

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

Before Sh. N. K. Choudhry, Judicial Member

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

ITA No. 3822/Del/2018 : Asstt. Year: 2014-15

Income Tax Officer, Ward-35(3), New Delhi	Vs	Ram Kumar Bansal, A-218, Shastri Nagar, New Delhi-110052
(APPELLANT)		(RESPONDENT)
PAN No.AAFPB4140D		

Assessee by : Sh. Ankit Agarwal, CA

Revenue by : Sh. S. L. Verma, Sr. DR

Date of Hearing: 19.01.2023

Date of Pronouncement: 25.01.2023

ORDER

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

The present appeal has been filed by the Revenue against the order of Id. CIT(A)-12, New Delhi dated 19.01.2018.

2. The assessee declared return of income of Rs.10,74,600/-. The AO made addition on account of a sundry creditor namely, M/s S.S. Ganpati Diamonds and Jewels Pvt. Ltd. The addition has been made owing to non-compliance of the notices issued by the AO including to the premises where the revised address has been provided by the assessee.

3. The Id. CIT(A) deleted the addition holding that M/s S.S. Ganpati Diamonds and Jewels Pvt. Ltd. is a sister concern on which the assessee was Director till 19.06.2014. The relevant portion of the order of Id. CIT(A) is as under:

"8.4 During the appellate hearing, it was informed that M/s SS Ganapati Diamonds & Jewels Pvt. Ltd. is a sister concern in which the Assessee was Director till 19.06.2014. In view of this, the identity of the creditor cannot be doubted. Using the powers vested with CIT(Appeal) under Rule 46A(4) of the I.T. Rules, 1962, I asked the Ld. AR for the Appellant to produce the Directors of M/s SS Ganapati Diamonds & Jewels Pvt. Ltd. On the given date Mr. Ram Kumar Bansal, Assessee himself and his son appeared, who were the Directors during the period under consideration. They confirmed all the transactions with the proprietorship concern of the Assessee. It is worth to be mentioned that the name of the proprietorship concern of the Assessee is Shree Ganpati Gems & Jewels. During the appellate hearing, the Appellant was asked to furnish the following details under Rule 46A(4) of I.T. Rules –

- 1. Copy of PAN of M/s S.S. Ganpati Diamond & Jewels Pvt. Ltd. (Creditor)*
- 2. Copy of ledger account of the Assessee in books of M/s S.S. Ganpati Diamond & Jewels Pvt. Ltd. (Creditor)*
- 3. Copy of ledger account of M/s S.S. Ganpati Diamond & Jewels Pvt. Ltd. in books of Shree Ganpati Gems & Jewels. (Assessee)*
- 4. Copy of Bank Statement of M/s S.S. Ganpati Diamond & Jewels Pvt. Ltd. (Creditor)*
- 5. Copy of Bank Statement of Shree Ganpati Gems & Jewels. (Assessee)*

8.5 From the above details, the identity of M/s SS Ganpati Diamond & Jewels Pvt. Ltd. (Creditor) cannot be doubted. As far as, the genuineness of the transaction is concerned, the copy of the ledger account of the Assessee in the books of M/s SS Ganpati Diamond & Jewels Pvt. Ltd. shows the transactions during the year under consideration. The closing balance in the books of M/s SS Ganpati Diamond & Jewels Pvt. Ltd. in the

name of Shree Ganapti Gems & Jewels is shown at Rs.2,17,97,348/- which matches with the closing balance shown by the Assessee in the ledger account of the above creditor. The other evidences like bank statement prove the genuineness of the transaction. Therefore, the addition made by the Assessing Officer is deleted and the ground taken by the Appellant is allowed."

4. On going to the entire facts and grounds of Appeal No.3 wherein the revenue objected for admission of evidence without following the due procedure laid down under Rule 46A(1) of the Income Tax Rules, 1962, we deem it to be a fit case to remand the matter to the file of the Id. CIT(A) with directions to provide an opportunity to the Assessing Officer, call for a remand report and then take a decision in accordance with the provisions of Income Tax Act, 1961.

5. In the result, the appeal of the Revenue is allowed for statistical purpose.

Order Pronounced in the Open Court on 25/01/2023.

Sd/-

(N. K. Choudhry)
Judicial Member

Dated: 25/01/2023

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