

**IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD "B" BENCH, AHMEDABAD**

**BEFORE Ms. SUCHITRA KAMBLE, JUDICIAL MEMBER AND
SHRI WASEEM AHMED, ACCOUNTANT MEMBER**

**ITA No.589/Ahd/2019
Assessment Year: 2015-16**

Laxmi Gold Palace,
F-2/3, Decon Complex,
S.T. Workshop Road,
Opp. B.K. Cinema,
Mehsana – 384 002.
[PAN: AABFL 5159 J]
(Appellant)

vs. Dy. Commissioner of Income Tax,
Mehsana Circle, Mehsana.

(Respondent)

Appellant by : Shri Suchit Patel, A.R.
Respondent by : Shri R.R. Makwana, Sr. D.R.

Date of hearing : 11.04.2022
Date of pronouncement : 06.05.2022

ORDER

PER SUCHITRA KAMBLE, JUDICIAL MEMBER :

This is an appeal filed by the assessee against the order dated 08.02.2019 passed by the CIT(A), Gandhinagar, Ahmedabad for the Assessment Year 2015-16.

2. The grounds of appeal are as under :-

- “1. The learned commissioner (Appeal) erred in confirming the addition of unaccounted stock of Rs.13,57,865/- on invalid ground that Assessee has not submitted any supporting evidences regarding its practice of valuation of closing stock though assessee has already submitted the evidences of stock valuation.
2. The learned commissioner (Appeal) erred in stating that assessee has failed to submit trial Balance and Profit and loss account as on date of survey during the Assessment proceeding.
3. Your appellant prays for appropriate relief on above grounds of appeal”

3. The assessee is engaged in the business of trading of gold and silver ornaments. The case was selected for scrutiny on the basis of the CBDT's guidelines wherein survey proceedings under Section 133A of the Income Tax Act, 1961 had been carried out at the business premises of the assessee during the relevant A.Y. The survey action was carried out at the business premises on 12.12.2017 during which excess stock of gold ornaments were found. On confrontation with regard to the excess stock of gold ornaments found weighing 2773.478 grams and silver ornaments weighing 12996.72 grams, the assessee admitted in his statement recorded on oath the value of such excess stock of Rs.80,45,975/- has been derived by adopting the rate on the date of survey. However, the Assessing Officer observed that the assessee had offered Rs.66,88,110/- and thus failed to include Rs.13,57,865/- in the return of income filed by the assessee. The Assessing Officer made addition of Rs.13,57,865/- as unaccounted income of the assessee.

4. Being aggrieved by the assessment order, the assessee filed appeal before CIT(A). The CIT(A) dismissed the appeal of the assessee.

5. The Ld. A.R. submitted that the assessee has not sold the stock declared during the survey proceeding and the same was lying under the closing stock on 31.03.2015. The details of the stock of gold ornaments and silver ornaments are as follows :-

Gold Ornaments

<i>Particulars</i>	<i>Purchase</i>	<i>Sale</i>	<i>Closing stock</i>
<i>Opening stock on date of survey i.e. 12/12/2014</i>			<i>5224.4120</i>
<i>Stock declared in survey</i>	<i>2773.478</i>		<i>7997.890</i>
<i>Transaction made from 12/12/2014 to 31/12/2014</i>	<i>289.43</i>	<i>53.15</i>	<i>8234.17</i>
<i>Transaction from 01/01/2015 to 31/03/2015</i>	<i>670.28</i>	<i>2310.80</i>	<i>6593.65</i>

Silver Ornaments

<i>Particulars</i>	<i>Purchase</i>	<i>Sale</i>	<i>Closing stock</i>
<i>Opening stock on date of survey i.e. 12/12/2014</i>			<i>8127.28</i>
<i>Stock declared in survey</i>	<i>12,996.72</i>		<i>21,124.00</i>
<i>Transaction made from 12/12/2014 to 31/12/2014</i>	<i>0</i>	<i>44.56</i>	<i>21079.44</i>
<i>Transaction from 01/01/2015 to 31/03/2015</i>	<i>0</i>	<i>508.64</i>	<i>20615.36</i>

