

**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**MUMBAI BENCH "D" MUMBAI**

**BEFORE SHRI OM PRAKASH KANT (ACCOUNTANT MEMBER)**  
**AND**  
**SHRI SANDEEP SINGH KARHAIL (JUDICIAL MEMBER)**

**ITA No.662/MUM/2023**  
**Assessment Year: 2012-13**

M/s. Dhadha Gem N.  
Jewels,  
2208, Panchratna,  
Opera House,  
Mumbai – 400 004  
**PAN No.AAAFD5014F**

Commissioner of Income  
Tax, ITO 19(1)(4),  
**Vs.** Matru Mandir,  
Grant Road,  
Mumbai

**Appellant**

**Respondent**

**Assessee by** : Shri Vimal Punmiya, A.R.  
**Revenue by** : Smt. Mahita Nair, Sr. DR

Date of Hearing : 19/02/2024  
Date of pronouncement : 20/02/2024

**ORDER**

**PER : OM PRAKASH KANT, AM**

This appeal has been preferred by the assessee against the order dated 13.01.2023 passed by the Ld. Commissioner of Income Tax (Appeals)-National Faceless Appeal Centre, Delhi [In short the Ld. CIT(A)] for assessment year 2012-13, raising sole ground reproduced as under:-

*“1. The Ld. CIT appeal has erred in confirming addition of Rs.2,37,92,781/- on account of as non-genuine purchases made*



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*from the parties without considering the facts and circumstances of the case.”*

2. Briefly stated facts of the case are that the assessee had not filed the regular return of income for the year under consideration. Subsequently on receipt of information from the Director General of Income Tax (Investigation), Mumbai that the assessee had taken accommodation entries of bogus purchases from certain persons belonging to the ‘Rajendra Jain’ group, the assessment was reopened by way of issuing notice under section 148 of the Income Tax Act, 1961 (in short “the Act”).

3. In the reasons recorded, the Assessing Officer recorded that the assessee availed bogus purchase accommodation entries of Rs.2,37,92,781/-. During assessment proceedings, the Assessing Officer issued show cause notice to the assessee as to why the corresponding purchases might not be disallowed. However, the assessee did not file the relevant details except income tax return, computation and ledger account of concerned purchase parties. The Assessing Officer issued notices under section 133(6) of the Act on 20.11.2019 to those purchase parties but same remained non-complied in most of the cases. In view of failure on the part of the assessee in discharging its onus to substantiate its concerned purchases, the Assessing Officer disallowed the corresponding purchases.



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4. Before us, the Ld. Counsel for the assessee claimed that relevant details were filed before the Ld. CIT(A), however the Ld. CIT(A) upheld the findings of the Ld. Assessing Officer.

5. We have heard rival submissions of the parties and perused the relevant material on record. Before us, the Ld. Counsel for the assessee was asked to substantiate whether required details/information were filed before the Ld. CIT(A) and whether the same were in the nature of the additional evidence before him, but the Ld. Counsel expressed his inability in producing so on the ground that those were not readily available. However, he submitted that in the year under consideration the assessee has not made any purchases in reference but same were made/recorded by another company of the same group namely M/s. Dhadda Gems Ltd. The Ld. Counsel filed a copy of the order of the Ld. First Appellate Authority in the case of the M/s. Dhadda Gems Ltd.

6. In view of the facts and circumstances, we feel it appropriate to set aside the order of the Ld. CIT(A) on the issue in dispute and restore the matter back to him for deciding afresh. If the evidences to be filed before the Ld. CIT(A) are in the nature of additional evidences, then the assessee may file application under rule 46A of the Income Tax Rules, 1962 and the Ld. CIT(A) may decide admission of the those additional evidences in accordance with law. The Ld. CIT(A) may verify the



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claim of the assessee of purchases debited in the hands of the assessee or in hands of other company and then decide the issue of disallowance of the purchases in accordance with law, after providing adequate opportunity of being heard. Accordingly, the sole ground raised by the assessee is allowed for statistical purchases.

7. In the result, the appeal of the assessee is allowed for statistical purposes.

**Order pronounced in the open Court on 20/02/2024.**

**Sd/-**  
**(SANDEEP SINGH KARHAIL)**  
**JUDICIAL MEMBER**

**Sd/-**  
**(OM PRAKASH KANT)**  
**ACCOUNTANT MEMBER**

Mumbai, Dated: 20/02/2024

Kishore, Sr. PS

**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,  
(Assistant Registrar)  
**ITAT, Mumbai**