

**IN THE INCOME-TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT
BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER AND
SHRI BIJAYANANDA PRUSETH, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.1012/SRT/2024

Assessment Year: (2018-19)

(Physical Hearing)

Kalamandir Jewellers Limited, Plot No.124, Kalamandir House, Ghod Dod Road, Near Indoor Stadium, Surat – 395007, Gujarat	Vs.	The DCIT, Circle – 1(1)(1), Surat
स्थायीलेखासं./जीआइआरसं./PAN/GIR No: AADCK6700F		
(Appellant)		(Respondent)

Appellant by	Shri Rajesh Upadhyay, AR
Respondent by	Shri Mukesh Jain, Sr. DR
Date of Hearing	31/12/2024
Date of Pronouncement	28/01/2025

आदेश / ORDER

PER BIJAYANANDA PRUSETH, AM:

This appeal by the assessee emanates from the order passed under section 250 of the Income-tax Act, 1961 (in short, 'the Act') dated 30.08.2024 by the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi [in short, 'CIT(A)'] for the assessment year (AY) 2018-19.

2. The grounds of appeal raised by the assessee are as under:

"1. Ld. CIT(A), NFAC, Delhi has erred in law and on fact to upheld addition of Rs.10,87,021/- made by the Assessment Unit of IT Department rejecting the evidences filled before him during appellate proceedings by pressing Rule 46A of IT Act and ignoring the fact that evidences produce before him are going into the root of the issue and are very much essential to decide the case on merits, needs to be admitted.

2. Additional Ground: *The ACIT has erred in law and on fact to reopen appellant's assessment U/s. 147, framing order U/s. 148A(d) and issue of notice*

U/s. 148 of the act merely on the basis of information of survey in the case of M/s. Aum Chains and Jewellery (Prop. Krushang Soni) that the said supplier has not recorded sales made to the appellant in its books of account. Ld. CIT(A), NFAC, Delhi has also erred in upholding the action of the AO.”

3. Brief facts of the case are that the assessee filed its return u/s 139 of the Act on 29.10.2018, declaring total income of Rs.22,15,57,940/-. The assessee company is engaged in the business of manufacturing and retail sale of jewellery. As per the information received by AO, the assessee has made bogus purchases of Rs.10,87,021/- from M/s Aum Chains and Jewellery. After following the due procedures u/s 148A, notice u/s 148 was issued on 31.03.2022. Various notices u/s 142(1) and 143(2) and show cause notice u/s 144 of the Act were issued to the assessee. It may be stated that a survey was conducted u/s 133A of the Act on 07.02.2020. During the survey proceedings, the hard disk of concerns / associates of M/s Aum Chain Group, a PDF file with name '13kjpl.pdf' was found. It had contained scanned copy of invoice dated 13.02.2018 issued by M/s Aum Chains & Jewellery (Proprietor – Krushang Soni) in the name of M/s. Kalamandir Jewellers Limited. There were 13 invoices, totalling to Rs.10,87,012/- and it was found that sales were not recorded in its books. The Assessing Officer (in short, 'AO') asked assessee to furnish copy of bills / vouchers, confirmed ledger, details & mode of payment made, evidence of transportation of the goods, inward/outward receipt voucher/memo, copy of purchase register etc. However, the assessee has failed to furnish any of the documentary evidence in respect of the alleged purchases of Rs.10,87,021/- made from M/s Aum Chains & Jewellery. The AO observed that purchases made

by the assessee were not genuine but were arranged by the assessee to reduce its tax liability and therefore, the same needs to be disallowed u/s 37 of the Act. Penalty proceedings u/s 270A(9) was also initiated by the AO for mis-reporting of income for 'claim of expenditure not substantiated by any evidence'. The AO assessed the total income of Rs.22,34,09,411/- against the returned income of Rs.22,15,57,940/-.

