



ITA.No.5667/Mum/2016
Say India Jewellers Private Limited
Assessment Year-2007-08

आयकर अपीलीय अधिकरण "बी" न्यायपीठ मुंबई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
"B" BENCH, MUMBAI

श्री डी.टी. गरसिया, न्यायिक सदस्य एवं
श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।
BEFORE SHRI D.T. GARASIA, JM AND
SHRI MANOJ KUMAR AGGARWAL, AM

आयकर अपील सं./I.T.A. No.5667/Mum/2016
(निर्धारण वर्ष / Assessment Year: 2007-08)

Assistant Commissioner Of Income Tax-13(2)(1) RoomNo.146,1 st Floor Aaykar Bhavan, M.K.Road Mumbai-400 020	बनाम/ Vs.	Say India Jewellers Private Ltd. Unit No.701, Block 1, Seepz++ SEZ, Andheri(E) Mumbai-400 096
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. AAACM-7171-K		
(□ पीलार्थी / Appellant)	:	(प्रत्यर्थी / Respondent)

Assessee by	:	Amod Prabhudesai,Ld.AR
Revenue by	:	Suman Kumar, Ld. Sr. DR

सुनवाई की तारीख / Date of Hearing	:	01/11/2017
घोषणा की तारीख / Date of Pronouncement	:	08/11 /2017

आदेश / ORDER

Per Manoj Kumar Aggarwal (Accountant Member)

1. The captioned appeal by revenue for Assessment Year [AY] 2007-08 assails the order of the Ld. Commissioner of Income-Tax (Appeals)-21 [CIT(A)], Mumbai, *Appeal No. CIT(A)-21/DCIT-13(2)(1)/I.T-117/2015-16* dated 27/07/2016. The assessment for impugned AY was framed by Ld. Deputy Commissioner of Income Tax, Circle-13(2)(1), Mumbai [AO]



u/s 143(3) read with Section 147 of the Income Tax Act,1961 on 17/03/2015. The solitary issue involved in the appeal is addition against certain *alleged bogus purchases*.

2.1 Facts leading to the same are that the assessee being *resident corporate assessee* engaged in *manufacturing of jewellery and trading in stones etc.* was subjected to an assessment *u/s 143(3) read with Section 147* for impugned AY on 17/03/2015 at Rs.2,94,12,330/- under normal provisions after addition of certain *bogus purchases* for Rs.80,69,936/-. The original return was *e-filed* on 28/10/2007 at Rs.2,13,42,396/- which was assessed *u/s 143(3)* on 12/11/2009 at Rs.2,58,84,321/-.

2.2 The reassessment proceedings were initiated upon receipt of certain information from investigation wing, Mumbai regarding dealers indulging in *bogus purchase bills* and it was noted that the assessee stood beneficiary of such *bogus purchase bills* to the tune of Rs.80,69,936/- from four such parties. The various suppliers, upon statement on oath *u/s 132(4)* admitted to be indulging in providing accommodation bills without doing any actual business. Consequently, notice *u/s 148* dated 25/03/2014 was issued to the assessee which was followed by statutory notices *u/s 143(2)* and *142(1)*.

2.3 During assessment proceedings, the assessee, *inter-alia*, pleaded for addition of profit element embedded in such purchase transactions. However, not convinced, Ld. AO concluded that the assessee failed to discharge the onus casted on him to prove the purchase transactions and therefore, added the same to the income of the assessee.



3. Aggrieved, the assessee contested the same with partial success before Ld. CIT(A) vide impugned order dated 27/07/2016 where Ld. CIT(A) after appreciating the factual matrix and placing reliance on several judicial pronouncements restricted the additions to 15% of *alleged bogus purchases plus* loss of Rs.49,737/- as claimed by assessee against these transactions. Aggrieved, the revenue is in further appeal before us.

4. The Ld. Departmental Representative [DR] relied on the stand of Ld. AO whereas Ld. Counsel for Assessee [AR] asserted that estimation made by Ld. CIT(A) was quite fair and reasonable.

5. We have carefully heard the rival contentions and perused relevant material on record. We are of the considered opinion that there could be no sale without purchase /consumption of material since the assessee was engaged in *manufacturing and trading activity*. The sales turnover achieved by the assessee has not been disputed by the revenue and the payments were through banking channels. The assessee has, to some extent, shown correlation between sales and purchases. The purchases were backed by invoices. At the same time, the assessee could not produce any confirmation from any of the impugned supplier and moreover the supplier, under oath, admitted to have entered into providing accommodation bills without doing any business, which cast a serious doubt on assessee's claim. Therefore, in such a situation, the addition, which could be made, was to account for profit element embedded in these purchase transactions to factorize for profit element earned by assessee against possible purchase of material in the *grey market* and undue benefit of VAT against such bogus purchases, which



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Ld. CIT(A) has rightly done. Therefore, finding the same to be quite fair & reasonable, we dismiss revenue's appeal.

6. Resultantly, the revenue's appeal stands dismissed.

Order pronounced in the open court on 08th November, 2017.

Sd/-

(D.T. Garasia)

न्यायिक सदस्य / **Judicial Member**

मुंबई Mumbai; दिनांक Dated : 08.11 .2017

Sr.PS:- *Thirumalesh*

आदेश की प्रतिलिपि □ ग्रेषित/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

Sd/-

(Manoj Kumar Aggarwal)

लेखा सदस्य / **Accountant Member**

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai