

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'G': NEW DELHI**

**BEFORE SHRI ANUBHAV SHARMA, JUDICIAL MEMBER
AND
SHRI MANISH AGARWAL, ACCOUNTANT MEMBER**

ITA No.3165/Del/2023
(ASSESSMENT YEAR 2011-12)

ITA No.3166/Del/2023
(ASSESSMENT YEAR 2009-10)

ITA No.3167/Del/2023
(ASSESSMENT YEAR 2012-13)

M/s Shagun Jewellers (P) Ltd. A/3-179, Paschim Vihar, West Delhi-110 063. PAN-AAFCS4608A (Appellant)	Vs.	Dy. CIT, Circle-23(1), New Delhi. (Respondent)
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Assessee by	Shri Ved Jain, Adv. and Shri Aayush Garg, Adv.
Department by	Shri Sahil Kumar Bansal, Sr. DR
Date of Hearing	12/02/2025
Date of Pronouncement	27/02/2025

ORDER

PER MANISH AGARWAL, AM:

All the three appeals filed by the assessee against the order of Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi and in all the three appeals the issues are common and thus, they are taken up together and disposed off by a single order.

2. In ITA No.3166/Del/2023 for Asst. Year 2009-10, the assessee has challenged the order of Ld. CIT(A) on the basis of following grounds of appeal:

"1. That the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi has erred both in law and on facts in upholding the determination of total income of the appellant company at Rs. 43,03,490/- as against declared income of Rs. 13,36,560/- in an order of assessment 31.12.2016 under section 147/143(3) of the Act.

2. That the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC) has grossly erred both in law and on facts in disposing off the appeal ex-parte without granting any fair and proper opportunity of being heard to the appellant company.

2.1 That the learned Commissioner of Income Tax (Appeals) has failed to appreciate that there was reasonable cause for the appellant company for not causing appearance on the dates fixed for hearing and as such disposal of the appeal without granting fair, meaningful and proper opportunity is untenable

2.2 That the learned Commissioner of Income Tax (Appeals) has failed to appreciate that non appearance of the appellant on the date of hearing was neither intentional nor deliberate and is not a case where appellant is not interested in prosecuting its appeal.

3. That the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC) has further erred both in law and on facts in upholding the initiation of proceedings under section 147 of the Act and, completion of assessment under section 147/143(3) of the Act without appreciating that the same were without jurisdiction and hence deserved to be quashed as such.

3.1 That the learned Commissioner of Income Tax (Appeals) has failed to appreciate that there was no specific relevant, reliable and tangible material on record to form a "reason to believe" that income of the appellant had escaped assessment and in view thereof the proceedings initiated are illegal, untenable and therefore unsustainable.

3.2 That the learned Commissioner of Income Tax (Appeals) has failed to appreciate that section 153C of the Act was applicable to the facts of the

case of the appellant company and not section 147 of the Act and therefore the AO was illegal, invalid and untenable

3.3 That the learned Commissioner of Income Tax (Appeals) has failed to appreciate that even otherwise there was no failure on the part of assessee to disclose fully and truly all material facts necessary for assessment and as such action u/s 147 was in excess of jurisdiction,

3.4 That the learned Commissioner of Income Tax (Appeals) has failed to appreciate that reasons recorded mechanically without application of mind do not constitute valid reasons to believe for assumption of jurisdiction u/s 147 of the Act

3.5 That in absence of any valid approval obtained under section 151 of the Act, initiation of proceedings u/s 147 of the Act and assessment framed u/s 147/143(3) of the Act are invalid and deserve to be quashed as such.

4. That the learned Commissioner of Income Tax (Appeals) has erred both in law and on facts in upholding an addition of Rs. 29,66,931/-on account of interest expenditure and held as unexplained expenditure for receiving accommodation entry u/s 69C of the Act

4.1 That addition made and sustained is otherwise also untenable in view of the decision of Delhi Bench of Hon'ble Tribunal in the case of appellant company in ITA No. 9890/D/2019 dated 16.6.2020 for succeeding Assessment year 2010-11 wherein identical addition had been deleted: The addition therefore in disregard of the binding order is neither justified nor valid

5. That the learned Commissioner of Income Tax (Appeals) has erred both in law and on facts in upholding the levy of interest of Rs. 9,01,821/- u/s 234B of the Act ad interest of Rs. 49,648/- u/s 234C of the Act which are not leviable on the facts and circumstances of the case of the appellant company.

Prayer

It is therefore prayed that, it be held that order disposing of the appeal ex parte by the learned Commissioner of Income Tax (Appeals) be set-aside. It is further, prayed that, it be held that assessment made by the learned Assessing Officer and sustained by the learned Commissioner of Income Tax (Appeals) be quashed. It be held that addition made and sustained alongwith interest levied may kindly be deleted and, appeal of the appellant company be allowed.”

