

IN THE INCOME TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT  
BEFORE SHRI PAWAN SINGH, JM & DR. A. L. SAINI, AM

आयकर अपील सं./ITA No.452/SRT/2019

(निर्धारण वर्ष /Assessment Year: (2008-09)

(Physical Court Hearing)

|  |     |   |
|--|-----|---|
| Income Tax Officer, Ward-2(3)(8), Room No.407, 4 <sup>th</sup> Floor, Anavil Business Centre, Adajan-Hajira Road, Adajan, Surat-395009 | Vs. | Mukeshkumar Lalchand Jain, Prop. of M/s Mukesh Diamonds, Office No. 401, 1 <sup>st</sup> Floor, H. No.5/1171/72/73/1090, New DTC, Hath Falia, Haripura, Surat – 395008. |
| स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AGUPJ3281A  |     |   |
| (Appellant)/(Revenue)  |     | (Respondent)/(Assessee)   |

|                       |                            |
|-----------------------|----------------------------|
| Assessee by           | Shri P. M. Jagasheth, CA   |
| Respondent by         | Shri Ashok B. Koli, CIT-DR |
| Date of Hearing       | 05/01/2023                 |
| Date of Pronouncement | 30/01/2023                 |

**आदेश / ORDER**

**PER DR. A. L. SAINI, AM:**

The captioned appeal filed by the Revenue, pertaining to Assessment Year 2008-09, is directed against the order passed by the Learned Commissioner of Income Tax (Appeals)-1, [in short 'Ld. CIT(A)'], in Appeal No. CIT(A)-1/10795/2018-19, dated 26.07.2019, which in turn arises out of an assessment order passed by Assessing Officer, u/s 147 r.w.s. 144 of the Income Tax Act, 1961 (hereinafter referred to as the 'Act'), dated 21.03.2016.

2. The grounds of appeal raised by the Revenue are as follows:

*"1. On the facts and the circumstances of the case and in Law, the Ld. CIT(A) has erred in restricting the addition made by the AO to the extent of 5% of entire purchase i.e Rs.3,28,72,462/- on account of bogus purchase.*

*2. On the facts and circumstances of the case and in Law, the Ld. CIT(A) has failed to appreciate the fact that the entire purchase from alleged concerns was bogus and it was only to suppress the profit of the beneficiaries which has been duly substantiated by the statement on oath given by the entry provider.*

*3. On the facts and circumstances of the case and in Law, the Ld. CIT(A), Surat ought to have upheld the order of the Assessing Officer. It is, therefore, prayed that the order of the Ld. CIT(A)-1, Surat may be set-aside and that of the Assessing Officer's order may be restored."*

3. Succinct facts *qua* the issue are that assessee has not filed original return of income for A.Y.2008-09. In this case, an information was received by the Assessing Officer from the DIT(Inv), Mumbai that assessee was one of the beneficiaries of bogus purchase bills provided by Gautam Jain Group during the previous year relevant to assessment year under consideration. Accordingly, it was construed that the income to the extent of purchase from such parties has escaped assessment within the meaning of section 147 of the Act, which lead into invoking of provisions of section 147 followed by issuance of notice u/s. 148 of the Act after recording reasons for such reopening of assessment as required under these provisions. Accordingly, notice u/s.148 dated 31.03.2015 was issued and served upon the assessee. The assessment was reopened by the Assessing Officer by recording reasons. The assessment was reopened after examining the information received from the DIT (Inv.), Mumbai and recording satisfaction for reopening by the Assessing Officer. A search and seizure action was conducted in the premises of Shri Gautam Jain & his group concerns on 03.10.2013 by the DGIT (Inv), Mumbai. During the course of search proceedings, it was established that the group concerns are all paper companies / firms / Proprietorship concern with no real business activities, operating solely with the purpose of facilitation of fraudulent financial transactions which includes, providing accommodation entries in the form unsecured loans to interested parties, issuing of bogus sales / purchase bills to various parties and providing a bogus front to concerns which do not want to import diamonds in their own hands. Ongoing through the documents forwarded by the DIT(Inv), Mumbai, it was found that the assessee has obtained accommodation entries of bogus purchase from the concerns of Shri Gautam Jain & Others, during the financial year 2007-08 relevant to A.Y. 2008-09, the details of which is given as under:

