

**आयकर अपीलीय अधिकरण, मुंबई न्यायपीठ, C, मुंबई ।**

**IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCHES "C", MUMBAI**

श्री जोगिन्दर सिंह, न्यायिक सदस्य एवं  
श्री अश्वनी तनेजा, लेखा सदस्य, के समक्ष

**Before Shri Joginder Singh, Judicial Member, and  
Shri Ashwani Taneja, Accountant Member**

**ITA NO.688/Mum/2013  
Assessment Year: 2009-10**

M/s. P & S Jewellery Ltd., 5 <sup>th</sup> Floor, Plot no.A/56, Road no.1, M.I.D.C, Andheri (East) Mumbai-400093	<b>बनाम/ Vs.</b>	DCIT 5(2) Aayakar Bhavan, M.K. Rd. Mumbai-
(Assessee)		(Revenue)
P.A. No.AAACP3737A		

निर्धारिती की ओर से / Assessee by	Shri Bharat Desai (AR)
राजस्व की ओर से / Revenue by	Shri B. Satynarayan Raja (DR)

सुनवाई की तारीख / <b>Date of Hearing :</b>	<b>21/04/2016</b>
आदेश की तारीख / <b>Date of Order:</b>	<b>29/04/2016</b>

**आदेश / O R D E R**

**Per Ashwani Taneja (Accountant Member):**

This appeal has been filed by the Assessee against the order of Ld. Commissioner of Income Tax (Appeals), Mumbai-9 {(in short 'CIT(A)}}, dated 2.11.2012 passed against assessment

order u/s 143(3) dated 30.12.2011 for the Assessment Year 2009-10 on the following grounds:

*“1.The learned CIT (Appeals) was not justified in confirming the addition of Rs. 67,40898/- made by the learned Dy. CIT as alleged undisclosed investment on account of an alleged difference between the stock disclosed to the bank and as per the final accounts of the appellant.*

*2. The reasons given in relation to the said addition both by the learned Dy.CIT and the learned CIT(Appeals) and incorrect and unjustified.*

*3. The learned Dy.CIT was not justified in levying interests under sections 234B and 234C of the Act.”*

**2.** During the course of hearing, arguments were made by Ms. Bharat Desai, Authorised Representative (AR) on behalf of the Assessee and by Shri B. Satynarayan Raja, Departmental Representative (DR) on behalf of the Revenue.

**3.** The solitary issue raised in this appeal is with regard to addition made by the AO on account of undisclosed investment in the form of difference between the amount of stock as per the stock statement submitted by the assessee to its Bank and as per the amount shown in the balance sheet filed along with return of income filed by the assessee.

**3.1.** During the course of hearing it has been submitted by the Ld. Counsel that lower authorities were not able to appreciate the facts of the case. It was submitted that in fact there was no difference in the figures of stock. It was further submitted that the aggregate amount of stock as per stock statement submitted to the bank was Rs.23,85,61,482/-, whereas, the

stock shown as per balance sheet was Rs.25,18,37,125/-. Thus, apparently, aggregate amount of stock shown in the balance sheet was more than the amount of stock shown in the stock statement submitted to the bank, and therefore, no addition was liable to be made in the case of assessee. The AO made addition merely on the basis of difference in one of the items i.e. 18K gold. It was further submitted that same method of accounting has been followed by the assessee, consistently since last many years wherein stock statement and balance sheet have been prepared on the similar pattern on year to year basis.

**3.2.** Per contra, Ld. DR submitted that facts need to be properly verified before arriving at proper conclusion in this case. In the rejoinder, Ld. Counsel of the assessee expressed his willingness to go back to the AO to properly explain the facts of the case.

**3.3.** We have gone through the orders of the lower authorities and submissions made by both the sides before us. In response to our query with regard to any difference in the opening amounts of stock as per statements submitted to the bank and as shown in the balance sheet as on 31.03.2008, it was submitted by the Ld. Counsel that requisite facts need to be collected in this regard. It was further submitted by him that due to various financial constrains suffered by the assessee company, it was not feasible to immediately provide required details and documents, but these can be provided to

the AO, if an opportunity was provided. In view of all facts and circumstances, we find it appropriate to send this issue back to the file of the AO. The assessee shall submit complete details and documents to the AO to explain its facts properly and completely. The assessee shall also submit statements submitted to the bank and balance sheet as on 31.03.2008 to show whether there was any difference at the opening level also. In case difference is found in opening figures also, then addition to that extent cannot be made in the year under consideration. The assessee shall bring out complete facts on record and is free to take all legal and factual issues before the AO. The AO shall decide this issue after considering complete facts as may be brought on record for which adequate opportunity of hearing shall be granted by him. With these directions, this ground is sent back to the file of the AO and may be treated as allowed for statistical purposes.

**4.** In the result, this appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open court on 29<sup>th</sup> April, 2016.

Sd/-

(Joginder Singh)

न्यायिक सदस्य / JUDICIAL MEMBER

Sd/-

(Ashwani Taneja)

लेखा सदस्य / ACCOUNTANT MEMBER

मुंबई Mumbai; दिनांक Dated 29/4/2016

*Patel, P.S.* नि.स.