

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "A", MUMBAI**

BEFORE SHRI NARENDRA KUMAR CHOUDHRY, HON'BLE JUDICIAL MEMBER

AND

SHRI S. RIFAUR RAHMAN, HON'BLE ACCOUNTANT MEMBER

**ITA NOs. 3187 & 3328/MUM/2023
(A.Y. 2016-17 & 2014-15)**

M/s. Arhamm Jewellery Pvt. Ltd., 19, Shankar Nagar 157/A, Tilak Road 3 rd Floor, Ghatkopar (E) Mumbai – 400077 PAN: AAFCA0219D	v.	Income Tax Officer – Ward – 14(1)(2) Aayakar Bhavan, M.K. Road Mumbai - 400020
(Appellant)		(Respondent)

Assessee Represented by	:	None
Department Represented by	:	Shri Ajay Chandra
Date of Conclusion of Hearing	:	30.01.2024
Date of Pronouncement	:	31.01.2024

ORDER

PER BENCH

1. These appeals are filed by the assessee against different orders of the Learned Commissioner of Income Tax (Appeals)-47, Mumbai [hereinafter in short "Ld. CIT(A)"] dated 07.08.2023 and 22.06.2023 for the A.Ys. 2014-15 and 2016-17 respectively.

2. Since the issues raised in both these appeals are identical, therefore, for the sake of convenience, these appeals are clubbed, heard and disposed off by this consolidated order.

3. Assessee has raised following identical grounds in its appeals except for change in figures. Grounds raised in ITA No. 3328/MUM/2023 for the A.Y. 2014-15 are reproduced below: -

"(1) On the facts and circumstances & in law, the learned CIT(A) -47, Mumbai [CIT(A)] erred in dismissing the appeal by passing ex-parte order without giving proper & sufficient opportunity.

(2) On the facts and circumstances and in law, the learned CIT(A) erred in passing ex-parte order disregarding the fact that the Appellant had categorically for the genuine reasons had asked for adjournment on two occasions -

(i). on 22/06/2023 [i.r.t. DIN & Notice no. ITBA/APL/F/APL_1/2023- 24/1053164795(1)] vide Acknowledgement no. 275120181220623, dated 22/06/2023, and

(ii). on 24/07/2023 [i.r.t. DIN & Notice no. ITBA/APL/M/17/2023- 24/1054091095(1)] vide Acknowledgement no. 663295801240723, dated 24/07/2023,

(3) On the facts and circumstances, the learned CIT(A) erred in confirming the addition of Rs.12,82,14,722/-under the provisions of section 68 on account of the alleged discrepancy of stock as on the date of Survey u/s. 133A on 18/10/2013 vis-à-vis alleged physical stock

(4) On the facts and circumstances, the learned CIT(A) erred in confirming the addition of Rs.4,05,07,329/- as G.P. @20% on the alleging various entries in the nature of salary, train ticket, interest, office expenses, metal sale, loan, loose sale RTGS payments etc. [as mentioned in para 8.2 of the impugned Assessment Order] to extent of Rs.20,25,36,646/- merely alleging that they were not recorded in the regular books of A/c., and thus, without prejudice, the estimation and working of alleged amount of Rs.20,25,36,646/- was made without disclosing any relevant basis and any details.

(5) *On the facts and circumstances the learned CIT(A) erred in confirming the addition of Rs.2,79,29,050 u/s. 68 of the Act merely alleging that the Appellant has failed to establish the creditworthiness and genuineness of the transactions.*

6) *On the facts and circumstances the learned CIT(A) erred in confirming disallowance of interest of Rs.17,15,000/- u/s. 36(1)(iii) on the alleged addition of Rs.2,79,29,050/- under the provisions of section 68 of the Act.*

(7) *On the facts and circumstances the learned CIT(A) erred in confirming disallowance of various expenses (mentioned at para 13.1. of the impugned Assessment Order] of Rs.9,34,805/-*

(8) *On the facts and circumstances the learned CIT(A) erred in confirming disallowance of interest of Rs.2,67,000/- on the late payment of Income Tax and TDS.*

(9) *On the facts and circumstances the learned CIT(A) erred in confirming disallowance of Rs.1,43,811/- u/s. 36(1)(va) of the Act.*

(10) *Your Appellant craves leave to add, amend, alter and/or delete any of the above grounds of appeal."*

4. An employee of the assessee company appeared with the adjournment letter dated 23.01.2024 seeking adjournment seeking time. On verification of the case records shows that the assessee has not appeared before Assessing Officer / Ld. CIT(A) during respective hearings. The bench decided to proceed to hear the case with the assistance of Ld.DR.

5. Ld. DR relied on the order of the Ld.CIT(A) and submitted that assessee has not utilized the opportunity provided by Ld.CIT(A)/AO. Therefore, the orders passed by lower authorities are exparte orders.

6. Considered the submissions of Ld. DR and material placed on record. On a perusal of the Ld.CIT(A) order, we find that even though Ld.CIT(A) provided opportunity on several occasions, assessee could not appear nor complied to the notices issued. Considering the totality of facts and keeping in view the additions / disallowance made by the Assessing Officer, we are of the opinion that assessee should be given one more opportunity of being heard alongwith certain cost. Therefore, we impose cost of ₹.10,000/- (Rupees Ten Thousand Only) for each appeal, to be payable to the account of Prime Minister Relief Fund. Accordingly, in the interest of justice we are of the view that this matter should go back to the file of the Ld. CIT(A). Assessee shall cooperate with the proceedings before the Ld. CIT(A) without taking unnecessary adjournments. Needless to say that the Ld. CIT(A) shall give adequate opportunity of being heard to the assessee. Thus, these appeal are restored to the file of the Ld. CIT(A).

7. In the result, appeals filed by the assessee is allowed for statistical purpose as per above directions.

Order pronounced in the open court on 31st January, 2024.

Sd/-
(NARENDRA KUMAR CHOUDHRY)
JUDICIAL MEMBER

Mumbai / Dated 31.01.2024
Giridhar, Sr.PS

Sd/-
(S. RIFAUR RAHMAN)
ACCOUNTANT MEMBER

Copy of the Order forwarded to:

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER

(Asstt. Registrar)
ITAT, Mumbai