

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

**BEFORE SHRI KULDIP SINGH, JUDICIAL MEMBER  
AND  
SHRI AMARJIT SINGH, ACCOUNTANT MEMBER**

**ITA Nos.7080, 7081, 7082 & 7083/M/2018  
Assessment Years: 2011-12, 2012-13, 2013-14 & 2014-15**

M/s. Decent Dia Jewels Pvt. Ltd., FW-4010, ‘F’ Tower, Bharat Diamond Bourse, Bandra Kurla Complex, Bandra (E), Mumbai – 400 051 <b>PAN: AADCD3620M</b>	Vs.	DCIT-CC-5(4), Air India Bldg., Nariman Point, Mumbai
(Appellant)		(Respondent)

**Present for:**

Assessee by : Shri Himanshu Gandhi, A.R.  
Revenue by : Smt. Riddhi Mishra, D.R.

Date of Hearing : 16 . 02 . 2023  
Date of Pronouncement : 16 . 03 . 2023

**O R D E R**

**Per : Kuldip Singh, Judicial Member:**

Aforesaid inter-connected appeals bearing common question of law and facts are being disposed of by way of common order in order to avoid the multiplicity of discussion.

2. The appellant, M/s. Decent Dia Jewels Pvt. Ltd. (hereinafter referred to as ‘the assessee’) by filing aforesaid appeals sought to set aside the impugned order of even date i.e. 15.10.2018 passed by Commissioner of Income Tax (Appeals), Mumbai [hereinafter

referred to as the CIT(A)] qua the assessment years 2011-12, 2012-13, 2013-14 & 2014-15 on the identically worded grounds except the difference in addition made and difference in percentage of net profit of the bogus purchases made by the assessee during the year under consideration (grounds of appeal of A.Y. 2011-12 are taken up for the sake of brevity), on the grounds inter-alia that:

*“1. On the facts and circumstances of the Appellant's case and in law the Ld. Commissioner of Income Tax (Appeals) erred in confirming that the appellant has entered into accommodation transactions with Rajendra Jain Group, Sanjay Chaudhari Group and Dharmi Chand Group.*

*2. On the facts and circumstances of the Appellant's case and in law the Ld. Commissioner of Income Tax (Appeals) erred in confirming the addition of Rs. 3,08,65,565/- made by the Ld. AO being 5.49% on account alleged non-genuine purchases of Rs. 56,22,14,315/-*

*3. The Appellant craves leaves to add, to amend, alter, modify and/or withdraw any or all of the above grounds of appeal, each of which are without prejudice to one another.*

*4. The appellant prays this Hon'ble Tribunal to delete the addition/disallowances made by the Ld. Assessing Officer, which is confirmed by the Ld. Commissioner of Income Tax (Appeals).”*

3. Briefly stated facts necessary for consideration and adjudication of the issues for A.Y. 2013-14 at hand are : the assessee company is into the business of import, manufacturing and export of diamonds and stated to be a 100% export oriented unit. On the basis of search and seizure operation carried out under section 132(1) of the Income Tax Act, 1961 (for short ‘the Act’) on M/s. Decent Dia Jewels Pvt. Ltd. Group on 05.05.2014, notice under section 153A of the Act was served upon the assessee and in response thereto the assessee has not filed any return of income till 19.09.2016. Notices under section 142(1) of the Act were issued. Finally the assessee has filed e-return on 08.10.2016. In response to the notice issued under section 153(1) for A.Y. 2011-12, 2012-

13, 2013-14 & 2014-15. Then notices under section 143(2) were issued. During the search action it was noticed that the assessee has made some suspicious purchases from suspicious concern during the years under consideration i.e. A.Y. 2011-12, 2012-13, 2013-14 & 2014-15 to the tune of Rs.56,22,14,315/-, Rs.83,55,39,715/-, Rs.28,17,28,627/- & Rs.76,56,13,721/- respectively. Further, during the course of search carried out in case of Rajendra Jain Group, Sanjay Chaudhari Group and Dharmi Chand on 03.10.2013 it has also come on record that these groups are hawala parties and through a web of benami concerns are engaged in providing accommodation entries of bogus sales and unsecured loans to various beneficiaries. On the basis of material collected during search and from the statements recorded during the search operation the Assessing Officer (AO) reached the conclusion that the assessee has inflated the purchase price/cost in buying from unaccounted sources/non genuine purchases to the tune of Rs.56,22,14,315/-, Rs.83,55,39,715/-, Rs.28,17,28,627/- & Rs.76,56,13,721/- for A.Y. 2011-12, 2012-13, 2013-14 & 2014-15 respectively and thereby made the addition of Rs.4,49,77,145/-, Rs.6,68,43,177/-, Rs.2,25,38,290/- & Rs.6,12,49,098/- for A.Y. 2011-12, 2012-13, 2013-14 & 2014-15 respectively and framed the assessment under section 143(3) read with section 147 of the Act.

