

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'C', NEW DELHI**

Before Sh. A. D. Jain, Vice President

Dr. B. R. R. Kumar, Accountant Member

ITA No. 741/Del/2019 : Asstt. Year : 2009-10

ITA No. 742/Del/2019 : Asstt. Year : 2010-11

ITA No. 743/Del/2019 : Asstt. Year : 2011-12

ITA No. 744/Del/2019 : Asstt. Year : 2012-13

ITA No. 745/Del/2019 : Asstt. Year : 2013-14

Gian Chand & Sons (HUF), Prop. M/s Gain Chand Mohinder Kumar, 213, Sharda Niketan, Pitampura, New Delhi-110034	Vs	ACIT, Circle-46(1), New Delhi
(APPELLANT)		(RESPONDENT)
PAN No. AABHG4171K		

Assessee by : Sh. Suresh Kumar Gupta, CA

Revenue by : Sh. Umesh Takyar, Sr. DR

Date of Hearing: 28.10.2021

Date of Pronouncement: 01.11.2021

ORDER

Per Bench:

The present appeals have been filed by the assessee against the orders of the Id. CIT(A)-16, New Delhi dated 26.11.2018.

2. Since, the issues involved in all these appeals are identical, they were heard together and being adjudicated by a common order.

3. The case has been fixed for early hearing as per the order dated 27.08.2021.

BENCH-FRIDAY-A
ITA NOS. 741 to 745/Del/2018
Gian Chand & Sons, JUF

27-08-2021

Present for the Assessee : Mr. Suresh K. Gupta, CA
Present for the Department: Mr. R.K. Gupta, Sr. DR

Assessee has filed the present Application for grant of early hearing.

At the time of hearing, Ld. Counsel for the assessee has submitted that the issue involved in these appeals is squarely covered by the ITAT, Delhi Coordinate Bench decision in the case of M/s Shagun Jewellers P. Ltd. vs. ACIT in ITA No. 9890/Del/2019 dated 10.6.2020. He further submitted that the Paper Books etc., are ready and will be filed in due course.

Ld. DR has no objection.

After hearing both the parties, the early hearing in the captioned appeals is granted. The Registry is directed to fix the captioned appeals for hearing on **28.10.2021** before the '**C**' Bench. The Ld. A.R. is directed to file the Paper Books etc., with the other side and before the Bench within 10 days from today to facilitate the ensuing hearing. Both the parties informed in the Open Court upon conclusion of virtual hearing, hence, no need to send the formal notices of hearing.



(G.S. Pannu)
Vice President



(Justice P.P. Bhatt)
President

4. During the hearing before us, the Id. AR relied on the order of the Co-ordinate Bench of ITAT in ITA No. 9890/Del/2019 dated 16.06.2020 in the case M/s Shagun Jewellers (P) Ltd. Vs ACIT.

5. The Id. DR relied on the orders of the authorities below.

6. We have perused the above quoted order and find the background and facts of the case are similar except the quantum involved. For the sake of ready reference, the relevant portion of the order relied by the Id. AR is reproduced as under:

"5. Briefly stated, the facts of the case are that a search was conducted at Ahmadabad and New Delhi in which certain documents were found and seized by the search party. From the documents found, unaccounted money lending business of Shri Asharam Bapu and his associates came into light. It also came to the knowledge of the Revenue that there were several beneficiaries. Statement of one Shri Devi Das Tikamdas was recorded u/s 131A r.w.s 131 of the Act on 25th and 26th September, 2015.

6. In his statement, Shri Devi Das Tikamdas Chattani stated that whole of the loan account was maintained by one Shri Popat Lal Vani. Shri Devi Das Tikamdas Chattani also stated that one Shri Sant Lal Aggarwal was handler of Rs. 200 crores at Delhi from where the loan was disbursed to around 100 parties, out of which 60 such parties were transacted through Shri Sant Lal Aggarwal.

7. The Assessing Officer of the assessee was informed by the Investigation Wing of the department that from verification of documents seized, it clearly appears that Shri Sant Lal Aggarwal received cash loans from Shri Asharam and further disbursed to other parties and the assessee is one of the beneficiaries. According to the Assessing Officer, the following cash loans were given to the assessee:

Date	Beneficiary Name	Debit	Credit	Group	Contra
01.07.2009	Shagun Jewellers	0	72,00,090	Govind	Delhi
01.07.2009	Shagun Jewellers Pvt. Ltd.	72,00,090	0	Govind	Interest received
01.07.2009	Shagun Jewellers	75,00,000	0	Govind	Delhi
29.03.2010	Shagun Jewellers	0	83,16,000	Govind	Delhi
29.03.2010	Shagun Jewellers Pvt. Ltd.	83,16,000	0	Govind	Interest received
29.03.2010	Shagun Jewellers	83,00,000	0	Govind	Delhi
	Total	3,13,16,090	1,55,16,090		

8. On the strength of the information received from the ADIT, INV, the Assessing Officer assumed jurisdiction u/s 148 of the Act and accordingly, statutory notices were issued and served upon the assessee.