4. Aggrieved by the order of AO, the assessee filed appeal before the CIT(A). During the appellate proceedings, the assessee was given three opportunities on 13.05.2024, 25.05.2024 and 28.05.2024. The appellant furnished documentary evidence like ledger of OM Jewellers, invoice copy, GST portal screenshot. The documentary evidence provided by the appellant had not been furnished before AO during the assessment proceedings. The appellant has provided additional documentary evidence, but no application under Rule 46A of the I.T. Rules for additional evidence have been provided during appellate proceedings. The CIT(A) observed that the onus was on the appellant to prove the source of funds and the appellant did not provide any reasonable explanation and evidence. The CIT(A) relied on the decisions in case of *Chuharmal vs. CIT, (1988) 172 ITR 250 (MP HC)* and *Manindranath Das vs. CIT* and upheld the addition made by AO and dismissed the appeal of assessee.

5. Aggrieved by the order of CIT(A), the assessee filed appeal before the Tribunal. The learned Authorised Representative (Id. AR) of the assessee submitted a paper book containing copies of ITR and computation for AY.2018-

19, auditors report with audited accounts AY.2018-19, copy of original assessment order u/s 143(3), dated 03.02.2021, order u/s 148A(d) of the Act and copy of submission made before CIT(A). He also submitted that all the documents were furnished before AO as well as CIT(A). It was submitted that assessee had in fact purchased jewellery of Rs.10,87,012/- from M/s Om Jewellers on 21.02.2018 and same was duly recorded in stock register and the books of account. The said books of account were audited by independent CA. Copy of invoice issued in name of assessee by M/s Om Jewellers was also submitted.

6. On the other hand, the learned Senior Departmental Representative (Id. Sr. DR) of the revenue supported the order of lower authorities.

7. We have heard both the parties and perused the materials available on record. We have deliberated on case laws relied upon by the parties. The AO has made the addition by stating that assessee had not produced delivery challan as to when stock is received. The assessee also did not produce copy of bills and GST challan to show that purchases are genuine. He concluded that there were bogus sales by M/s Aum Chains and Jewellery and corresponding bogus purchase by the assessee. The CIT(A) has confirmed the addition by stating that appellant has not proved the source of fund and it has not provided any reasonable explanation and evidence which prove the source of funds. He also observed that the appellant was negligent and there was no application under Rule 46A. Hence, the addition was of Rs.10,87,021/- u/s 37 was

confirmed by CIT(A). The Id. AR had submitted that all details were given to AO and CIT(A). We find that assessee had submitted copy of invoice of M/s Om Jewellers, ledger account of Om Jewellers in the books of the assessee, GST portal showing the impugned transaction, B2B invoice list for the month of February, 2018 from GST portal to show that the purchase was in fact made by the assessee from M/s Om Jewellers. The said invoice is at page 42 of the paper book. The total amount was Rs.10,87,012/- including CGST and SGST of Rs.15,830/- each. The assessee has also submitted ledger account of M/s Om Jewellers where the impugned transaction is reflected. The total purchases from Om Jewellers during the subject year was Rs.3,58,14,976/- which includes above purchase of Rs.10,87,012/- on 21.02.2018. Therefore, the assessee has given all the details which are needed to explain the genuineness of the purchase made from Om Jewellers. However, the AO has considered the transaction with same other entity, namely M/s Aum Chain & Jewellery for making the addition. The Id. AR contended that assessee purchased the jewellery from M/s Om Jewellers and not from M/s Aum Chain and Jewellery. The explanation given by the assessee has not been controverted by the lower authorities and there is no corroborative evidence to support the case of revenue that assessee had made another purchase of equivalent value of jewellery from another entity i.e., M/s Aum Chain & Jewellery. Hence, the addition of Rs.10,87,012/- is deleted and the ground is allowed.

8. Since, we have deleted the addition, the additional ground raised by the appellant becomes academic in nature and do not require adjudication.

9. In the result, appeal of the assessee is allowed.

Order is pronounced in the open court on 28/01/2025.

Sd/-
(PAWAN SINGH)
JUDICIAL MEMBER

Sd/-
(BIJAYANANDA PRUSETH)
ACCOUNTANT MEMBER

Surat

दिनांक/ Date: 28/01/2025

SAMANTA

Copy of the Order forwarded to:

1. The Assessee
2. The Respondent
3. The CIT(A)
4. CIT
5. DR/AR, ITAT, Surat
6. Guard File

By Order

// TRUE COPY //

Assistant Registrar/Sr. PS/PS
ITAT, Surat