

**IN THE INCOME TAX APPELLATE TRIBUNAL
"B" BENCH: BANGALORE**

**BEFORE SHRI GEORGE GEORGE K, VICE PRESIDENT
AND
SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER**

ITA No.453/Bang/2023
Assessment Year: 2018-19

The Dy. Commissioner of Income Tax, Central Circle- 2(2), Bangalore.	Vs.	Sri Krishna Diamonds and Jewellery, No.1 Commercial Street, Bangalore. .
APPELLANT		RESPONDENT

Assessee by	:	Ms. Suman Lunkar, C.A
Revenue by	:	Smt. Supriya Rao, O.N, Addl. CIT (DR)

Date of Hearing	:	26.07.2023
Date of Pronouncement	:	01.08.2023

ORDER

R LAXMI PRASAD SAHU, ACCOUNTANT MEMBER:

This appeal filed by the Revenue is against the order dated 08.05.2023 passed by the CIT(A) on the following grounds of appeal:-

“i) Whether on the facts and circumstances of the case and in Law, the CIT(A) was correct in holding that the excess stock found during the course of Survey U/s 133A admitted by the assessee and voluntarily declared in the return of income was normal business income and not unaccounted investment U/s 69 or 69B?

ii) Whether on the facts and circumstances of the case and in Law, the CIT(A) was correct in holding that the excess stock found during the course of Survey U/s 133A admitted by the assessee and voluntarily declared in the return of income was business income subject to normal rate of tax?

iii) Whether on the facts and circumstances of the case and in Law, the CIT(A) was correct in considering the investment in excess stock as business income of the assessee when the assessee had not brought anything on record to prove the source of such investment?

iv) Whether on the facts and circumstances of the case and in Law, the CIT(A) was correct in holding that the onus was on the AO to show that the excess stock found during the course of Survey U/s 133A and admitted by the assessee, was not relating to its normal business?"

2. The brief facts of the case are that a survey was carried out at the business premises of M/s Sri Krishna Diamonds and Jewellery on 04/01/2018 at its registered address at No.1, Kamaraj Road, Commercial Street, Bangalore-560 001. The case was selected for compulsory scrutiny and statutory notices were issued to the assessee. During the course of assessment proceedings, the AO noted that on the basis of survey, it was found that there was excess stock with regard to gold and gold ornaments of 3756.50 grams, precious stones of 36.9 cent and silver article of 376 kgs and valued at Rs.2,50,51,072/- as per approved valuer, which was not disputed by the assessee at the time of recording of statement and the assessee accepted that it is excess stock which were not recorded in the books of account and agreed for paying the tax on it. The statement is as under:-

"0.26 The complete valuation of the gold articles and other articles was done during the course of the survey and the entire valuation report was enclosed herewith as an annexure. As per the valuation report there is excess in various categories of the stock.

The certificate is as follows:-

S.no		Stock As per books	Stock as per valuation	Difference
1	Gold And gold ornaments	270,119.400gms	273,875.900gms	3756.50 gms
2	Platinum	2,999.140gms	2999.140gms	Nil
3	Precious stones	50,945.880ct	50,908.98ct	36.9 ct
4	Silver Articles	25,43,499.000	29,19,499.000	376 Kg

The excess is appearing in the books in some of the categories as shown in the valuation report. Please. comment.