

**IN THE INCOME TAX APPELLATE TRIBUNAL,  
MUMBAI BENCH "SMC", MUMBAI**

**BEFORE SHRI D.T. GARASIA, JUDICIAL MEMBER**

**ITA No.7563/M/2016  
Assessment Year: 2011-12**

M/s. Sumermal Pukhraj Shanklesha, Prop. of M/s. M.M. Shanklesha Jewellers, Narayan Wadi, Station Road, Kalyan (West)-421 301 <b>PAN: AONPS9463C</b>	Vs.	Income Tax Officer 3(4), Kalyan
(Appellant)		(Respondent)

**Present for:**

Assessee by : Shri Ajay R. Singh, A.R.  
Revenue by : Miss N. Hemalatha, D.R.

Date of Hearing : 31.07.2017  
Date of Pronouncement : 29.08.2017

**ORDER**

**Per D.T. Garasia, Judicial Member:**

The present appeal has been preferred by the assessee against the order dated 21.09.2016 of the Commissioner of Income Tax (Appeals) [hereinafter referred to as the CIT(A)] relevant to assessment year 2011-12.

2. The short facts of the case are that assessee is in business of gold and silver ornaments. The assessee is doing business of sales and purchase of gold and silver and from the information filed not a single bill of sales and purchases are from any bogus dealer or from any non genuine dealer. The Assessing Officer (hereinafter referred to as the AO) has verified the books of accounts and found that return of income was filed on 28.09.2012. The AO has processed the return under section 143(3) read with section 147 and made the addition on account of recasting trade of Rs.28,07,892/-. The AO has

verified the closing and opening stock of the assessee and AO has made the addition on account of undervaluation of closing stock by observing as under:

“14. In view of these facts the AO re-computed the value of closing stock as under –

Description	Quantity of gold in grams	Value in Rs.	Average rate per gram of gold
Opening stock	8643.000	95,93,730	Rs. 1100
Purchase during the year	7515.200	1,31,11,310	Rs. 1745
<b>Total</b>	<b>16158.200</b>	<b>2,27,05,040</b>	<b>Rs. 1405.17</b>
Quantity sold	7056.600	99,15,732	Rs. 1405.17
<b>Closing Stock</b>	<b>9101.600</b>	<b>1,27,89,308</b>	<b>Rs. 1405.17</b>

15. The AO thereafter re-casted the Trading and Profit & Loss account of the appellant and made the addition of Rs.28,07,892/- to the appellant's income as under-

Particular	Quantity in grams	Value / cost	Particular	Quantity in grams	Value / cost
Opening	8643.000	95,93,730	Sales	7056.600	1,48,17,896
Purchase	7515.200	1,31,11,310	Closing Stock	9101.600	1,27,89,308
Gross Profit	16158.200	49,02,164		16158.200	

The actual profit as per re-casted valuation of closing stock	Rs. 49,02,164
Less: The assessee has shown profit at	Rs. 20,94,272
<b>Difference in gross profit shown</b>	<b>Rs.28,07,892”</b>

3. The show cause notice was given and after reworking of opening and closing stock the Ld. CIT(A) has reworked the addition by calculating the same as under:

	Particulars	Rs.		Particulars	Rs.
To	Opening Stock	95,93,730/-	By	Sales	1,48,17,896/-
To	Purchases	1,31,11,310/-	By	Closing Stock	1,13,22,390/-
To	Gross Profit	34,35,246/-			
		<b>2,61,40,286/-</b>			<b>2,61,40,286/-</b>

According to the appellant even by this method the addition works out to Rs.14,66,378/- only.”

4. The assessee is in appeal before me. During the course of hearing, the Ld. A.R. submitted that the issue in controversy is covered by the decision of Tribunal in the case of ITO vs. Kasturi Construction (2012) 54 SOT 384. The Ld. A.R. submitted that issue may be restored to the file of AO to decide it afresh.
5. Ld. D.R. has no objection.
6. I, therefore, restore the matter back to the file of AO to decide it afresh as per the decision.
7. In the result, the appeal of the assessee is allowed.

**Order pronounced in the open court on 29.08.2017.**

**Sd/-  
(D.T. Garasia)  
JUDICIAL MEMBER**

Mumbai, Dated: 29.08.2017.

\* Kishore, Sr. P.S.

Copy to: The Appellant  
The Respondent  
The CIT, Concerned, Mumbai  
The CIT (A) Concerned, Mumbai  
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.