

IN THE INCOME TAX APPELLATE TRIBUNAL
Mumbai "SMC" Bench, Mumbai.

Before Shri Narender Kumar Choudhry (JM)
& Shri Omkareshwar Chidara (AM)

ITA No. 6791/MUM/2024 (Assessment Year : 2017-18)

Anurag Enterprises JE 4200, Bharat Diamond Bourse, Bandra Kurla Complex, Bandra East Mumbai-400 051.	Vs.	ITO Ward 19(1)(1) Room No. 223 2 nd Floor, Matru Mandir, Tardeo Road Mumbai-400007.
PAN : AAFA3005B		
Appellant		Respondent

Assessee by	:	Shri Rakeshkumar Sirsalewala
Revenue by	:	Shri Manoj Kumar Sinha
Date of Hearing	:	08/04/2025
Date of pronouncement	:	21/04/2025

ORDER

Per Omkareshwar Chidara (AM) :-

The appellant firm which deals in trading in diamonds filed an appeal before the ITAT with the following grounds of appeal :-

“Ground No. 1 - Addition for unexplained expenditure u/s 69C of the Income tax Act, 1961 as bogus purchases

On the facts and in the circumstances of the case, and in law, the Hon'ble CIT (A) has erred in upholding the addition of Rs. 4.53 lakhs as bogus purchases without appreciating the facts and evidences brought on record. Your appellant is Partnership Firm and engaged in the business of trading of diamonds and manufacturing of jewellery and related business activities.

During the course of the assessment proceedings, the Appellant had submitted all details and documents as called for vide various submissions filed such as retraction statement submitted by the supplier of gold to the concerned Assessing Officer, affidavit of supplier that he had supplied goods to Appellant and payments were received through banking channels. However, based on the information received from ADIT (Inv.), the learned Assessing Officer disallowed alleged bogus purchases of Rs. 4,53,0007-and added the same to the income of the Appellant as unexplained expenditure under Section 69C of the Income-tax Act. 1961, which was later upheld by Commissioner of Income Tax (Appeals).The appellant therefore prays that the addition of Rs. 4.53 lakhs be deleted.”

2. From the assessment order, it is observed that the Ld. AO made an addition of Rs. 4,53,000/- under section 69C as he received the information from Investigation Wing of the Income Tax Department that the above transaction with M/s. Swastik Corporation is an accommodation entry. As the appellant could not establish the genuineness of the transaction, addition under section 69C of the Act was made by placing reliance on the decision of M/s. N.K. Industries (Guj), which was subsequently upheld by Hon'ble Supreme Court.

3. Aggrieved by the addition, the appellant filed an appeal before Ld. CIT(A) and the addition was confirmed by Ld. CIT(A) as there was no response to the notices issued to the appellant.

4. The appellant has filed an appeal with grounds of appeal before the ITAT also. Before the ITAT, the Ld. AR of the appellant pleaded that one opportunity may be given to them to represent their case before Ld. CIT(A). During the appeal proceedings, the Ld. AR of the appellant filed a paper book containing the details of copy of Return filed, affidavit of seller of diamonds, tax invoice for purchase of diamonds and bank statement evidencing payment to seller etc.

5. The Ld. DR relied on the order of lower authorities.

6. Rival submissions are heard and the case is decided. From the order of Ld. CIT(A), it is observed that the appeal was dismissed as the appellant did not respond to the notices issued to them. In the case of Premkumar Arjundas Luthra HUF (69 Taxman.com 407) (Bom), Hon'ble Bombay High Court has held that Ld. CIT(A) cannot dismiss the appeal for non-prosecution of appeal, but the appeal order should be passed after taking into consideration all the issues raised by the appellant. As the Ld. CIT(A) did not pass the order accordingly, the Bench has decided that the matter is remitted back to the file of Ld. CIT(A). The Ld. CIT(A) is directed to give an effective opportunity to the appellant and pass the order on merits.

7. The appeal of appellant is allowed for statistical purposes.

Order pronounced in the open Court on 21/04/2025.

Sd/-
(NARENDER KUAMR CHOUDHRY)
JUDICIAL MEMBER

Sd/-
(OMKARESHWAR CHIDARA)
ACCOUNTANT MEMBER

Mumbai; Dated: 21/04/2025

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

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BY ORDER,
(Assistant Registrar)
ITAT, Mumbai