

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH: 'F' NEW DELHI**

**BEFORE SHRI H. S. SIDHU, JUDICIAL MEMBER
AND
SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER**

I.T.A. No. 1350/Del/2017
Assessment Year: 2012-13

RAM LAL KUNDAN LAL JEWELLERS,
1336, CHANDNI CHOWK,
DELHI - 110 006
(PAN: AABFR1477P)

VS. ACIT, CIRCLE 47(1),
NEW DELHI

(APPELLANT)

(RESPONDENT)

Assessee by: None

Revenue by: Sh. Surender Pal, Sr. DR.

ORDER

PER H.S. SIDHU, JM

This appeal is filed by assessee against the Order dated 23.1.2019 passed by the Ld. Commissioner of Income Tax(A)-16, New Delhi relating to Assessment Year 2012-13 on the following grounds:-

1. That on the facts and in the circumstances of the case, the Ld CIT(A) has erred in assessing the Income of the appellant at Rs. 55,49,230/- as against returned income of Rs. 15,74,570/- & thereby in confirming additions of Rs. 39,74,660/- made by the AO. As such the additions of 39,74,660/- may please be deleted.
2. That on the facts and in the circumstances of the case & in Law, the Ld. CIT(A) have erred in confirming the additions aggregating to Rs. 39,74,660/- (i.e Rs 29,53,880/- + Rs ,10,20,780/-) made by the AO by relying on the Information provided by the Investigation Wing, Mumbai rather on the facts/documentary evidences furnished by the appellant before the AO. The AO & Ld CIT(A), both, failed to appreciate the fact that the primary onus qua the above purchases

was duly discharged by the appellant. As such, the aggregate additions of Rs. 39,74,660/- may please be deleted.

3. That not prejudice, the lower authorities have failed to appreciate that the books of accounts as well as the inventory records of the appellant were duly accepted and thus the lower authorities failed to appreciate that the said purported bogus purchases of Rs. 39,74,660/-, were duly sold or were held as stock in trade & were so sold in subsequent Assessment Year 2013-14, and the details in this regard were duly placed on records. As such, the AO had failed to appreciate the said factum and also the further fact that Gross Profit from the purported transaction was already offered for taxation and in the absence of any infirmity in books of accounts, the addition of Rs. 39,74,660/- may kindly be deleted.

4. We crave to add, alter, delete or modify or withdraw any of above grounds of appeal at the time of hearing.

2. The aforesaid appeal came up for hearing on 04.07.2019 by issuing notice RPAD, despite that AR of the assessee not attended nor filed any adjournment application and the Bench adjourned the case for 03.09.2019 by issuing notice by RPAD on the address given in Column No. 10 Form No. 36, the AR of the assessee has not filed any application for adjournment. Keeping in view the facts and circumstances of the case, we are of the view that no useful purpose would be served to send the notice again and again to the assessee on the address given in the Form no. 3 vide column no. 10, therefore, we are deciding the appeal exparte qua assessee after hearing the Ld. DR.

3. At the time of hearing, Ld. DR relied upon the order passed by the revenue authorities and stated that Ld. CIT(A) has decided the issue in dispute against the assessee on the basis of the decision in assessee's own case for assessment year 2010-11 which Ld. CIT(A) has mentioned in the impugned order. He requested that the appeal filed by the Assessee may be dismissed.

4. We have heard Ld. DR and gone through the order passed by the revenue authorities, we are of the view that Ld. CIT(A) has decided the issues in dispute against the assessee on the basis of assessee's own case for assessment year 2010-11 wherein the issues were decided against he assessee. Assessee has not filed any contrary evidence to rebut the findings given by the Ld. CIT(A) on the issue in dispute. For the sake of convenience, the finding of the Ld. CIT(A) on the issue in dispute mentioned at page no. 2 & 3 is reproduced as under:-

"Finding :- Ground No. A 1a to h):- The brief facts of the case are that during the previous year under consideration the appellant has claimed to have made purchases of Rs. 29,53,880/- from Abhayraj Gems Pvt. Ltd. It is pertinent to mention here that a search and seizure operation u/s. 132 was carried out on 03.10.2013 by the Investigation Wing on Sh. Rajendra Jain, Sh. Sanjay Choudhary and Dharmichand Jain group who are the entry providers. During the course of search, the statement of various persons, on oath was recorded including Sh. Rajendra Jain, who had admitted that they were engaged, in the business of providing bogus entries, of sale as well as purchases. It is in this background that the case in hand should be viewed. Sh. Rajendra Kumar Jain is the Director of M/s Abhayraj Gems Pvt. Ltd., who had admitted categorically of providing bogus entries. Under the similar circumstances, this issue had arisen in appellant's own case for AY 2010-11, wherein the issue were decided against the appellant. There is no change in facts and circumstances this year. Therefore, following my own order for AY 2010-11 in appeal No. 326/15-16 dated 01.12.2016, the action of the appellant has also claimed to have made purchases from M/s Arihand Export amounting to Rs. 10,20,780/-. The proprietor of M/s Arihand Export is Mr. Sachin Pareek who in his own statement has admitted that he was only an accountant to Sh. Surinder Jain and Sh. Rajendra Jain and was not transacting any business of his own. Under the similar circumstances the identical issue was decided against the appellant in appellant's own case for AY 2010-11 in appeal no. 326/15-16 dated 01.12.2016. There is no change in the facts and circumstances this year. Relying on my own findings in AY 2010-11 the issue is decided against the appellant. Consequently, the action of the AO is confirmed."

5. After going through the findings of the Ld. CIT(A), we do not find any infirmity in the impugned order, hence, we uphold the same and dismiss the grounds raised by the Assessee. Since the assessee did not appear before the Bench in spite of the directions of the Bench for sending the notice through RPAD to the assessee. As we have already decided the case of the assessee exparte, therefore, in the interest of justice, we are giving the liberty to the assessee to approach this Bench under Rule 24 of the Income Tax Appellate Tribunal Rules, 1963 and satisfy the Bench for non-appearance and that Application will be decided on merits in accordance with law.

6. In the result, the appeal filed by the assessee stands dismissed.

Order pronounced on 16/09/2019.

Sd/-

**[PRASHANT MAHARISHI]
ACCOUNTANT MEMBER**

Sd/-

**[H.S. SIDHU]
JUDICIAL MEMBER**

Date 16/09/2019

"SRB"

Copy forwarded to: -

1. Appellant -
 2. Respondent -
 3. CIT
 4. CIT (A)
 5. DR, ITAT
- TRUE COPY

By Order,

Assistant Registrar, ITAT, Delhi Benches