

Mahalaxmi Gems Pvt. Ltd., a concern belonging to Shri Bhanwarlal Jain group, which was indulging in giving accommodation entries. In the assessment finalised u/s 143(3) r.w.s 147 of the Act, the Assessing Officer treated the aforesaid purchases to be bogus, but concluded that in view of the genuineness of sales effected, assessee must have made purchases of the corresponding quantity, but from concerns other than M/s. Mahalaxmi Gems Pvt. Ltd. The Assessing Officer was of the opinion that such purchases would have been made from the grey market which would have resulted in savings to the assessee. In this scenario, the Assessing Officer treated 8% of the purchases cost of the unproved purchases as profit assessable in the hands of the assessee. Accordingly, he made an addition of Rs.12,80,116/-, which was 8% of the unproved purchases of Rs.1,60,01,444/-.

4. Before the CIT(A), assessee made varied submissions. The CIT(A) has upheld the stand of the Assessing Officer in principle, but instead of estimating the profit @ 8% of the unproved purchases, he scaled down the same to 2% by noticing various factors. In this manner, he restricted the addition to Rs.3,20,029/-. Not being satisfied with the order of the CIT(A), assessee is in further appeal before the Tribunal.

5. Before me, the plea of the assessee is that the addition sustained by the CIT(A) is on the higher side and that the same should be reduced.

6. After having considered the orders of the authorities below, I find no reason to interfere with the decision of the CIT(A). Notably, the CIT(A) has noted that in the case of diamond industry, a task force was

constituted by the Government of India, Ministry of Commerce & Industry, which recommended a Benign Assessment Procedure (BAP) consisting of presumptive tax on net profit calculated @ 2% of trading activity and 3% for manufacturing activity or @ 2.5% across the board. The instant assessee is in the business of trading in diamonds and, in this view of the matter, the profit estimated by the CIT(A) @ 2% of the unproved purchases cannot be said to be unreasonable by any standards. Thus, I find no reasons to interfere with the decision of the CIT(A) and accordingly, assessee has to fail in its appeal.

7. In the result, appeal of the assessee is dismissed.

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

Sd/-
(G.S. PANNU)
ACCOUNTANT MEMBER

Mumbai, Date : 25th October, 2017

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Copy to :

- 1) The Appellant
- 2) The Respondent
- 3) The CIT(A) concerned
- 4) The CIT concerned
- 5) The D.R, "SMC" Bench, Mumbai
- 6) Guard file

By Order

Dy./Asstt. Registrar
I.T.A.T, Mumbai