4. The assessee carried the matter before the Ld. CIT(A) by way of filing appeal who has partly allowed the appeals. Feeling aggrieved with the impugned orders passed by the Ld. CIT(A) the assessee has come up before the Tribunal by way of filing present appeals.

5. We have heard the Ld. Authorised Representatives of the parties to the appeal, perused the orders passed by the Ld. Lower Revenue Authorities and documents available on record in the light of the facts and circumstances of the case and law applicable thereto.

6. Undisputedly the purchases made by the assessee during the years under consideration from different entities, who are engaged in providing accommodation entries of bogus sales and unsecured loans to various beneficiaries and assessee is found to be one such beneficiary. It is also not in dispute that during the years under consideration the assessee company has made purchases of Rs.56,22,14,315/-, Rs.83,55,39,715/-, Rs.28,17,28,627/- & Rs.76,56,13,721/- for A.Y. 2011-12, 2012-13, 2013-14 & 2014-15 respectively. It is also not in dispute that during the assessment proceedings as well as first appellate proceedings the assessee has failed to controvert the facts brought on record by the Revenue that the said purchases are from bogus entities. It is also not in dispute that the Ld. CIT(A) has confirmed the addition by estimating the gross profit in view of the decision rendered by Hon'ble Bombay High Court as well as Tribunal in number of cases that in case of bogus purchases when sale is not in dispute gross profit should be in the range of 5% to 12.5% as reasonable estimation of profit element embedded in the bogus purchases.

7. In the backdrop of the aforesaid undisputed fact the Ld. A.R. for the assessee contended that during the years under consideration the assessee has declared the net profit at 1.95%, 2.08%, 0.98% and 1.52% for A.Y 2011-12-, 2012-13, 2013-14 & 2014-15 respectively

and relied upon the order passed by the co-ordinate Bench of the Tribunal in case of M/s. Star Brillian vs. ITO in ITA No.1551/M/2020 & ors order dated 12.07.2022.

8. However, on the other hand, the Ld. D.R. for the Revenue vehemently opposed the contentions raised by the Ld. A.R. for the assessee that when the assessee has suppressed all the purchases made from bogus entry providers, which has been detected during the search and seizure operation, the addition made by the Ld. CIT(A) is liable to be confirmed.

9. Undisputedly the assessee has declared the net profit on its genuine purchases during the years under consideration as under:

A.Y.	TOTAL SALES	GROSS PROFIT		NET PROFIT		PURCHASES (RS.)	ALLEGED BOGUS PURCHASE	DISALLOWANCE IN ASSESSMENT	NET PROFIT % AFTER DISALLOWANCE
		AMT. (RS)	%	AMT. (RS)	%				
2011-12	3,11,38,50,054	12,18,25,187	3.91	1,58,44,033	0.51	2,77,90,46,535	56,22,14,315	4,49,77,145	1.95
2012-13	4,30,73,45,369	12,75,67,536	2.96	2,29,62,442	0.53	3,97,07,15,479	83,55,39,715	6,68,43,177	2.08
2013-14	5,00,29,95,789	16,72,39,282	3.34	2,66,57,509	0.53	4,44,73,63,250	28,17,28,627	2,25,38,290	0.98
2014-15	7,81,73,37,933	26,91,60,012	3.44	5,78,52,222	0.74	7,03,56,74,560	76,56,13,721	6,12,49,098	1.52

10. We have perused the order passed by the co-ordinate Bench of the Tribunal in case of M/s. Star Brillian (supra) wherein the identical issue has been decided in view of the report of task group

for diamond sector submitted to Department of Commerce wherein it is suggested that “the net profit that could be derived in diamond manufacturing ranges from 1.5% to 4.5% and in trading activity thereof the profitability range is 1% to 3%.

11. When we compare the net profit declared by the assessee himself during the years under consideration with the report given by the task force, we are of the considered view that when the entire addition is to be made on the basis of estimation then estimation needs to be based on reasonable facts. Keeping in view the facts we deem it reasonable to estimate the net profit element embedded in the bogus purchases at the rate of 2.09%, 3.04%, 2.66% & 2.56% for A.Y. 2011-12, 2012-13, 2013-14 & 2014-15 respectively.

12. In view of what has been discussed above, aforesaid appeals filed by the assessee are partly allowed and the AO is directed to compute the net profit on bogus purchases of Rs.56,22,14,315/-, Rs.83,55,39,715/-, Rs.28,17,28,627/- & Rs.76,56,13,721/- @ 2.09%, 3.04%, 2.66% & 2.56% for A.Y. 2011-12, 2012-13, 2013-14 & 2014-15 respectively.

13. Resultantly aforesaid appeals filed by the assessee are partly allowed.

**Order pronounced in the open court on 16.03.2023.**

**Sd/-**  
**(AMARJIT SINGH)**  
**ACCOUNTANT MEMBER**

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

Mumbai, Dated: 16.03.2023.

\* Kishore, Sr. P.S.

Copy to: The Appellant  
The Respondent  
The CIT, Concerned, Mumbai  
The CIT (A) Concerned, Mumbai  
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.