| Sr. No. | Name of the Entry Provider                   | Amount (Rs.)  |
|---------|--|---------------|
| 1       | M/s Karishma Diamond P. Ltd.                 | 78,65,729/-   |
| 2       | M/s Parshwanath Gems P. Ltd.                 | 1,87,00,651/- |
| 3       | M/s Mihir Diamond                            | 19,99,988/-   |
| 4       | M/s Krishna Diam P. Ltd.<br>(unsecured loan) | 43,06,094/-   |
|         | Total  | 3,28,72,462/- |

4. Thereafter, the Assessing Officer, having discussed the *modus operandi* of the business of Gautam Jain group, held as follows:

*“8.3 Considering the facts and circumstances of the case discussed above, it is clear that the assessee has obtained the bogus bill to the tune of Rs.3,28,72,462/- from M/s Karishma Diamond Pvt. Ltd., M/s Parshwanath Gems P. Ltd., M/s Mihir Diamond and M/s. Krishna Diam Pvt. Ltd. respectively, without actually getting the material (diamond). Thus, the bill issued by the said group concern is nothing but accommodation entry. Hence, the accommodation entry received from M/s. Karishma Diamond Pvt. Ltd., M/s Parshwanath Gems P. Ltd., M/s Mihir Diamond and M/s Krishna Diam Pvt. Ltd. to the tune of Rs.3,28,72,462/- is treated as bogus purchases and added to the total income of the assessee.”*

5. Aggrieved by the order of Assessing Officer, the assessee carried the matter in appeal before the Id. CIT(A) who has partly allowed the appeal of the assessee, observing as follows:

*“10.2.9 In the instant appeal, there is no such adverse finding as in the case of N K Proteins (supra). The facts in instant appeal are identical to Gangani Impex (supra) and the cases decided by the jurisdictional ITAT (supra). In view of this, respectfully following jurisdictional ITAT, the disallowance is restricted to 5%. The AR has furnished orders Hon'ble ITAT Mumbai, Delhi and Kolkata wherein, an identical circumstances & factual matrix involving the same accommodation entry providers the entire disallowance made by Ld. AO was deleted (Sanghvi Export International Ltd. ITA No. 3305, 3375/Mum/2017 dt 21.08.2018, Karamchandra Rubber Industries ITA No.6599/Del/2014 12.02.2018 M/s Vaman International Pvt. ITA 1040 & 1041 /M/2017 dtd 27.09.2017, Fancy wear ITA No. 1596/M/2016 dtd. 20.09.2017, Surat Jewells Co. ITA No. 1581/Kol/2016 dtd 05.05.2017). The AR also furnished copies of order of CIT(A) Valsad in the case of (1) Sahjanand Export CIT(A)/vls/236/2016-17 dtd. 24.08.2017, (2) Rushabh International No. CIT(A)/vls/ 102/2016- .17 dt. 14.02.2018, which in the disallowances is restricted to 2% of impugned purchases. However, since I have already taken a view of disallowing 5% of purchases and since it is confirmed by Hon'ble jurisdictional ITAT, Surat Bench as discussed in para above; the above decisions of ITAT Mumbai/ Kolkata are not followed.*

10.3 In view of above discussion the disallowance is restricted to 5% of the impugned purchases as under.

| A.Y.    | Unverified purchases | Disallowance confirmed |
|---------|----------------------|------------------------|
| 2008-09 | Rs.3,28,72,462/-     | Rs.16,43,623/-         |

