

**IN THE INCOME TAX APPELLATE TRIBUNAL
“F” BENCH, MUMBAI**

**BEFORESHRI AMARJIT SINGH, JUDICIAL MEMBER &
SHRI AMARJIT SINGH, ACCOUNTANT MEMBER**

ITA No.1286/Mum/2020 (A.Y 2016-17)

DCIT-CC-3(1) Room No. 1924, Air India Building, Nariman Point, Mumbai – 400021	Vs.	M/s Jodhani Brothers DW-4220, 4 th Floor, Bharat Diamond Bourse, Bandra Kurla Complex, Bandra East, Mumbai – 400 51
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No.: AA AFJ6298F		
Respondent	..	Appellant

Appellant by :	Vartik Chokshi
Respondent by :	S.N. Kabra

Date of Hearing	02.03.2022
Date of Pronouncement	28.03.2022

आदेश / O R D E R

PER AMARJIT SINGH, AM:

The present appeal filed by the revenue is directed against the order passed CIT(A)-51, Mumbai which in turn arises from the order passed the A.O u/s 143(3) of the Income Tax Act, 1961 for A.Y. 2016-17. The revenue has assailed the impugned grounds before us:

“Whether pm the facts and circumstances of the case the ld. CIT(A) was justified in deleting the addition of Rs.2,00,98,258/- made by Assessing officer towards unaccounted income and unaccounted expenditure/investment, when

detailed evidences regarding unaccounted expenditure were found during the survey proceedings ?”

2. The solitary ground of appeal of the revenue is directed against the order of Id. CIT(A), in deleting the addition of Rs.2,00,98,258/-made by the assessing officer towards unaccounted income and unaccounted expenditure/investment.

3. The fact in brief is that assessee is a firm engaged in the business of manufacturing and trading of diamonds. In the case of the assessee a survey action was carried out by the Investigation Wing at its premises at Mumbai and Surat on 22.12.2015. Subsequent to the survey action the assessee filed its return of income of Rs. 8,34,94,700/- which included additional income of Rs.2.5 crore offered on account of various discrepancy noted at the time of survey action. The case was selected for scrutiny assessment after issuing notice u/s 143(2) of the Act on 08.08.2017. The A.O has made addition on account of generation of undisclosed income of Rs.2,03,88,500/- from undisclosed sale including sales carried out in the activity of an intermediary. Further, addition of Rs.1,06,000/- has been made on account of undisclosed interest income. The total generation of unaccounted income determined by the assessing officer was of Rs.2,04,94,500/-. On the other hand, addition made by the assessing officer on account of unexplained expenditure/investment of income was for an aggregate amount of Rs.2,96,69,360/- which comprises of undisclosed stock of Rs.58,60,773/-, undisclosed cash of Rs.12,90,851/- undisclosed interest expenditure of Rs.1,34,031/-and undisclosed expenditure for construction of factory of Rs.2,23,83,705/-. The total undisclosed amount of income as for annexure A-1 of the impounded document was computed at Rs.2,03,88,500/- and same was added to the total income of the assessee.

4. Aggrieved, the assessee carried the matter in appeal before the ld. CIT(A). The ld. CIT(A) has allowed the appeal of the assessee.

5. Heard both the side and perused the material on record. During the course of appellate proceedings before us the ld. D.R has placed reliance on the order of A.O. On the other hand, the ld. Counsel has submitted that assessee has declared an amount of Rs.2.5 crore, during the course of survey and same was offered for tax in the return of income. He referred para 7.4 and 7.6 of the order of ld. CIT(A) and submitted that ld. CIT(A) has rightly allowed the appeal of the assessee since the assessee has declared more income than the undisclosed expenditure incurred. The ld. Counsel has also placed reliance on the decision of Bombay High Court in the case of CIT Vs. Golani Brothers (2017) taxman.com 355 (Bom).

6. Heard both the side and perused the material on record. Without retreating the fact as discussed supra in this order, the assessing officer has made an aggregate addition on account of generation of undisclosed income of Rs.2.03,88,500/- and has also made addition on account of unexplained expenditure/investment of income of Rs.2,96,69,360/- which comprises of undisclosed stock (Rs.58,60,773/-) undisclosed cash Rs.12,98,851/-, undisclosed interest expenditure Rs.1,34,031/- undisclosed expenditure for construction of factory Rs.2,23,83,705/-. The aggregate amount of addition on account of unexplained expenditure/investment has been redetermined at Rs.2,46,03,760/-. It is noticed that assessee itself has offered undisclosed income of Rs. 2.5 crore in the return of income filed on account of various discrepancy noted at the time of survey action. The ld. CIT(A) has held that undisclosed expenditure were less than the generation of unaccounted

income as determined by the assessing officer and also held that the additional income offered in the return of income of Rs.2.5 crore was sufficient to take care of the undisclosed income as well as the undisclosed application of income. We don't find any infirmity in the finding of the Id. CIT(A), therefore, this ground of appeal of the revenue stand dismissed.

7. In the result, the appeal of the revenue is dismissed.

Order pronounced in the open court on 28.03.2022

Sd/-
(Amarjit Singh)
JUDICIAL MEMBER

Sd/-
(Amarjit Singh)
ACCOUNTANT MEMBER

Mumbai;

Dated: 28.03.2022

PS: Rohit

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. The CIT(A)-
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

BY ORDER,
//True Copy//

(Sr. Private Secretary)
ITAT, Mumbai