

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH : B : NEW DELHI

BEFORE SHRI R.K. PANDA, ACCOUNTANT MEMBER
AND
MS SUCHITRA KAMBLE, JUDICIAL MEMBER

ITA No.2395/Del/2016
Assessment Year: 2012-13

ACIT,
Circle-51(1),
New Delhi.

Vs Nalini Jewellers,
16/2646-49, Bank Street,
Karol Bagh,
New Delhi.

PAN: AAEFN2292D

(Appellant)

(Respondent)

Assessee by	:	Shri Nikhil Jain, Partner
Revenue by	:	Ms Ashima Neb, Sr. DR
Date of Hearing	:	22.08.2019
Date of Pronouncement	:	02.09.2019

ORDER

PER R.K. PANDA, AM:

This appeal filed by the Revenue is directed against the order dated 24th February, 2016 of the CIT(A)-17, New Delhi relating to assessment year 2012-13.

2. Facts of the case, in brief, are that the assessee is a partnership firm engaged in the business of trading and manufacturing of gold and diamond jewellery. It filed its return of income on 19th July, 2012 declaring total income of Rs.1,34,82,202/- The Assessing Officer completed the assessment u/s 143(3) on 5th March, 2015 determining the total income at Rs.2,92,31,520/- wherein he made the following additions:-

- i) Rs.1,54,29,231/- on account of gain on account of forward contracts in respect of foreign currency being speculative profits;
- ii) Rs.1,72,524/- being proportionate interest on account of interest free advances given;
- iii) Rs.80,205/- on account of disallowance of various expenses; and
- iv) Rs.67,364/- on account of disallowance of depreciation.

3. In appeal, the Id.CIT(A) held that the gain of Rs.1,54,29,231/- derived on account of forward contracts in respect of foreign currency being speculative profit can be set off against the loss of Rs.62,94,000/- debited in gold desk account. He also deleted the addition of Rs.1,72,524/- made by the Assessing Officer on account of notional interest. He, however, sustained the two other additions made by the Assessing Officer. Aggrieved with such part relief granted by the CIT(A), the Revenue is in appeal before the Tribunal challenging the deletion of Rs.1,72,524/- and holding that the gain of Rs.1,54,29,231/- derived on account of forward contracts in respect of foreign currency being speculative profit can be set off against the loss of Rs.62,94,000/- debited in gold desk account.

4. Shri Nikhil Jain, Partner of the assessee firm appeared in person and submitted that the appeal filed by the assessee against the order of the Tribunal for assessment year 2010-11 have been set aside by the Hon'ble High Court to the file of the Assessing Officer. Similarly, the appeal of the assessee for the impugned assessment year has been restored by the Tribunal to the file of the Assessing Officer with certain

directions. He accordingly submitted that he has no objection if the appeal filed by the Revenue is also restored to the file of the Assessing Officer for fresh adjudication in the light of the decision of the Hon'ble High Court for assessment year 2010-11.

5. The ld. DR has no objection for restoring the issues to the file of the Assessing Officer for fresh adjudication in the light of the direction of the Tribunal.

6. We have heard both the sides and perused the material on record. In view of the consent by both the sides that the matter should be restored to the file of the Assessing Officer in the light of the decision of the Hon'ble High Court in assessee's own case for assessment year 2010-11, we restore both the issues raised by the Revenue in the grounds of appeal to the file of the Assessing Officer for fresh adjudication. Needless to say, the Assessing Officer shall give due opportunity of being heard to the assessee and decide the issue as per fact and law. We hold and direct accordingly. The grounds raised by the Revenue are accordingly allowed for statistical purposes.

7. In the result, the appeal filed by the Revenue is allowed for statistical purposes.

The decision was pronounced in the open court on 02.09.2019.

Sd/-

(SUCHITRA KAMBLE)
JUDICIAL MEMBER

Sd/-

(R.K. PANDA)
ACCOUNTANT MEMBER

Dated: 02nd September, 2019

dk

Copy forwarded to :

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asstt. Registrar, ITAT, New Delhi