11. In the result the appeal is partly allowed.”

6. Aggrieved by the order of Id. CIT(A), the Revenue is in appeal before us.
7. Learned Departmental Representative (Ld. DR) for the Revenue submitted that during the course of search action carried out on 03.10.2013 in Gautam Jain Group had, through benami concerns, run and operated by them and provided entries to various parties in respect of bogus purchases, sales, unsecured loan, share capital etc. During the search, Gautam Jain has admitted the entire nature of bogus transaction in their statement recorded u/s. 132(4) of the Act. It was also accepted by Gautam Jain Group, that he manages and controls the business affairs of all the concerns in which the persons who were his employees are also shown as directors, partners and proprietors. The details information and evidences available as mentioned above where the assessee has received bogus accommodation entries of purchases to the tune from following bogus concerns of Gautam Jain Group:

| Sr. No. | Name of the entry provider                   | Amount (Rs.)  |
|---------|--|---------------|
| 1.      | M/s Karishma diamonds p. ltd.                | 78,65,729/-   |
| 2.      | M/s Parshwanath Gems p. ltd.                 | 1,87,00,651/- |
| 3.      | M/s Mihir Diamond                            | 19,99,988/-   |
| 4.      | M/s Krishna Diamond P. Ltd. (unsecured loan) | 43,06,094/-   |
|         | Total  | 3,28,72,462/- |

Therefore, Id DR contended that order passed by the assessing officer may be upheld except unsecured loan of M/s Krishna Diamond P. Ltd. at Rs.43,06,094/- since this amount does not pertain to bogus purchases. However, for remaining purchases/ entries, the Ld. DR submitted that as per section 37(1) of the Act there should be 100% addition on account of bogus purchases.

8. On the other hand, Shri P. M. Jagasheth, Ld. Counsel for the assessee argues that, so far the forth number of entry provider is concerned, namely M/s Krishna Diam Pvt. Ltd. (unsecured loan) to the tune of Rs.43,06,094/-, such loan is coming as an opening balance from the previous year. Therefore, the outstanding loan which is coming from the previous year should not be added in the part of bogus purchases. The Ld Counsel further pointed out that opening balance of unsecured loan to the tune of Rs.43,06,094/- pertains M/s Krishna Diamond P. Ltd., is unsecured loan not a purchase. Therefore, no addition should have been made on account of such unsecured loan and therefore it should be excluded from the figure of the bogus purchases.

9. To substantiate his arguments, the Ld. Counsel took us through the page no.8 of paper book wherein we have noted there is an opening balance in the ledger account of M/s Krishna Diamond P. Ltd to the tune of Rs.43,06,094/- (vide pb.8). This unsecured loan was paid partly on 26.10.2007, which is getting reflected in page no.9 of the paper book in the ledger account in the books of assessee in respect of M/s Krishna Diamond Pvt. Ltd. The Ld. Counsel also submitted the Axis bank account of the counter party M/s Krishna Diamonds Pvt. Ltd. wherein the amount of Rs.29,06,094/- is getting reflected in debit side of the bank statement on dated 18.10.2007 vide cheque no.390232. Therefore, Ld. Counsel contended that the amount of Rs.43,06,094/- pertains to unsecured loan which is being carry forward from the previous year and does not belong to this assessment year, under consideration, and the same is not part of bogus purchases, therefore such amount should be excluded from the ambit of the bogus purchases.

10. On merits, Ld. Counsel submitted that assessee has submitted bills and vouchers and stock statements. The transactions are through banking channel, therefore even addition sustained by the Id. CIT(A) at the rate of 5% of bogus purchases should also be deleted.

