



IN THE INCOME TAX APPELLATE TRIBUNAL
"B" BENCH, MUMBAI

BEFORE SHRI PRASHANT MAHARISHI, AM
AND
SHRI RAHUL CHAUDHARY, JM

ITA No. 1155/MUM/2024

A.Y.2013-14

ACIT-4(2)(1),
Mumbai

Gehna Jewellers Pvt. Ltd.,
Mumbai

(Appellant)

Vs.

(Respondent)

PAN

AADCG8796M

Assessee by

Shri Mahesh Dubmne

Revenue by

Shri Avinash Bahurao Karpe,
Senior
Departmental Representative

Date of hearing

18th June 2024

Date of pronouncement

12th August 2024

ORDER

PER PRASHANT MAHARISHI, AM:

01. This appeal is filed by Revenue for A.Y. 2013-14 against the appellate order passed by the National faceless appeal Centre (NFAC), Delhi (the learned CIT-A) dated 24.01.2021 wherein the appeal filed by the assessee against the assessment order passed under section 147 read with section 144B of the Income tax Act, 1961 [The Act] dated 31.03.2022 passed by the NFAC was allowed.
02. The learned Assessing Officer is aggrieved and has preferred the following grounds of appeal:-

"1) Whether on the facts and circumstances of the case, the Ld CIT(A)/NFAC is right in deleting the



disallowance Rs. 6,91,801/- which was made by AO u/s 69C of the Act?

2) Whether on the facts and circumstances of the case, the Ld CIT(A)/NFAC is right in deleting the disallowance of Rs 6,01,014/-which was made by AO u/s 69C of the Act?

3) Whether on the facts and circumstances of the case, the Ld CIT(A)/NFAC is right in deleting the disallowance of Rs 10,70.332 which was made by AO u/s 69C of the Act?

4) Whether on the facts and circumstances of the case, the Ld CIT(A)/NFAC is right in deleting the disallowance which was made by AO us 69C of the Act without considering the decision of the Ld CTT(A) vide order dated 12.01.2024 in assessee's own case for A.Y. 2012-1375)

5) The appellant craves leave to amend or alter any ground or add new ground which may be necessary."

03. The brief facts of the case shows that the assessee company in the retailer in jewellery, who filed its return of income on 13.09.2013 at a total income of Rs. 2,00,95,730/- which was assessed under Section 143(3) of the Act on 30.03.2016 at a total income of Rs. 4,11,46,840/-.

04. Subsequently, the information was received from DRI Custom Authorities regarding fraudulently utilization of import bills and bogus entity through Keshav Impex. Accordingly, on the basis of verification an enquiry in case of Mr. Anil Chokhara of Keshav Impex was found to be mere paper concern. It was found that the



assessee has obtained accommodation entry of Rs. 55,32,814/- from Mr. Anil Chhokhara. The Assessing Officer examined the information and found that the income has escaped assessment. Accordingly, the case of the assessee was reopened by issuance of notice under Section 148 of the Act on 30.03.2021. This notice was not responded. Subsequently, the NFAC issued notice under Section 142(1) of the Act wherein the assessee submitted several details. In support of purchase from the Keshav Impex assessee submitted copy of ledger account of that company, invoices and payment made to that party. As the assessee did not file return of income, Assessing Officer passed assessment under Section 144 of the Act wherein it was found that the assessee has purchased cut and polished diamond amounting to Rs. 54,78,032/- from the above party. The learned Assessing Officer found that above purchases are bogus and therefore, made an addition of 12.4% of such bogus purchases amounting to Rs. 6,91,801/- under Section 69C of the Act. The Assessing Officer further found that the assessee has further made purchases of Rs 85,62,659/- from M/s Seven Star Jewellers, which is also a paper company. He further made addition of 12.5% of the above bogus purchase at Rs. 10,70,032/- Accordingly, the Assessment order under Section 147 was passed on 11.03.2022 resulting into total income of Rs. 4,35,9,625/-.

05. The assessee preferred an appeal before the learned CIT(A) wherein the assessee submitted the ledger amount of these parties, bank statement reflecting payments made, one to one sales reconciliation of the purchases of the above parties. Further, the assessee also submitted that it has filed relevant declaration Vivad Se Vishwas Scheme and Form-5 was also issued by learned CIT on 29.10.2021. Accordingly, the learned CIT(A) directed the Assessing Officer to give credit to the taxes paid by the assessee and to arrive at a final demand. Thus, the appeal of the assessee was allowed.



06. The learned Assessing Officer is aggrieved by the above assessment order is in appeal.
07. After carefully hearing the parties, we find that when the assessee has preferred the settlement of dispute under Vivad Se Vishwas Scheme and Form No.5 is also issued to the assessee dated 29.10.2021 by the Principal Commissioner of Income Tax and on that basis only. The appeal of the assessee is allowed. Therefore, we do not find any reason of filing its appeal before us. Accordingly, the appeal filed by the Assessing Officer is dismissed.
08. In the result, the appeal of Revenue is dismissed.

Order pronounced in the open court on 12/08/2024

Sd/-

(RAHUL CHAUDHARY)
(JUDICIAL MEMBER)

Sd/-

(PRASHANT MAHARISHI)
(ACCOUNTANT MEMBER)

Mumbai, Dated: 12.08.2024

Aks

Copy of the Order forwarded to :

The Appellant, The Respondent, The CIT, The DR ITAT & Guard File

BY ORDER,

Sr. Private Secretary/ Asst. Registrar
Income Tax Appellate Tribunal, Mumbai