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25. Coming to the merits of addition of Rs. 1,55,16,090/-, once again, the entire addition revolves around the statement of Shri Devi Das Tikamdas Chattani. In his statement, Shri Devi Das Tikamdas Chattani stated that Shri Sant Lal Aggarwal is handler and is the main person for disbursing cash loan to 60 parties. The alleged cash loans given to the assessee is already exhibited elsewhere at para 7 hereinabove.

26. As mentioned elsewhere, the foundation of the impugned addition is the statement of Shri Devi Das Tikamdas Chattani. Except for that, there is no direct evidence brought on record to show that any cash transactions took place between the assessee and the said person.

27. On the contrary, the statement of Shri Sant Lal Aggarwal which is part of the assessment order and is extracted at pages 17 to 24 of the assessment order shows that Shri Sant Lal Aggarwal, answering to question No. 13, emphatically stated

that he does not know who Shri Devi Das Tikamdas Chattani is. Once again, answering to question No. 18, Shri Sant Lal Aggarwal stated that he does not know who is Shri Devi Das Tikamdas Chattani. Answering to question No. 19, Shri Sant Lal Aggarwal stated that he does not know Shri Devi Das Tikamdas Chattani and never handled Rs. 200 crores and no such transaction was done by him except selling rice to the Ashram. In the very same statement, Shri Sant Lal Aggarwal accepted the transaction of M/s Index Securities and Research Pvt Ltd and the appellant company.

28. The Assessing Officer never confronted Shri Devi Das Tikamdas Chattani to Shri Sant Lal Aggarwal. If the statement of Shri Devi Das Tikamdas Chattani is to be believed, then on the same facts, statement of Shri Sant Lal Aggarwal cannot be ignored or brushed aside lightly. Merely because the statement of Shri Sant Lal goes in favour of the assessee, cannot be a reason to disbelieve the same. As mentioned elsewhere, there is no direct evidence brought on record which could suggest that some cash transactions took place between the assessee and the searched person. The observations made by the Assessing Officer at page 25 of the assessment order clearly show that the entire addition has been made on surmises and conjectures. The relevant para of the assessment order reads as under:

"From above it is clear that M/s. Shagun Jewellers has had transactions with M/s Index Securities & Research Pvt Ltd which was a conduit company managed by Mr. Santlal Aggarwal who has further acted on behalf of Sh. Asharam Bapu. Hence, it cannot be ruled out that cash loan were received by the assessee from Santlal Aggarwal. Moreover, the seized material retrieved, clearly indicates that the assessee company has paid

Rs. 1,55,16,090/- in cash on account of interest on such cash loan."

29. Considering the facts of the case in hand, in the light of statement of Shri Sant Lal Aggarwal, we do not find any merit in the impugned addition and the same is directed to be deleted. Accordingly, Ground Nos. 4 and 5 are allowed."

7. The amounts mentioned in the ledger account in the case of the assessee which is the similar ledger considered by the ITAT in the order of the M/s Shagun Jewellers is mentioned below:

A.Y. 2009-10

<i>Date</i>	<i>Debit</i>	<i>Credit</i>	<i>Beneficiary Name Group</i>	<i>Contra</i>
<i>01.04.2008</i>	<i>30000</i>	<i>0</i>	<i>Gian Chand Mohinder Kumar</i>	<i>Delhi</i>
<i>01.04.2008</i>	<i>0</i>	<i>30000</i>	<i>Gian Chand Mohinder Kumar</i>	<i>Interest received</i>
<i>14.06.2008</i>	<i>270000</i>	<i>0</i>	<i>Gian Chand Mohinder Kumar</i>	<i>Delhi</i>
<i>14.06.2008</i>	<i>0</i>	<i>270000</i>	<i>Gian Chand Mohinder Kumar</i>	<i>Delhi</i>
<i>26.07.2008</i>	<i>0</i>	<i>11000000</i>	<i>Gian Chand Mohinder Kumar</i>	<i>Interest received</i>
<i>26.09.2008</i>	<i>487800</i>	<i>0</i>	<i>Gian Chand Mohinder Kumar</i>	<i>Delhi</i>
<i>26.09.2008</i>	<i>0</i>	<i>4878000</i>	<i>Gian Chand Mohinder Kumar</i>	<i>Interest received</i>
<i>01.01.2009</i>	<i>567000</i>	<i>0</i>	<i>Gian Chand Mohinder Kumar</i>	<i>Delhi</i>
<i>01.01.2009</i>	<i>0</i>	<i>567000</i>	<i>Gian Chand Mohinder Kumar</i>	<i>Interest received</i>
<i>01.01.2009</i>	<i>1000000</i>	<i>0</i>	<i>Gian Chand Mohinder Kumar</i>	<i>Delhi</i>
<i>31.03.2009</i>	<i>540000</i>	<i>0</i>	<i>Gian Chand Mohinder Kumar</i>	<i>Interest received</i>
<i>31.03.2009</i>	<i>0</i>	<i>540000</i>	<i>Gian Chand Mohinder Kumar</i>	<i>Delhi</i>