11. We have heard both the parties and carefully gone through the submissions put forth on behalf of the assessee along with the documents

furnished and the case laws relied upon, and perused the facts of the case including the findings of the ld. CIT(A) and other material brought on record. We note that issue under consideration is squarely covered by the judgment of Co-ordinate Bench in the case of ITO vs. Pankaj K. Chaudhary, in ITA No. 1152/AHD/2017, order dated 27.09.2021, wherein it was held as follows:

*“12. We have heard the submission of ld.CIT-DR for the Revenue and the ld. Authorised Representative (AR) of the assessee. We have also gone through the various documentary evidences furnished by assessee. The ld. CIT-DR for the Revenue supported the order of AO. The ld. CIT-DR submits that Investigation Wing, Mumbai made a search on Bhanwarlal Jain Group. During the search and after search, the Investigation Wing made a thorough investigation and concluded that Bhanwarlal Jain Group and his associates including his sons were indulging in managing about 70 benami concerns. The benami concerns were engaged in providing accommodation entries. The assessee is one of the beneficiaries of such accommodation entries. In the transaction of accommodation entries, the documentary evidences are created in such a way, so that the bogus transaction is looks like genuine transaction. In bogus transaction, the fabricated evidences are always maintained perfectly. The assessee has obtained accommodation entry only to inflate the expenses and to reduce the ultimate profit. No stocks of diamonds were found at the time of search on Bhanwarlal Jain Group. The assessee has shown a very meagre gross profit (GP) @ 0.78% and not net profit (NP) at 0.02%. The ld. CIT(A) restricted the addition to the extent of 12.5% which is on the lower side. The ld. CIT-DR for the revenue prayed that disallowance made by the AO may be upheld or in alternative submitted that it may restricted at least @ 25%, keeping in view that the NP declared by the assessee is extremely on lower side.*

*13. On the validity of reopening, the ld.CIT-DR for the revenue submits that the AO received credible information about the accommodation entry provided by Bhanwarlal Jain Group. The assessee is one of the beneficiaries, who had availed accommodation entries from such hawala trader. At the time of recording reasons, the mere suspicious about the accommodation entry is sufficient as held by Hon'ble jurisdictional High Court in various cases. To support his submissions, the ld.CIT-DR relied upon the decision;*

- *Pushpak Bullion (P) Ltd Vs DCIT [2017] 85 taxmann.com 84(Gujarat High Court),*
- *Peass Industrial Engineers (P) Ltd Vs DCIT [2016] 73 taxmann.com 185 (Gujarat High Court),*
- *ITO Vs Purushttom Dass Bangur [1997] 90 Taxman 541 (SC) and*
- *Mayank Diamond Private Limited (2014) (11) TMI 812 (Gujarat High Court).*
- *AGR Investment Vs Additional Commissioner 197 Taxman 177 (Delhi) and*
- *Chuharmal Vs CIT [1998] 38 Taxman 190 (SC).*

*14. On the other hand, the ld.AR of the assessee submits that he has challenged the validity of reopening as well as restricting the addition to the*

extent of 12.50% of the alleged bogus purchases. The ld.AR of the assessee submits during the assessment, the AO has not made any independent investigation. The AO reopened the case of the assessee on the basis of third party information without making any preliminary investigation. The AO received vague information about providing accommodation entry by Bhanwarlal Jain Group. No specific information about the accommodation entry obtained by assessee was received by AO. There is no live link between the reasons recorded qua the assessee. Therefore, the re-opening is invalid and all subsequent action is liable to be set aside.

15. On account of additions of bogus purchases, the ld.AR submits that in the original assessment, the assessee filed its complete details of purchases to prove the genuineness of expenses. The AO accepted the same in the assessment order passed under section 143(3) on 10.03.2009. During re-assessment, the assessee again furnished complete details about the genuineness of purchases. The assessee filed confirmation purchases invoices, accounts of the parties, bank statement of assessee showing transaction to the banking channel. The AO has not made any comment on the documentary evidence furnished by assessee. The AO solely relied upon the statement of third party and the report of Investigation Wing. The report of wing and the statement of Bhanwarlal Jain were not provided to the assessee. The AO has not disputed the sales of assessee. No sale is possible in absence of purchase. The books of accounts were not rejected. The AO made the disallowance of entire purchases. The assessing officer not provided cross examination of the alleged hawala dealers. The disallowances sustained by the Ld. CIT(A) @ 12.5% of the impugned purchases, is on higher side and deserve to be deleted in total. The ld.AR of the assessee submits that entire purchases shown by assessee are genuine. In without prejudice and alternative submissions, the Ld. AR for the assessee submits that in alternative submission, the disallowance may be sustained on reasonable basis. To support his various submission, the ld.AR for the assessee is relied upon case laws:

