

आयकर अपीलीय अधिकरण, कटक न्यायपीठ, कटक
IN THE INCOME TAX APPELLATE TRIBUNAL CUTTACK BENCH CUTTACK
BEFORE SHRI N.S.SAINI, AM & SHRI PAVAN KUMAR GADALE, JM

आयकर अपील सं./ITA No.16/CTK/2016

(निर्धारण वर्ष / Assessment Year :2010-2011)

Income Tax Officer, Kendrapara Ward, Madhuban, Paradeep (Erstwhile Ward-2 Paradeep)	Vs.	Sri Jugal Kishore Das, Prop. M/s Parbati Jewellery, At/Po: Tinimuhani, Dist: Kendrapara-754211
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : ABRPD 2065 Q		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

राजस्व की ओर से /Revenue by : Shri Subhendu Dutta, CITDR

निर्धारिती की ओर से /Assessee by : Shri Saswat Acharya, AR

सुनवाई की तारीख / Date of Hearing : **27/07/2017**

घोषणा की तारीख/Date of Pronouncement **28/07/2017**

आदेश / O R D E R

Per Shri Pavan Kumar Gadale, JM:

The revenue has filed an appeal and against the order of CIT(A), Cuttack passed in I.T.Appeal No.249/2013-14, dated 30.10.2015, u/s.143(3)/250 of the I.T.Act and raised the following grounds of appeal :-

"01. In the facts and circumstances of the case, the Id. First Appellate Authority is not justified in deleting the addition of Rs.40,10,298/- made by the AO for difference in closing stock valuation and directed to the AO to adopt weighted average p rice method of valuation of closing stock – when the AO had taken the valuation of closing stock as per the market price of the gold at the time of survey operation as the gold can easily be liquidated to cash at its present market price not at the cost price of the purchases made of such items.

02. In the facts and circumstances of the case, he CIT(A) is not justified to hold that as the AO has accepted the quantitative closing stock of gold, the method of valuation of closing stock is to be adopted as followed by the assessee."

2. Brief facts of the case are that the assessee is a proprietor and deals in jewellery and derives income from trading in gold ornaments and

filed the Return of income for the assessment year 2010-2011 on 28.03.2011 with total income of Rs.3,75,533/-. There was a survey operation u/s.133A on 26.03.2010 and as per the Board's guidelines the case was selected for scrutiny assessment and AO issued notices u/s.143(2) & 142(1) of the Act. In compliance to the same, Id. AR appeared from time to time and furnished the documents and the AO called information u/s.133(6) of the Act from different banks and discussed the case of the assessee and further on perusal of the financial statements the AO found that the disclosed closing stock of Rs.19,55,887/- as against the value of stock of Rs.60,02,987/- and therefore issued show cause notice to the assessee. The assessee filed submission explaining that the assessee is a regularly assessed to tax from 1996-97 and the closing stock of Gold is continued from 2004-05 to the date of survey, and therefore, the assessee has valued the stock based on the opening balance. The AO was not satisfied with the explanation on the closing stock and, therefore, considered the difference in the valuation of closing stock as income and made addition of Rs.40,10,298/- with other additions and assessed total income of Rs.51,88,150/- and passed order u/s.143(3) of the Act, dated 08.03.2013.

3. Aggrieved by the order of the AO, the assessee filed an appeal before the CIT(A). The Id. CIT(A) considered the facts and submissions of the assessee in the assessment proceedings and the information of the survey proceedings and applied weighted average method for valuation of stock and relied on the decision of the coordinate bench of the Tribunal in

case of Khimji Dayabhai Jewellers Vs. ITO, ITA No.501/CTK/2012 for A.Y.2008-09, order dated 14.12.2012, wherein the ITAT has accepted the weighted average method for valuation of closing stock and Id. CIT(A) dealt on the disputed issue at pages 3 & 4 of the order and directed the AO to adopt the weighted average price method and partly allowed the appeal of the assessee after observing as under :-

“Considering the case of the appellant and the above judgment of the jurisdictional ITAT; I am of the opinion that weighted average price method of valuation of closing stock is more appropriate for valuation of gold and silver ornaments as their price is ever changing. The AO is therefore directed to adopt the weighted average price method for valuation of the closing stock and find out the difference between the closing stock as determined in this method and the closing stock shown by the appellant. The difference if any should be added to the total income of the appellant as unexplained purchases.”

4. Aggrieved by the order of CIT(A), the revenue is in appeal before the Tribunal.
5. Before us, Id.DR submitted that the CIT(A) has erred in deleting the addition made by the AO and adopted the weighted average price method, whereas the AO was correct in following at the market price and prayed that the order of CIT(A) be set aside and appeal of the revenue be allowed.
6. Contra, Id. AR relied on the orders of the Id. CIT(A) and relied on the decision of the coordinate bench of the Tribunal.
7. We heard the rival submissions, perused the material on record and the judicial decisions. The Id. DR's sole grievance that the CIT(A) has erred in applying weighted average price method for valuation of closing stock which is not in accordance with law and the facts. However, the

assessee has relied on the price of gold for the year 2004-05 as evident from the assessment order whereas Id. AR relied on decision of the coordinate bench of this Tribunal in the case of Shri Ashoka Jewellers, ITA No.488/CTK/2014, order dated 28.4.2017 where the weighted average price method has been applied to the valuation of stock. We found that the Id.CIT(A) has discussed elaborately on the disputed issue with the judicial decisions and relied on the coordinate bench decision of the Tribunal in the case of Khimji Dayabhai Jewellers Vs. ITO, ITA No.501/CTK/2012 for A.Y.2008-09, order dated 14.12.2012. Accordingly, we are not inclined to interfere with the order of CIT(A) and uphold the same. Accordingly, the grounds of appeal of the revenue are dismissed.

8. Thus, appeal of the revenue is dismissed.

Order pronounced in the open court on this 28/07/2017.

Sd/-
(N. S. SAINI)

लेखा सदस्य / ACCOUNTANT MEMBER

Sd/-
(PAVAN KUMAR GADALE)

न्यायिक सदस्य / JUDICIAL MEMBER

कटक Cuttack; दिनांक Dated 28/07/2017

प्र.कु.मि/PKM, Senior Private Secretary

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant-
Income Tax Officer,
Kendrapara Ward,
Madhuban, Paradeep (Erstwhile Ward-2 Paradeep)
2. प्रत्यर्थी / The Respondent-
Sri Jugal Kishore Das,
Prop. M/s Parbati Jewellery,
At/Po: Tinimuhani,
Dist: Kendrapara-754211
3. आयकर आयुक्त(अपील) / The CIT(A),
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, कटक / DR, ITAT, Cuttack
6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//

आदेशानुसार/ BY ORDER,

(Senior Private Secretary)

आयकर अपीलीय अधिकरण, कटक / ITAT,
Cuttack