

IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "SMC", MUMBAI
BEFORE SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER AND
SHRI GAGAN GOYAL, ACCOUNTANT MEMBER
ITA No. 98/Mum/2021 (A.Y. 2008-09)

ITO Ward-32(1)(1),
Room No. 703,
Kautilya Bhavan, BKC,
Mumbai-400051

..... Appellant

Vs.

S.K. Developers,
101, Borivali Ashirwad CHSL,
Ram Mandir Road, Borivali (West),
Mumbai-400091.

PAN: AATFS1409A

..... Respondent

Appellant by : Sh. Indira Adakil, CIT-DR
Respondent by : None
Date of hearing : 12/04/2022
Date of pronouncement : 07/07/2022

ORDER

PER GAGAN GOYAL, A.M:

This appeal by the Revenue is directed against the order of Ld. Commissioner of Income Tax (Appeals)-44, Mumbai [hereinafter referred to as 'the CIT (A)'] dated 12.03.2020 for the Assessment Year (AY) 2008-09.

2. Brief facts of the case are that the return of income in this case was filed on 23.09.2018, the same was processed. Subsequently, a search and survey actions

were carried out in the case of Shri Bhanwarlal Jain group on 03.10.2013 by the DGIT (Inv.), Mumbai. The Investigation Wing, Mumbai covered certain name sake/dummy Directors/partners/proprietors of various concerns that were being actually managed, controlled and operated by Shri Bhanwarlal Jain Group under section 132 and 131 of the Income Tax Act, 1961 (for short 'the Act'). It was also revealed that the group was involved in providing accommodation entries in the nature of bogus unsecured loans and advances through various benami concerns operated and managed by Bhanwarlal Jain Group.

3. On perusal of information, it was noticed from the list that the assessee was one of the beneficiary who had obtained accommodation entries of bogus unsecured loans for an amount of Rs. 26,02,954/- from M/s Jewel Diam, M/s Amit Diamonds for Rs. 16,61,460/- and M/s Minal Gems for Rs. 9,63,368/-.

4. As the loan taken from M/s Jewel Diam and M/s Amit Diamonds were already treated as non-genuine and disallowed in A.Y. 2007-08, AO added back the amount of loan received from M/s Minal Gems amounting to Rs. 9,63,368/- and interest thereon and interest of Rs. 2,82,000/- and Rs. 1,80,000/- paid respectively to M/s Jewel Diam and M/s Amit Diamonds respectively.

5. Against this order, assessee preferred an appeal. Ld. CIT(A) allowed the appeal of the assessee discussing merits of the case and following its own order in the case of assessee for immediately preceding AY 2007-08.

6. Now, the aggrieved Revenue is before us against the order of the Id. CIT(A). Admittedly, the tax effect involved in the present appeal is below Rs. 50,00,000/-, i.e. the monetary limit prescribed by CBDT Circular No. 17/2019 dated

08.08.2019, therefore, either the Revenue should withdraw the present appeal or would be dismissed.

7. Considering the facts and going through the CBDT Circular No. 23/2019 dated 06.09.2019 and the exception clause laid down in para-10 of the Board's Circular No.3/2018 dated 11.07.2018 read with subsequent amendment dated 20.08.2018, the appeal of Revenue is dismissed being not maintainable. However, the Revenue is given liberty to get the appeal revived in case, if it is discovered that the present appeal is covered with any exceptions clause of para-10 of the Board's Circular No.3/2018 dated 11.07.2018 read with subsequent amendment dated 20.08.2018.

8. In the result, appeal filed by the Revenue is dismissed.

Order pronounced in the open court on 7th day of July, 2022.

Sd/-

PAVAN KUMAR GADALE)
JUDICIAL MEMBER

Mumbai, Dated: 07/07/2022

SK, Sr.PS

Copy of the Order forwarded to:

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. आयकर आयुक्त (अ) / The CIT(A)-
4. आयकर आयुक्त CIT
5. विभागीय प्रतिनिधि, आय.अपी.अधि. , मुंबई/DR, ITAT, Mumbai
6. गार्ड फाइल/Guard file.

Sd/-

(GAGAN GOYAL)
ACCOUNTANT MEMBER

BY ORDER,

//True Copy//

(Dy. /Asstt. Registrar)
ITAT, Mumbai