3. During the course of hearing, the Ld. AR of the assessee has not pressed ground of appeal no.1 to 5 thus the same are dismissed. The Ld. AR of the assessee made submissions in respect to ground of appeal Nos. 4 and 4.1 only. It is submitted by Ld. AR of the assessee that the additions have been made on the allegation that the assessee has paid interest in respect of the cash loans received from Sh. Sant Lal Aggarwal. This issue has already been decided by the Co-ordinate Bench of ITAT, Delhi in assessee's own case for Asst. Year 2010-11 in ITA No.9800/Del/2019 wherein vide order dated 16/06/2020, the Hon'ble Bench has deleted the addition by observing as under:-

"25. Coming to the merits of addition of Rs.1,55,16,090/-, once again, the entire addition revolves around the statement of Shri Devi Das Tikamdas Chattani. In his statement, Shri Devi Das Tikamdas Chattani stated that Shri Sant Lal Aggarwal is handler and is the main person for disbursing cash loan to 60 parties. The alleged cash loans given to the assessee is already exhibited elsewhere at para 7 hereinabove.

26. As mentioned elsewhere, the foundation of the impugned addition is the statement of Shri Devi Das Tikamdas Chattani. Except for that, there is no direct evidence brought on record to show that any cash transactions took place between the assessee and the said person.

27. On the contrary, the statement of Shri Sant Lal Aggarwal which is part of the assessment order and is extracted at pages 17 to 24 of the assessment order shows that Shri Sant Lal Aggarwal, answering to question No. 13, emphatically stated that he does not know who Shri Devi Das Tikamdas Chattani is. Once again, answering to question No. 18, Shri Sant Lal Aggarwal stated that he does not know who is Shri Devi Das Tikamdas Chattani. Answering to question No. 19, Shri Sant Lal Aggarwal stated that he does not know Shri Devi Das Tikamdas Chattani and never handled Rs. 200 crores and no such transaction was done by him except selling rice to the Ashram. In the very same statement, Shri Sant Lal Aggarwal accepted the transaction of M/s Index Securities and Research Pvt. Ltd and the appellant company.

28. *The Assessing Officer never confronted Shri Devi Das Tikamdas Chattani to Shri Sant Lal Aggarwal. If the statement of Shri Devi Das Tikamdas Chattani is to be believed, then on the same facts, statement of Shri Sant Lal Aggarwal cannot be ignored or brushed aside lightly. Merely because the statement of Shri Sant Lal goes in favour of the assessee, cannot be a reason to disbelieve the same. As mentioned elsewhere, there is no direct evidence brought on record which could suggest that some cash transactions took place between the assessee and the searched person. The observations made by the Assessing Officer at page 25 of the assessment order clearly show that the entire addition has been made on surmises and conjectures. The relevant para of the assessment order reads as under:*

"From above it is clear that M/s. Shagun Jewellers has had transactions with M/s Index Securities & Research Put Ltd which was a conduit company managed by Mr. Santlal Aggarwal who has further acted on behalf of Sh. Asharam Bapu. Hence, it cannot be ruled out that cash loan were received by the assessee from Santlal Aggarwal. Moreover, the seized material retrieved, clearly indicates that the assessee company has paid Rs. 1,55,16,090/- in cash on account of interest on such cash loan,"

29. *Considering the facts of the case in hand, in the light of statement of Shri Sant Lal Agarwal, we do not find any merit in the impugned addition and the same is directed to be deleted. Accordingly, Ground No.4 & 5 are allowed."*

3.1 The Ld. AR, thus, submitted that the issue in the present case is identical and, therefore, in the light of the decision of Co-ordinate Bench in the case of appellant itself for Asst. Year 2010-11, the additions made deserves to be deleted.

4. On the other hand, the CIT-DR has supported the orders of the lower authorities and requested for the confirmation of the additions so made.

5. We have heard the rival submissions and perused the materials available on record. On perusal of the assessment order, we find that

the addition was based on interest paid on cash loans received and this issue has already been decided by the Co-ordinate Bench in the assessee's own case for Asst. Year 2010-11. Since, facts are identical in all these appeals, therefore, by respectfully following the order of the Hon'ble ITAT in assessee's own case in ITA No.9890/Del/2019 (supra) we hereby direct to delete the additions made in the hands of the assessee in all the three years.

6. In the result, all the three appeals of the assessee are partly allowed.

Order pronounced on 27/2/2025.

Sd/-
(ANUBHAV SHARMA)
JUDICIAL MEMBER

Sd/-
(MANISH AGARWAL)
ACCOUNTANT MEMBER

Dated: 27/02/2025

PK/Sr. Ps

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT NEW, DELHI