

**IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA 'SMC' BENCH, KOLKATA**

[Before Sri J. Sudhakar Reddy, Accountant Member]

I.T.A. No. 2065/Kol/2017
Assessment Year: 2008-09

Saroj Baid.....Appellant
3-B, Lal Bazar Street
5th Floor
Kolkata - 700 001
[PAN : AEDPB 3177 Q]

Income Tax Office, Ward-36(3), Kolkata.....Respondent
Aayakar Bhawan Poorva
9th Floor
Kolkata - 700 107

Appearances by:

Shri Paras Nath Keshari, FCA, appeared on behalf of the assessee.
Shri Ranu Biswas, Addl. CIT, Sr. DR, appearing on behalf of the Revenue

Date of concluding the hearing : May 23rd, 2018

Date of pronouncing the order : June 27th, 2018

ORDER

Per J. Sudhakar Reddy :-

This is an appeal filed by the assessee directed against the order of the Commissioner of Income Tax (Appeals)-10, (hereinafter the 'Ld. CIT(A)'), dt. 01/06/2017, passed u/s 250 of the Income Tax Act, 1961 (hereinafter the 'Act'), relating to Assessment Year 2008-09.

2. Brief facts:-

The assessee is an individual and derives income from business. The Assessing Officer received information from DDIT (Inv.) Mumbai, through the DIT(IT), Kolkata, that the assessee during the Financial Year 2007-08, the assessee had availed a bogus accommodation entry in the nature of purchase amounting to Rs. 4,68,000/-, from an accommodation entry operator Mr. Praveen Kumar Jain, through his concern Mohit International. The assessment was re-opened and the amount added as, unexplained expenditure.

2.1. On appeal, the Id. First Appellate Authority confirmed the addition. Further aggrieved, the assessee is in appeal before us.

3. After hearing rival contentions, I find that the assessee gave a cheque for purchase of diamonds. Copy of the retail invoices is at page 51 of the paper book. The payments were made through account payee cheque drawn on Indusind Bank on 16th May, 2007. This is accounted for in the books of account of the assessee. These diamonds purchased were reflected in the balance sheet of the assessee. The assessee had not been filing regular returns of income. For the Assessment Year 2011-12, the assessee filed a return of wealth, wherein, these diamonds were reflected after getting them valued by a registered valuer. These evidences prove that the assessee has discharged the onus that lay on her in this case that the purchase of diamonds is genuine. The Assessing Officer as well as the Id. CIT(A) referred to certain *modus operandi* found during the course of search proceedings, in the case of Mr. Praveen Kumar Jain. Also reference was made to the statement from one Mr. Nilesh Parmar. The evidence claimed to have been found during the course of search are not brought on record by the revenue. It is not known whether the name of the assessee was mentioned in these statements or found in the evidences unearthed during the course of search. The entire addition is based on general observations, without any specific reference as to how it affects the assessee. This addition is made based on assumptions and presumptions.

4. The ITAT 'C' Bench of the Kolkata Tribunal in the case of *Sanju Jalan vs. ITO Ward-36(2), Kolkata* in *ITA No. 634/Kol/2017, order dt. 10.01.2018*, under similar circumstances, deleted a similar addition which was not based on evidence.

4.1. Consistent with the view taken therein, I delete the addition and allow this appeal of the assessee.

5. In the result, appeal of the assessee is allowed.

Kolkata, the 27th day of June, 2018.

Sd/-

[J. Sudhakar Reddy]

Accountant Member

Dated: 27.06.2018
{SC SPS}

Copy of the order forwarded to:

**1.Saroj Baid
3-B, Lal Bazar Street
5th Floor
Kolkata - 700 001**

**2.Income Tax Office, Ward-36(3), Kolkata
Aayakar Bhawan Poorva
9th Floor
Kolkata - 700 107**

3. CIT(A)-

4. CIT- ,

5. CIT(DR), Kolkata Benches, Kolkata.

True copy
By order

Senior Private Secretary
Head of Office/ D.D.O. ITAT, Kolkata Benches