A.Y. 2010-11

Date	Debit	Credit	Beneficiary Name Group	Contra	FY
06.12.2009	1000000	0	Gian Chand Mahender	Delhi	2009-10
07.01.2009	534300	0	Gian Chand Mahender	Delhi	2009-10
07.01.2009	0	534300	Gian Chand Mahender	Interest received	2009-10
29.09.2009	513000	0	Gian Chand Mahender	Delhi	2009-10
29.09.2009	0	513000	Gian Chand Mahender	Interest received	2009-10
31.10.2009	2000000	0	Gian Chand Mahender	Delhi	2009-10
12.07.2009	2000000	0	Gian Chand Mahender	Delhi	2009-10
01.08.2010	461700	0	Gian Chand Mahender	Delhi	2009-10
01.08.2010	0	461700	Gian Chand Mahender	Interest received	2009-10
28.03.2010	405000	0	Gian Chand Mahender	Delhi	2009-10
28.03.2010	0	405000	Gian Chand Mahender	Interest received	2009-10

A.Y. 2011-12

Date	Debit	Credit	Beneficiary Name Group	Contra	FY
04.01.2010	0	4000000	Gian Chand Mahender	Delhi	2010-11
24.04.2010	0	1000000	Gian Chand Mahender	Delhi	2010-11
24.06.2010	532200	0	Gian Chand Mahender	Delhi	2010-11
24.06.2010	0	532200	Gian Chand Mahender	Interest received	2010-11
17.08.2010	2500000	0	Gian Chand Mahender	Delhi	2010-11
09.09.2010	0	1000000	Gian Chand Mahender	Delhi	2010-11
10.01.2010	514800	0	Gian Chand Mahender	Delhi	2010-11
10.01.2010	0	514800	Gian Chand Mahender	Interest received	2010-11
12.03.2010	1000000	0	Gian Chand Mahender	Delhi	2010-11
18.01.2011	491100	0	Gian Chand Mahender	Delhi	2010-11
18.01.2011	0	491100	Gian Chand Mahender	Interest received	2010-11
31.03.2011	472500	0	Gian Chand Mahender	Delhi	2010-11
31.03.2011	0	472500	Gian Chand Mahender	Interest received	2010-11

A.Y. 2012-13

<i>Date</i>	<i>Debit</i>	<i>Credit</i>	<i>Beneficiary Name Group</i>	<i>Contra</i>	<i>FY</i>
30.06.2011	412500	0	Gian Chand Mahender	Delhi	2011-12
30.09.2011	0	412500	Gian Chand Mahender	Interest received	2011-12
09.02.2011	1500000	0	Gian Chand Mahender	Delhi	2011-12
30.09.2011	461250	0	Gian Chand Mahender	Delhi	2011-12
30.09.2011	0	461250	Gian Chand Mahender	Interest received	2011-12
27.12.2011	432000	0	Gian Chand Mahender	Delhi	2011-12
27.12.2011	0	432000	Gian Chand Mahender	Interest received	2011-12
02.08.2012	1000000	0	Gian Chand Mahender	Delhi	2011-12

A.Y. 2013-14

<i>Date</i>	<i>Debit</i>	<i>Credit</i>	<i>Beneficiary Name Group</i>	<i>Contra</i>	<i>FY</i>
29.06.2012	450000	0	Gian Chand Mahender	D. Kumar	2012-13
29.06.2012	0	450000	Gian Chand Mahender	Interest received	2012-13
03.10.2012	450000	0	Gian Chand Mahender	D. Kumar	2012-13
03.10.2012	0	450000	Gian Chand Mahender	Interest received	2012-13
01.01.2013	458000	0	Gian Chand Mahender	D. Kumar	2012-13
01.01.2013	0	458000	Gian Chand Mahender	Interest received	2012-13

8. Since, the order of the ITAT has already dealt with the copy of the ledger account, statements of various persons recorded during the search and post search, in the absence of any new material brought before us, we decline to deviate from the ratio in the order of the ITAT in the case of M/s Shagun Jewellers Pvt. Ltd.

9. With regard to the Ground No. 5 in the A.Y. 2011-12 pertaining to repayment of loan since the same being the part

of the same ledger account, the similar ratio of adjudication applies *mutatis mutandis*.

10. In the result, all the appeals of the assessee are allowed.
Order Pronounced in the Open Court on 01/11/2021.

Sd/-

(A. D. Jain)
Vice President

Dated: 01/11/2021

Subodh Kumar, Sr. PS

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

Sd/-

(Dr. B. R. R. Kumar)
Accountant Member

ASSISTANT REGISTRAR