



ITA.No.1103/Mum/2018
Siddhant Diamonds Private Limited
Assessment Year- 2009-10

आयकर अपीलिय अधिकरण "एक-सदस्य मामला" न्यायपीठ मुंबई में।

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

श्री शक्तिजीत दे, न्यायिक सदस्य एवं
श्री मनोज कुमार अग्रवाल, लेखक सदस्य के समक्ष।

**BEFORE SHRI SAKTIJIT DEY, JM AND
SHRI MANOJ KUMAR AGGARWAL, AM**

आयकर अपील सं./I.T.A. No.1103/Mum/2018
(निर्धारण वर्ष / Assessment Year:2009-10)

Siddhant Diamonds Pvt. Ltd. FE9011/FC9031 Block Bharat Diamond Bourse BKC, Bandra Mumbai-400 051	बनाम/ Vs.	Deputy Commissioner of Income Tax-5(3)(1) Room No.583 5 th Floor, Aaykar Bhavan Mumbai- 400 020
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. AAECS-8548-Q		
(पीलार्थी / Appellant)	:	(प्रत्यर्थी / Respondent)

Assessee by	:	Mrugakshi Joshi, Ld.AR
Revenue by	:	N. Hemalatha, Ld. DR

सुनवाई की तारीख / Date of Hearing	:	22/05/2018
घोषणा की तारीख / Date of Pronouncement	:	23 /05/2018

आदेश / ORDER

Per Manoj Kumar Aggarwal (Accountant Member)

1. The captioned appeal by assessee for Assessment Year [AY] 2009-10 contest the order of Ld. Commissioner of Income-Tax (Appeals)-10 [CIT(A)], Mumbai, *Appeal No.CIT(A)-10/DC-5(3)(1)/65/16-17 dated 21/11/2017 qua* confirmation of certain additions on account of *alleged bogus purchases*. The assessment for impugned AY was framed



by *Ld. Deputy Commissioner of Income Tax circle-5(3)(1), Mumbai [AO]* u/s 143(3) read with section 147 of the Income Tax Act,1961 on 04/03/2016, wherein the income of the assessee has been determined at Rs.37,45,250/- after certain additions as against revised returned income of Rs.36.54 Lacs e-filed by the assessee on 26/03/2010 which was processed u/s 143(1). The issue under appeal is quantum addition against certain *alleged bogus purchases*. During impugned AY, the assessee was engaged in *manufacturing & trading of gold, platinum & silver Jewellery including studded jewellery*.

2.1 The reassessment proceedings were initiated upon receipt of certain information from investigation wing of the department that the assessee made suspicious purchases of Rs.7,26,494/- from an entity namely *A2 Jewels*. The said entity was part of *Bhanwarlal Jain Group*, who was subjected to search operations by the department on 03/10/2013, wherein it was found that the said group, through web of numerous entities, was engaged in providing accommodation entries of *bogus purchase/sales/Loans & advances* to many parties.

2.2 The assessee, while defending the purchases, *inter-alia* submitted copy of ledger extracts, copies of purchase invoices, bank statement evidencing payment to the said entity, confirmation / affidavit of the said party, VAT details etc. However, not convinced, Ld. AO noted that all the concern of the said group were not doing any actual business but only being operated as conduits for issuing accommodation entries. The statement made u/s 131 by partner of *A2 Jewel, Shri Ritesh Siroya* was also perused. Finally not convinced with documentary evidences including affidavit of the partner of *A2 Jewels*, filed by the assessee



during the course of proceedings, Ld. AO estimated the additions against these purchases @12.5% which resulted into an addition of Rs.90,812/- in the hands of the assessee.

3. Aggrieved, the assessee contested the same on legal ground as well as on merits with partial success before Ld. CIT(A) vide impugned order dated 21/11/2017 wherein Ld. CIT(A) while upholding the invocation of reassessment proceedings, restricted the additions to 8%. Still aggrieved, the assessee is in further appeal before us.

4. The Ld. Authorized Representative for assessee, *Ms. Mrugakshi Joshi*, while drawing our attention to the documents placed in the *paper-book* contested the additions as sustained by lower authorities which were controverted by Ld. Departmental Representative, *Ms.N.Hemalatha*.

5. We have carefully considered the rival contentions and perused relevant material on record including cited case laws. So far as the legality of reassessment proceedings are concerned, we find that original return filed by the assessee has been processed u/s 143(1) and therefore, the only requirement to be fulfilled to initiate the reassessment proceedings was that Ld. AO *had reasons to believe that certain income has escaped assessment*. In the present case, the reopening has been initiated upon receipt of concrete information from investigation wing which suggested escapement of income in the hands of the assessee. Therefore, we concur with the stand of Ld. first appellate authority in this regard and dismiss this ground of assessee's appeal.

6. So far as the merits of the case are concerned, the main stress of Ld. AR's argument is that the purchases were made by the assessee



from the said entity and the same was accounted for in the books of accounts and the supplier, by way of an affidavit, confirmed the transactions and therefore the additions were not justified. We are of the considered opinion that there could be no sale without purchase of material keeping in view the assessee's nature of business. The turnover achieved by the assessee has not been disputed by the revenue and the payments were through banking channels. The assessee reconciled quantitative details also to some extent. However, at the same time, the assessee reflected purchases from an entity which was being controlled by *Bhanwarlal Jain Group*. The search / survey action on the said group on 03/10/2013 by *DGIT (Inv.)* revealed that the said group consisting of numerous business entities, numbering more than 70, was engaged in providing *accommodation purchases bills & accommodation loans & advances*. It was found out that the employees / their relatives etc. of the said group were merely name lending directors / partners / proprietors of numerous concerns which were operating under the control of said group. The statements of concerned persons revealed that the firms were indulging in accommodation bills without doing any actual business and those persons had no knowledge about the business being carried out by the said concerns. In such a scenario, affidavit of the partner which is filed after considerable period of time could not be relied upon much in the given circumstances. The complete onus to prove the transactions by conclusive evidences was on the assessee. Therefore, in such a scenario, the action of Ld. CIT(A) in estimating the impugned additions @8% was quite justified and do not call for any interference from our side in any manner. So far as the



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reliance of Ld. AR on certain judicial pronouncements is concerned, we find that the same have been rendered on peculiar facts of each case and therefore, could not be relied upon blindly without considering the factual matrix of each case. This ground of assessee's appeal stand dismissed.

7. Resultantly, the appeal filed by the assessee stand dismissed.

Order pronounced in the open court on 23rd May, 2018

Sd/- (Saktijit Dey) न्यायिक सदस्य / Judicial Member	Sd/- (Manoj Kumar Aggarwal) लेखा सदस्य / Accountant Member
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मुंबई Mumbai; दिनांक Dated : 23. 05.2018
Sr.PS:- Thirumalesh

आदेश की प्रतिलिपि □ प्रेषित/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