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|---|---|
| 1 | <i>M/s Andaman Timber industries Vs Commissioner of Central Excise, CIVIL APPEAL NO. 4228 OF 2006 (Supreme Court)</i> |
| 2 | <i>CIT vs. Indrajit Singh Suri [2013] 33 taxmann.com 281 (Gujarat)</i>  |
| 3 | <i>Albers Diamonds Pvt. Ltd. Vs ITO 1(1)(1), Surat I.T.A. No.776 &amp;1180/AHD/2017</i>                               |
| 4 | <i>The PCIT-5 vs. M/s. Shodiman Investments Pvt. Ltd. TTANO. 1297 OF 2015 (Bombay High Court)</i>                     |
| 5 | <i>Shilpi Jewellers Pvt. Ltd. vs. Union of India &amp; Ors. WRIT PETITION NO. 3540 OF 2018 (Bombay High Court)</i>    |
| 6 | <i>CIT in Vs. Mohmed Juned Dadani 355 ITR 172 (Gujarat)</i>   |
| 7 | <i>Micro Inks Pvt. Ltd. Vs. ACIT [2017] 79 taxmann.com 153 (Gujarat)</i>  |
| 8 | <i>Shakti Karnawat Vs. ITO - 2(3)(8), Surat ITA 1504/Ahd/2017 and 1381 /Ahd/2017</i>                                  |
| 9 | <i>Asian Paints Ltd. Vs. DCIT, [2008] 296 ITR 90 (Bombay)</i>   |

|    |   |
|----|---|
| 10 | <i>PCIT, Surat 1 Vs. Tejua Rohit kumar Kapadia [2018] 94 taxmann.com 325 (SC)</i>               |
| 11 | <i>The PCIT-17 vs. M/s Mohommad Haji Adam &amp; Co. ITA NO. 1004 OF 2016(Bombay High Court)</i> |
| 12 | <i>Pankaj Kanwarlal Jain HUF Vs. ITO 2(3)(8) Surat ITA.No.269/SRT/2017</i>                      |

16. *In the rejoinder submissions the ld. CIT-DR for the revenue submits that that rigour of the rules of evidence contained in the Evidence Act is not applicable before the tax authorities. It was submitted that the ratio of various case laws relied by the ld. AR for the assessee is not applicable on the facts of the present cases. The ratio of decision of Hon'ble Gujarat High Court in Mayank Diamond Private Limited (supra) is directly applicable on the facts of the present case.*

17. *We have considered the submissions of the parties and have gone through the order of the lower authorities. We have also deliberated on each and every case laws relied by both the parties. We have also examined the financial statement of all the assessee(s) consisting of computation of income and audit report. We have also gone through the documentary evidences furnished in all cases. Ground No.1 in assessee's appeal relates to the validity of reopening. The ld AR for the assessee vehemently argued that the AO reopened the case of the assessee on the basis of third party information, and without making any preliminary investigation, which was vague about the alleged accommodation entry by Bhanwarlal Jain Group. And that there was no specific information about the accommodation entry availed by the assessee. There is no live link between the reasons recorded qua the assessee. We find that the assessee has raised objection against the validity of the reopening before the AO. The objections of the assessee was duly disposed by AO in his order dated 09.02.2015. The assessee raised ground of appeal before ld CIT(A) while assailing the order of AO on reopening. The ld CIT(A) while considering the ground of appeal against the reopening held that the AO has received report from investigation wing Mumbai, which indicate that the assessee is beneficiary of the accommodation entry operators. The accommodation entry provider admitted before investigation wing that he has given such entry to various persons; based on such report the AO has reason to believe that the income of the assessee has escaped assessment and thus the action of AO in reopening is justified.*