6. As on 31.03.2015 the assessee has valued the stock of gold at the rate of Rs.2683.44 per gram at cost price by following the LIFO method. The value of stock as on 31.03.2015 is Rs.1,76,93,659/- which was valued at cost of Rs.2683.44 per gram by following LIFO method. Due to the decrease in market rate of gold as on date of survey compared to rate on date of 31.03.2015, there is reduction in value of stock by Rs.1,29,133/- (i.e. 2773.478 gram x (Rs.2730 per gram and Rs.2683.44 per gram). Thus, the Ld. A.R. submitted that the assessee has already mentioned the closing stock of gold as 2773.478 grams which was declared quantity-wise in survey at Rs.74,42,462/- as on 31.03.2015. The Ld. A.R. pointed out that stocks which were unsold in A.Y. 2015-16 were sold in the subsequent years and the copy of the sale register for A.Y. 2016-17 and 2017-18 were presented before the authorities. The assessee has pointed out the day-wise inventory register of gold. Therefore, the profit of the unsold stock as on 31.03.2017 was realized in the next year as per contentions of the Ld. A.R. The Ld. A.R. further submitted that the assessee has not sold the stock declared during the survey proceeding and the same was lying under the closing stock on 31.03.2015. The assessee has valued the stock of Silver at the rate of Rs.32472.94 per kg. being cost value at cost by following method of LIFO. The value of stock as on 31.03.2015 is Rs.6,69,441/-. Due to the decrease in valuation rate of silver as on date of survey compared to rate on date of 31.03.2015, there is reduction in value of stock by Rs.52,338/- (i.e. 12.996 kg. x (Rs.36,500/- per kg. – Rs.32472.94 per kg.). Further, day-wise inventory register of silver was also submitted before the

Revenue Authorities. The Ld. A.R. further submitted that due to the difference in rate of gold and silver compared to 12.12.2014 to 31.03.2015 the following was impact on profit by Rs.1,81,471.3 in the concerned A.Y. i.e. 2015-16:-

<i>Item</i>	<i>Stock declared on 12/12/2014</i>	<i>Value of Stock as on 12/12/2014</i>	<i>Value of Stock as on 31/03/2015</i>	<i>Difference in value of stock</i>
<i>Gold Ornament</i>	<i>2773.478 grams</i>	<i>7571595</i>	<i>7442462</i>	<i>129133</i>
<i>Silver Ornaments</i>	<i>12996.72 grams</i>	<i>474380</i>	<i>422041.7</i>	<i>52338.3</i>
<i>Total</i>				<i>181471.3</i>

7. The Ld. A.R. further submitted that the assessee has already declared gold and silver ornaments in survey proceeding in its return of income. Thus, the assessee never failed to disclose Rs.13,57,856/- and the addition may be deleted.

8. The Ld. D.R. submitted that the Assessing Officer has rightly made the addition as there was clear difference related to opening stock and closing stock of gold and silver. The partner of the assessee-firm admitted the amount of Rs.80,44,975/- and accordingly it has made payment of advance tax by reducing the income in the return than disclosure, the assessee has received back the excess payment of tax by way of refund. Other partners also gave their consent in writing in the statement recorded on oath under Section 131 of the Act of Shri Mahendra Patel in which the excess stock has been admitted by him as undisclosed additional income of the assessee for the year under consideration. The assessee has accepted the valuation done by registered valuer and in token of understanding has signed on the documents. The Ld. D.R. further submitted that the CIT(A) has rightly observed that the assessee has not submitted any supporting evidences regarding its practice of valuation of closing stock. The G.P. shown in the pre-survey period is higher than the G.P. declared in the post-survey period and for this the assessee has not contested these observations before the CIT(A).

9. We have heard both the parties and perused the relevant material available on record. There was clear finding by the CIT(A) that the assessee never filed any supporting evidences regarding its practice of valuation of closing stock and during

the survey proceedings the assessee himself admitted that there was excess unaccounted stock. The assessee was very well aware that there was excess stock, despite this fact the assessee offered only Rs.66,88,110/- and has not included the difference of Rs.13,57,865/-- in the return of income filed by the assessee. Merely, offering the declared gold and silver ornaments in survey proceedings in subsequent A.Ys. cannot held that there was no excess stock/unaccounted stock available during the A.Y. 2015-16. The documents shown at the time of hearing on 11.04.2022 by the assessee has not given the bifurcation as to how much was the quantity sold on the particular period related to gold ornaments and silver ornaments which shows that the assessee was deliberately following unaccounted stock and when survey conducted the same was admitted by the assessee. There is finding of the Assessing Officer that the G.P. shown during the survey period is higher than the post-survey period and the Assessing Officer also pointed out discrepancy in the submissions made by the assessee. Thus, the Assessing Officer has made proper addition and the CIT(A) has correctly confirmed the same. The CIT(A) has given detailed finding and there is no need to interfere with the finding of the CIT(A). Therefore, the appeal filed by the assessee is dismissed.

10. In the result, appeal of the assessee is dismissed.

Order pronounced in the open Court on this 6th day of May, 2022.

Sd/-
(WASEEM AHMED)
Accountant Member

Sd/-
(SUCHITRA KAMBLE)
Judicial Member

Ahmedabad, the 6th day of May, 2022

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Copies to: (1) *The appellant*
(2) *The respondent*
(3) *CIT*
(4) *CIT(A)*
(5) *Departmental Representative*
(6) *Guard File*

By order

Assistant Registrar
Income Tax Appellate Tribunal
Ahmedabad benches, Ahmedabad