

IN THE INCOME TAX APPELLATE TRIBUNAL, DELHI 'A' BENCH,  
NEW DELHI (THROUGH VIDEO CONFERENCING)

BEFORE SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER, AND  
SHRI SUDHANSHU SRIVASTAVA, JUDICIAL MEMBER

ITA No. 5465/DEL/2018 [A.Y 2011-12]  
ITA No. 5466/DEL/2018 [A.Y 2012-13]  
ITA No. 5467/DEL/2018 [A.Y 2013-14]  
ITA No. 5468/DEL/2018 [A.Y 2014-15]  
ITA No. 5469/DEL/2018 [A.Y 2015-16]  
ITA No. 5470/DEL/2018 [A.Y 2016-17]

M/s Aum Jewels  
D-1046, 3<sup>rd</sup> Floor  
New Friends Colony  
New Delhi

Vs.

The I.T.O  
Ward - 30(4)  
New Delhi

PAN : AABFU1372 L  
[Appellant]

[Respondent]

Date of Hearing : 20.09.2021  
Date of Pronouncement : 21.09.2021

Assessee by : Shri Manoj Garg, C.A.  
Revenue by : Shri Bhopal Singh, Sr. DR

**ORDER**

PER N.K. BILLAIYA, ACCOUNTANT MEMBER,

The above captioned six separate appeals by the assessee are preferred against six separate orders of the Commissioner of Income Tax [Appeals] - 10, New Delhi dated 18.06.2018 pertaining to Assessment Years 2011-12 to 2016-17.

2. Since in the captioned appeals before us the grievance of the assessee is common, therefore, all these appeals were heard together and are disposed off by this common order for the sake of convenience and brevity.

3. The common grievance in all the six captioned appeals relates to the levy of penalty u/s 271A of the Income-tax Act, 1961 [hereinafter referred to as 'The Act' for short].

4. Briefly stated, the facts of the case are that survey operation was conducted at the business premises of the appellant on 18.08.2017. During the course of survey operation, survey party found that the books of account were not maintained by the assessee and the partners, in their statements accepted that the books of account were not maintained. The Assessing Officer, accordingly, proceeded by invoking the provisions of section 271A of the Act and levied penalty of Rs. 25,000/- for each Assessment Year under consideration.

5. The assessee carried the matter before the Id. CIT(A) but without any success.

6. A perusal of the documents furnished before us shows that there are conflicting facts emanating from the orders of the authorities below qua the documentary evidences in the paper book. In the paper book, we find that the assessee has furnished Audited Statement of Accounts for the captioned Assessment Years and the auditor's report at Clause (b) states "In our opinion, the Head Office and Branches of the assessee have kept proper books of account so far, as appears from examination of the books".

7. We find Tax Audit Report in Form No. 3CD in all the Assessment Years under consideration. In our considered opinion, Audit Report and Audited Statement of Accounts are the outcome of books of account maintained by an assessee. If these documents are available, then it can be safely presumed that the assessee must have maintained proper books of account, which would enable the auditors to furnish audit report.

8. With these conflicting facts, it would be proper and just to restore the quarrel to the files of the Assessing Officer. The assessee is directed to satisfy the Assessing Officer that proper books of account were maintained, which were basis of Audit Report and Audited

Statement of Account. The Assessing Officer is directed to examine the same and decide the issue afresh after giving reasonable and sufficient opportunity of being heard to the assessee.

9. In the result, all the six captioned appeals of the assessee in ITA Nos. 5465 to 5470/DEL/2018 are allowed for statistical purposes.

The order is pronounced in the open court on 21.09.2021.

Sd/-

Sd/-

**[SUDHANSHU SRIVASTAVA]  
JUDICIAL MEMBER**

**[N.K. BILLAIYA]  
ACCOUNTANT MEMBER**

Dated: 21<sup>st</sup> September, 2021

VL/

Copy forwarded to:

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

Asst. Registrar,  
ITAT, New Delhi

Date of dictation	
Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr.PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
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Date on which the file goes to the Head Clerk	
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