18. *We find that the Hon'ble Jurisdictional High Court in Peass Industrial Engineers (P) Ltd Vs DCIT (supra) while considering the validity of similar notice of reopening, which was also issued on the basis of information of investigation wing that they have searched a person who is engaged in providing accommodation entries, held that where after scrutiny assessment the assessing officer received information from the investigation wing that well known entry operators of the country provided bogus entries to various beneficiaries, and assessee was one of such beneficiary, assessing officer was justified in re-opening assessment. Further similar view was taken by Hon'ble Jurisdictional High Court in Pushpak Bullion (P) Ltd Vs DCIT (supra). Therefore, respectfully following the order of Hon'ble High Court, we find that the assessing officer validly assumed the jurisdiction for making re-opening*

under section 147 on the basis of information of investigation wing Mumbai. So far as other submissions of the ld AR for the assessee that there is no live link of the reasons recorded, we find that the Hon'ble Jurisdictional High Court in Peass Industrial Engineers (P) Ltd clearly held that when assessing officer received information from the investigation wing that two well known entry operators of the country provided bogus entries to various beneficiaries, and assessee was one of such beneficiary, assessing officer was justified. Hence, the ground No. 1 in assessee's appeal is dismissed.

19. Ground No. 2 in assessee's appeal and the grounds of appeal raised by the revenue are interconnected, which relates to restricting the disallowance of bogus purchases to the extent of 12.5%. The AO made of 100% of purchases shown from the hawala dealers/ entry provider namely Bhanwarlal Jain. We find that the AO while making additions of 100%, of disputed purchases solely relied on the report of the investigation wing Mumbai. No independent investigation was carried by the AO. The AO has not disputed the sale of the assessee. The AO made no comment on the evidences furnished by the assessee. We further find that ld CIT(A), while considering the submissions of the assessee accepted the lapses on the part of the AO and noted that no sale is possible in absence of purchases. The Books of the assessee was not rejected by the AO. The ld CIT(A) on further examination of the facts and various legal submissions find that Ahmedabad Tribunal in Bholanath Poly Fab Private Limited (supra) held that in the such cases the addition of bogus purchases was sustained to the extent of 12%, on the observation that the assessee may have made purchases from elsewhere and obtained the bills from impugned supplier to inflate Gross Profit Rate. The ld CIT(A) by considering the overall facts, concluded that the 100% disallowance of purchase is not justified. We also find that the ld.CIT(A) also considered the decision of jurisdictional High Court in Mayank Diamonds Pvt. Ltd. (supra) and compared the fact of the present case with the facts in Mayank Diamonds Pvt Ltd (supra) and noted that assessee in that case was also engaged in the trading of polished diamonds. The ld CIT(A) noted that in that case the AO made disallowance of entire bogus purchase and on first appeal before CIT(A) the disallowances were maintained. However, the Tribunal gave partial relief to the assessee directing to sustain the addition @12% of such bogus purchases. And on further appeal, the Hon'ble High Court sustained Gross Profit Rate @ 5% being average rate of profit in industry.

20. Now advertent to the facts of the present case, the ld.CIT(A) held that in some other similar cases; though he had sustain 5% of Gross Profit Rate, considering the fact that where Gross Profit shown by those assessee's are more than 5%. However, in the present case, the assessee has merely shown Gross Profit Rate only at 0.78% of turnover, accordingly, the ld. CIT(A) was of the view that disallowance of 12.5% of impugned purchases/bogus purchases would be reasonable to meet the end of justice.

