

**IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA 'B' BENCH, KOLKATA
(Virtual Court)**

(Before Sri J. Sudhakar Reddy, Accountant Member & Sri Aby T. Varkey, Judicial Member)

**I.T.A. No. 1854/Kol/2019
Assessment Year: 2010-11**

***M/s. B.C. Sen & Co. Ltd.....Appellant
[PAN: AABCB 2070 P]***

Vs.

DCIT, Circle-11(1), Kolkata.....Respondent

Appearances by:

Sh. Soumitra Choudhury, Adv., appeared on behalf of the Assessee.

Smt. Ranu Biswas, Addl. CIT, appeared on behalf of the Revenue.

Date of concluding the hearing : December 3rd, 2020

Date of pronouncing the order : January 6th, 2021

ORDER

Per J. Sudhakar Reddy, AM:

This is an appeal filed by the assessee directed against the order of the Learned Commissioner of Income Tax (Appeals)-4, Kolkata, [hereinafter the "CIT(A)"], passed u/s. 250 of the Income Tax Act, 1961 (the 'Act'), dated 27.03.2019 for the Assessment Year 2010-11.

2. The assessee is a company and is in the business of manufacture and export of gold/platinum jewellerys, silver articles, traders of watches, pen and other articles. It filed its return of income on 30.09.2010 declaring total income of ₹8,24,83,291/-. The return was processed u/s 143(1) of the Act on 15.04.2011. Subsequently the assessment was re-opened u/s 148 of the Act. An assessment order u/s 147 r.w.s. 143(3) of the Act was passed on 11.01.2016 determining the total income of the assessee at ₹8,25,58,040/-. The sole addition of ₹74,750/- was made on the ground that this was a bogus purchase from Karnawat Impex Pvt. Ltd.

3. Aggrieved, the assessee carried the matter in appeal before the ld. CIT(A) without success.

4. Further aggrieved, the assessee is in appeal before us challenging both the re-opening of assessment as well as the addition on merits.

5. After hearing rival contentions, we find that this is a case where the assessee has declared turnover of ₹123 crores. It has declared income of ₹8.24 crores. On these facts to re-open the assessment holding that the assessee has made a bogus purchase of ₹74,750/- is not warranted. The assessee has filed a paper book running into 101 pages before us. Copies of the invoice from Karnawat Impex Pvt. Ltd. dated 15.04.2019, copy of the ledger account, copy of the bank statement, statement showing the in-flow and out-flow of diamonds during the year. Statement of tax invoice showing sales of diamonds from 15.04.2009 to 16.07.2009 has been filed before us. The sales of the closing stock are not doubted by the AO. The addition has been made without evidence. When the AO holds that a purchase is bogus, then the corresponding sale is also to be held as bogus. This is not done. In view of the above discussion and on examination of the evidence on record, we delete the addition made and allow the appeal of the assessee.

6. In the result, the appeal filed by the assessee is allowed.

Kolkata, the 6th January, 2021.

Sd/-
[Aby T. Varkey]
Judicial Member

Dated: 06.01.2021

Bidhan (P.S.)

Copy of the order forwarded to:

1. ***M/s. B.C. Sen & Co. Ltd., 4, Lee Road, Kolkata-700 020.***
2. ***DCIT, Circle-11(1), Kolkata.***
3. CIT(A)-4, Kolkata. (sent through mail)
4. CIT-
5. CIT(DR), Kolkata Benches, Kolkata. (sent through mail)

True copy

Sd/-
[J. Sudhakar Reddy]
Accountant Member

By order

Assistant Registrar
ITAT, Kolkata Benches