

**IN THE INCOME TAX APPELLATE TRIBUNAL “F” BENCH MUMBAI**

**BEFORE SHRI RAHUL CHAUDHARY, JUDICIAL MEMBER  
AND  
SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER**

**ITA No. 4548/MUM/2024  
Assessment Year: 2010-11**

Jain Diamonds Pvt. Ltd., Office No.08, Ground Floor, Shreeji Arcade, Tata Road No.02, Opera House, Mumbai-400004  (PAN : AABCJ8950G)	Vs.	Income Tax Officer – Ward 1(1)(3), Mumbai
<b>(Assessee)</b>		<b>(Respondent)</b>

**Present for:**

Assessee : Shri Prakash Jotwani, Advocate  
Revenue : Ms. Rajeshwari Menon, Sr. DR

Date of Hearing : 16.10.2024  
Date of Pronouncement : 22.10.2024

**ORDER**

**PER GIRISH AGRAWAL, ACCOUNTANT MEMBER:**

This appeal filed by the assessee is against the order of Ld. CIT(A)-54, Mumbai vide order no. ITBA/APL/S/250/2024-25/1066480362(1), dated 08.07.2024 passed against the assessment order by the Income Tax Officer, Ward 1(1)(3), Surat, u/s. 143(3) r.w.s. 147 of the Income-tax Act (hereinafter referred to as the “Act”), dated 26.12.2017 for Assessment Year 2010-11.

2. In ground no.2, assessee has contended that an *ex-parte* order has been passed by Id. CIT(A) for which notices were sent to its Authorised Representative and was under a bonafide belief that its matter is being duly attended for effective representation. Assessee also contends that the impugned order has been passed *ex parte* without examining material on record which was furnished during the course of assessment proceedings. In this respect, we note that assessee is engaged in the business trading of gold and diamond jewellery. It filed its return of income on 26.09.2010 reporting total income at Rs.97,580/-. Based on information available with the Income Tax Department, case of the assessee was re-opened whereby it was alleged that assessee had obtained accommodation entries which represents bogus purchases.

2.1 Assessee had duly explained its case along with filing an objection on the re-opening proceedings, however, the assessment was completed by making following two additions:-

- i) Addition on account of bogus purchases – Rs.1,17,42,587/-
- ii) Addition on account of commission – Rs.1,66,96,271/-

3. Aggrieved, assessee went in appeal before the Id. CIT(A). However, it could not make its effective representation by filing required submissions along with documentary evidences in support of the claim made by it. Ld. CIT(A) thus observed that assessee has neither filed any submission in respect of the grounds raised before him nor filed any documentary evidences to explain the relief sought for and thus dismissed the appeal of the assessee. Aggrieved, assessee is in appeal before the Tribunal.

4. A paper book containing 66 pages is placed on record to substantiate the claim of relief sought by the assessee. In respect of the ground raised before us as stated above, we perused the order of the ld. CIT(A) to take note of the fact that it has been dismissed for want of submissions and documentary evidences from the assessee. Before us, ld. Counsel for the assessee pleaded that an opportunity may be given to the assessee to make its representation for which an assurance was given that all the necessary submissions shall be made as and when called for. Ld. Sr. DR objected upon the plea so made. Considering the fact that assessee had made all the required submissions before the ld. Assessing Officer which were available on record and could have been considered by the ld. CIT(A), but not done so, in the interest of justice and fair play, we find it appropriate to remit the matter back to the file of ld. CIT(A) for *denovo* meritorious adjudication on the grounds of the appeal taken at the first appellate stage. We also direct the assessee to be diligent and cooperative in attending the hearings and make its submissions for expeditious and effective disposal of the appeal. It should not seek adjournments unless warranted by compelling reasons.

5 Since the matter is restored to the file of Ld. CIT(A) for meritorious adjudication by passing a speaking order in terms of our observations made hereinabove, we are not expressing any views on the merits of the case so as to limit the appellate procedure before the Ld. CIT(A). The observations herein made by us in remanding the matter back to the file of Ld. CIT(A) will not impair or injure the case of the Revenue nor will it cause any prejudice to the defense/explanation of the assessee.

6. Accordingly, appeal of the assessee is allowed for statistical purposes.

Order is pronounced in the open court on 22 October, 2024

Sd/-  
(Rahul Chaudhary)  
Judicial Member

Sd/-  
(Girish Agrawal)  
Accountant Member

***Dated: 22 October, 2024***

*MP, Sr.P.S.*

**Copy to :**

1. The Assessee
2. The Respondent
3. DR, ITAT, Mumbai
4. Guard File
5. CIT

BY ORDER,

(Dy./Asstt.Registrar)  
ITAT, Mumbai