

INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "C": NEW DELHI  
BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER  
AND  
SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER  
(Through Video Conferencing)

ITA No. 5187/Del/2017  
(Assessment Year: 2014-15)

Hira Jewellers P. ltd, HD-3, Main Road Pitampura, New Delhi PAN: AAACH7965E (Appellant)	Vs.	DCIT, Circle-11(2), New Delhi (Respondent)
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Assessee by :	Shri C. V. Sajan, CA
Revenue by:	Ms. Anima Barnwal, Sr. DR
Date of Hearing	03/08/2021
Date of pronouncement	03/08/2021

O R D E R

PER PRASHANT MAHARISHI, A. M.

1. This appeal is filed by the assessee against order of the Id CIT(A)-25, new Delhi for assessment year 2015-16, wherein, the only issue is with respect to disallowance of payment of VAT of Rs. 2,38,375/-. This is the only issue in this appeal.
2. Brief facts of the case shows that the assessee is engaged in the business of trading of jewelry and ornaments. The assessee filed its return of income on 28.08.2014 declared income of Rs. 99,94,280/-. The assessment order u/s 143(3) was passed by the Id AO at Rs. 1,02,38,900/-. The major additions was with respect to the disallowances on account of additional VAT paid by the assessee of Rs. 2,38,375/-. The Id CIT(A) also confirmed the same. Therefore, the assessee is in appeal.
3. The parties are heard and the orders of the lower authorities are perused.
4. The facts shows that the assessee has debited a sum of Rs. 2,38,375/- on account of additional VAT paid by the assessee. The assessee submitted that this sum was paid on account of sales of old and used vehicle and under the scheme of state govt wherein, the dealers who are unaware of the legal provision of payment of VAT on sale of capital goods, that it attracted the payment of sales taxes to deposit the sum. Such deposit was without payment of any interest in penalties. In FY 2012-13 the assessee has sold vehicle of Rs. 19.08

lakhs and VAT @12.5 of Rs. 2,38,375/- was paid during the year. This was claimed as a deduction. The Id AO held the above expenditure is not allowable as it has been paid on sale of fixed assets relating to capital expenditure. We find that the VAT paid on sale of capital goods is also subject to credit and set off to the assessee. This sales tax was also borne by the assessee. It is neither penalty nor any taxes for infringement of law. It is in fact the sales tax liability arising on the assessee on sale of vehicle. The above expenditure was not incurred by the assessee for acquisition of any capital asset. In view of this we do not find any reason to hold that the above expenditure incurred by the assessee is anyway capital in nature. In view of this we reverse of orders of the lower authorities and delete the disallowances of sales tax paid by the assessee. Accordingly, the solitary ground of appeal is allowed.

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

Order pronounced in the open court on 03/08/2021.

-Sd/-  
(KUL BHARAT)  
JUDICIAL MEMBER

-Sd/-  
(PRASHANT MAHARISHI)  
ACCOUNTANT MEMBER

Dated: 03/08/2021  
A K Keot

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1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR  
ITAT, New Delhi