21. We have seen that during the financial year under consideration the assessee has shown total turnover of Rs. 66,09,62,458/-. The assessee has shown Gross Profit @ .78% and net Profit @ .02% (page 11 of paper Book). The assessee while filing the return of income has declared taxable income of Rs.1,81,840/- only. We are conscious of the facts that dispute before us is only with regard of the disputed purchases of Rs, 4.34 Crore, which was shown to

have purchased from the entity managed by Bhanwarlal Jain Group. During the search action on Bhanwarlal Jain no stock of goods/ material was found to the investigation party. Bhanwarlal Jain while filing return of income has offered commission income (entry provider). Before us, the ld CIT-DR for the revenue vehemently submitted that the ratio of decision of Hon'ble Gujarat High Court in Mayank Diamond Private Limited (supra) is directly applicable on the facts of the present case. We find that in Mayank Diamonds the Hon'ble High Court restricted the additions to 5% of GP. We have seen that in Mayank Diamonds P Ltd (supra), the assessee had declared GP @ 1.03% on turnover of Rs. 1.86 Crore. The disputed transaction in the said case was Rs. 1.68 Crore. However, in the present case the assessee has declared the GP @ 0.78%. It is settled law that under Income-tax, the tax authorities are not entitled to tax the entire transaction, but only the income component of the disputed transaction, to prevent the possibility of revenue leakage. Therefore, considering overall facts and circumstances of the present case, we are of the view that disallowances @ 6% of impugned purchases / disputed purchases would be sufficient to meet the possibility of revenue leakage. In the result the ground No. 2 of appeal raised by the assessee is partly allowed and the grounds of appeal raised by revenue are dismissed.

22. In the result the appeal of revenue is dismissed and the appeal of the assessee is partly **allowed**.”

12. We note that issue is squarely covered by the judgment of the Co-ordinate Bench in the case of Pankaj K. Chaudhary (supra). However, we note that Assessing Officer made addition to the tune of Rs.3,28,72,462/- on account of bogus purchases, the details of which are as follows:

| Sr. No. | Name of the entry provider                    | Amount (Rs.)  |
|---------|---|---------------|
| 1.      | M/s Karishma diamonds Pvt. Ltd.               | 78,65,729/-   |
| 2.      | M/s Parshwanath Gems Pvt. Ltd.                | 1,87,00,651/- |
| 3.      | M/s Mihir Diamond                             | 19,99,988/-   |
| 4.      | M/s Krishna Diamond Pvt Ltd. (unsecured loan) | 43,06,094/-   |
|         | Total   | 3,28,72,462/- |

We note that out of total addition of Rs.3,28,72,462/-, the amount pertaining to M/s Krishna Diamond Pvt Ltd (unsecured loan) to the tune of Rs.43,06,094/- should be excluded, as it does not pertain to bogus purchases, therefore we direct the Assessing Officer that no addition should be made on the amount pertaining to M/s Krishna Diamond Pvt. Ltd. (unsecured loan) to the tune of Rs.43,06,094/- . However in respect of remaining parties viz: M/s Karishma Diamonds Pvt. Ltd. to the tune of Rs.78,65,729/-, M/s Parshwanath Gems Pvt. Ltd. to the tune of

Rs.1,87,00,651/-, and M/s. Mihir Diamond to the tune of Rs.19,99,988/-, totalling of these three parties comes to Rs.2,85,66,368/-, therefore we direct the Assessing Officer to sustain the addition at the rate of 6% on Rs.2,85,66,368/-. We partly allow the appeal of the Revenue in above terms.

13. In the result, appeal filed by the Revenue is partly allowed.

Order is pronounced on 30/01/2023 by placing the result on the Notice Board.

**Sd/-**  
**(PAWAN SINGH)**  
**JUDICIAL MEMBER**

**Sd/-**  
**(Dr. A.L. SAINI)**  
**ACCOUNTANT MEMBER**

सूरत /Surat

दिनांक/ Date: 30/01/2023

*SAMANTA /Dkp Out Sourcing Sr.P.S*

**Copy of the Order forwarded to**

1. The Assessee
2. The Respondent
3. The CIT(A)
4. CIT
5. DR/AR, ITAT, Surat
6. Guard File

By Order

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Senior Private Secretary / Private  
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