce the weight of pure gold held by the assessee. These adjustments were made only in quantitative records as '*process loss*' without changing any corresponding values in financial accounts. However, the Assessing Officer [AO] was not convinced with the explanation and after valuing the '*process loss*', he made the impugned additions. Aggrieved, the assessee preferred appeal before First Appellate authority but remained unsuccessful vide order dated 27/07/2016. CIT(A) observed that the assessee claimed process loss only against 22 carat Gold only and not for any other category. The assessee further contended that the charges paid to refineries were debited under the head '*gold refinery charges*'. But CIT(A) noticed various discrepancies in the gold quantity returned by the refinery vis-à-vis quantity recorded by the



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assessee which led to confirmation of addition. Aggrieved, the assessee is in appeal before us.

3. The Ld. Counsel for Assessee [AR] submitted that the assessee was engaged in Gold Trading and making of Gold Ornaments and maintained carat wise record of the same. It drew separate Trading Account for dealing in Gold, Diamond, Silver and Color stones. Whenever, the assessee purchase old ornaments, it send the same to refineries to extract pure gold out of the same which result into reduction in quantitative loss and further when this pure gold is converted into jewellery, certain alloys are mixed into the pure gold to make it usable which results into increase in quantitative gain. However, no adjustments in the amounts / values thereof are required to be made but quantitative adjustment are made to account for these quantitative gains / losses. This adjustment is required only due to nature of business carried out by the assessee. In support, a paper-book containing various documents viz. Tax Audit Report, Financial Statements, Refinery Invoices, issue/receipt vouchers issued by assessee, Statement showing loss of quantity during process of refinery has been placed before us. Per *Contra*, the Ld. DR placing reliance on lower authorities contended that the assessee failed to provide accurate reconciliation of the process loss and also failed to explain the nature of this process loss and hence the same was not allowable to the assessee.

4. We have heard the rival contentions and perused material available on record. We find that the assessee had sent three consignments during the years to refinery as per following details:-

No.	Date	Sent to	Invoice No.	Refining charges	Qty. consigned (Grams)
1.	09/08/2011	R.J.Refinery	78	6,390/-	1277.850
2.	20/01/2012	R.J.Refinery	112	7,480/-	1870.400
3.	24/03/2012	R.J.Refinery	398	8,100/-	2030.700
			Total	21,970/-	5178.950



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The charges paid to refinery Rs.21,970/- has been debited under the separate head of 'Gold Refining Charges' in Profit & Loss Account. Further, the assessee has submitted reconciliation statement of 'process loss' in the following manner:-

No.	Date	Qty. consigned (Grams) (A)	Qty. Received (Grams) (B)	Loss (C)=(A)-(B)	Mixing (D)	Net Loss Claimed (E)=(C)-(D)	Loss Ratio C/A*100	Mix Ratio G=D/B*100
1.	09/08/2011	1277.850	872.820	405.030	69.790	335.240	31.70%	8.00%
2.	20/01/2012	1870.400	1418.250	452.150	151.650	300.500	24.17%	10.69%
3.	24/03/2012	2030.700	1420.200	610.500	113.600	496.900	30.06%	8.00%
		5178.950	3711.270	1467.680	335.040	1132.640		

We also find that the assessee has regularly claimed 'process loss' in earlier years as per details given below:-

No.	Assessment Year	Process loss Claimed
1.	2011-2012	2271.550
2.	2010-2011	2041.590
3.	2009-2010	2041.590
4.	2008-2009	814.440
5.	2007-2008	1763.450

The Gross Profit Rate shown in Gold Trading Account in impugned AY is 20.60% as against 18.18% in the immediately preceding years. The Tax Auditor has duly certified that quantitative details which matches with the quantitative data supplied by the AR. The assessee has regularly claimed process loss over several years. Due reconciliation to arrive at process loss has been produced. Therefore, on the facts and circumstances, we find substance in the arguments advanced by Ld. AR and inclined to delete the impugned addition. Accordingly, by deleting addition of Rs.28,31,525/-, we allow first ground of assessee's appeal.



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5. The other Grounds raised in the appeal are *qua* levy of interest u/s 234 and imposition of penalty. Since, we have allowed the quantum appeal of the assessee, these grounds require no adjudication and hence are dismissed as infructuous. Needless to say, interest u/s 234 is consequential and mandatory in nature.

6. With these observation and findings, the assessee' appeal stands partly allowed.

Order pronounced in the open court on 25th January, 2017.

Sd/-

(C. N. Prasad)

न्यायिक सदस्य / **Judicial Member**

Sd/-

(Manoj Kumar Aggarwal)

लेखा सदस्य / **Accountant Member**

मुंबई Mumbai; दिनांक Dated : 25.01.2017

Pooja K., PS

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 – concerned
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard File

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt. Registrar)

आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai