

**IN THE INCOME TAX APPELLATE TRIBUNAL
(DELHI BENCH: 'C': NEW DELHI)**

**BEFORE SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER
AND
SHRI SUDHIR PAREEK, JUDICIAL MEMBER**

**ITA No:- 6686/Del/2017
(Assessment Year- 2007-08)**

Goel Jewellery & Mart P. Ltd., through -Mr. Arvind Mittal, Official Liquidator 2204, 1 st Floor Gurudwara Road, Karol Bagh, New Delhi-110005.	Vs.	Income Tax Officer, Ward-10(2), New Delhi.
PAN No: AAACCG5901D		
APPELLANT		RESPONDENT

Assessee by : Shri Satyen Sethi, Adv. &
Shri A.T. Panda, Adv.

Revenue by : Shri Om Parkash, Sr. DR

Date of Hearing : 26.06.2025

Date of Pronouncement : **06.08.2025**

ORDER

PER SUDHIR PAREEK, JM:

This appeal has been preferred by the assessee against the Order dated 20.06.2017 passed by the Commissioner of Income Tax

(Appeals)-18, New Delhi- 110002, [in short (Ld. CIT(A)] for
Assessment Year 2007-08.

1.1 The assessee has raised the following grounds of appeal for
adjudication: -

“1. That on the facts and circumstances of the case and in law, the Commissioner of Income-tax (Appeals)-XVIII, New Delhi [the CIT(A)] has erred in upholding the assessment at the total income of Rs.34,33,550/- as against the declared income of Rs.10.62,810/- The Appellant denies its liability to be assessed at the income of Rs.34,33,550/-.

2. That on the facts and circumstances of the case and in law, the CIT(A) has erred in upholding the assumption of jurisdiction under section 147 of the Act.

2.1 That on the facts and circumstances of the case and in law, the CIT(A) did not appreciate that neither there was any tangible material to reopen the assessment nor there was application of mind to the information received.

2.2 That on the facts and circumstances of the case and in law, the CIT(A) has erred in not appreciating that approval was mechanically granted without proper application of mind

3. That on the facts and circumstances of the case and in law, the CIT(A) has erred in confirming the addition of Rs.23,70,740/- made under section 68 of the Act.

3.1 That on the facts and circumstances of the case and in law, the CIT(A) did not appreciate that there was no cause to treat purchase of diamonds of Rs.23.70,740/- as mere accommodation entry.

3.2 That on the facts and circumstances of the case and in law, the CIT(A) has erred in not appreciating that section 68 was not applicable to purchases made in the ordinary course of business.

That the Appellant craves leave to add, alter, amend or vary any of the ground either at or before the hearing of the appeal.”

2. The assessee has filed an application for condonation of delay in filing the present appeal. The contents of the application are reproduced hereunder for ready reference:

"Application for condonation of delay in filing appeal against order of CIT(A)-18, New Delhi dated 20.6.2017

May it please your honour,

- 1. The appeal against the order of CIT(A)-18, New Delhi dated 20.6.2017 for the assessment year 2007-08 is being filed today Le. 06.11.2017*
- 2. Though the appeal was disposed of vide order dated 20.6.2017, however, certified copy of the order was received by the Appellant on 3.10.2017, on deposit of fee of Rs.250/-. Copy of letter dated 27.9.2017 requesting for copy of order of CIT(A) and the receipt of deposit of fee of Rs.250/-dated 3 10.2017 are enclosed.*
- 3. That the order sent by the Officer of CIT(A)-18, New Delhi was not received by the Appellant. Affidavit of Mr. Sushil Kumar Goel, director of the Company affirming the fact on oath is enclosed.*
- 4. Since for more than two months after the conclusion of the hearing of the appeal, the Appellant did not receive the order, therefore, it enquired from its chartered accountant and on his advice to check from the office of CIT(A)-18, New Delhi, we visited the office of the CIT(A)-18, New Delhi on 25.9.2017 and was apprised that the order has already been passed. It was in this background that request for certified copy of the order was made on 27.9.2017 and certified copy of the order was received on 3.10.2017. There is no delay in filing appeal from the date of receipt of certified copy.*
- 5. However, in case it is taken that the order ward within die four days of putting the order into service, the appeal done been fled*

by 30.8.2017 (taking that the order we put into effect on 27.6.2017 and must have been served on 30.6.2017), there is a delay of 68 days.

- 6. Delay in filing appeal was not to gain any advantage or undue benefit. There was no malafide in not filing appeal in time nor was the delay a part of dilatory strategy.*
- 7. Condoning the delay would not cause any prejudice to the department. It will only result in determining legal issue in accordance with law. In case, the delay is not condoned, serious prejudice would be caused to the Appellant for default which was unintentional.*
- 8. I reiterate that the statements made above are true and correct.*

PRAYER

It is, therefore, most respectfully prayed that:

- (i) delay of 68 days in filing appeal against the order of CIT(A)-18, New Delhi dated 20.6.2017 for the assessment year 2007-08 may be condoned*
and
- (ii) the appeal may be admitted and adjudicated upon on merits.*

It is prayed accordingly.”

2.1 We have carefully considered the contents of the condonation application filed by the assessee. It is well settled that the purpose of the law is to advance substantive justice. The assessee has filed an application for condonation of delay of 68 days in filing the present

appeal. The reasons for delay have been duly explained in the application supported by necessary documents. We find the explanation to be bona fide and sufficient.

2.2 Therefore, in the interest of justice, the delay is condoned and the appeal is admitted for adjudication on merits. In our considered opinion, the delay in filing the appeal is neither intentional nor contumacious. Accordingly, in the interest of substantial justice, the delay of 68 days in filing the appeal is hereby condoned.

3. Brief facts of the case may be narrated as that the assessee is engaged in the business of trading of jewellery and filed return of income for the A.Y. 2007-08 on 30.10.2007 of Rs. 10,62,810/-, and the same was accepted u/s 143(1) of the Income Tax Act, 1961 ('the Act'). A search and seizure operation carried out in the case of M/s Bhanwar Lal Jain group on 3.10.2013 in respect of bogus sales by which it revealed that the assessee had received accommodation entries from Little Diam of Rs. 23,70,740/- during the F.Y. 2006-07, relevant to A.Y. 2007-08 which was run by the Bhanwar Lal Jain Group. The Learned AO issued notice u/s 148 dated 15.03.2015, with recorded reasons and after taking necessary approval. The Learned AO finds it confirmed that the assessee has taken

accommodation entry of Rs 23,70,740/- against bogus purchase bills issued by the Little Diam, as the assessee failed to file details which can substantiate its claims of purchasing diamonds from M/S Little Diam and add the abovesaid amount to the income of the assessee. Aggrieved by the same, the assessee assails it before the Learned CIT(A) by way of appeal which was dismissed. Thereafter, assessee before us by way of present appeal.

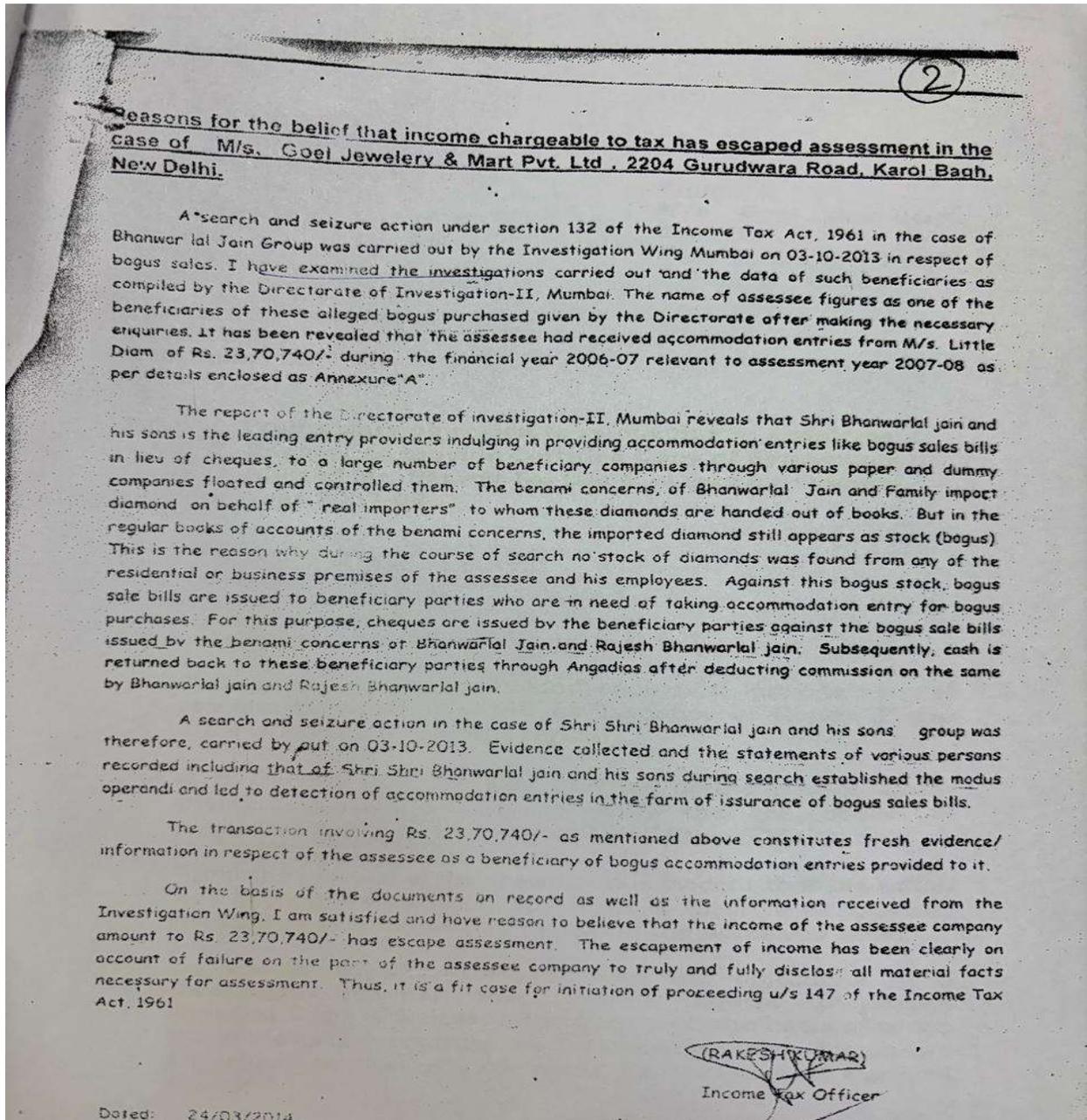
4. Heard rival submissions and carefully perused the material available on record.

5. At the outset, the Ld. AR expressed the grievance that the Ld. CIT(A) erroneously upheld the assumption of jurisdiction under section 147 of the Act by ignoring the fact that there was neither any tangible material to reopen the assessment nor there was any application of mind to the information received and approval in question is quite mechanical in nature, as raised ground no 2/2.1/2.2 for this purpose.

6. Per contra, the Ld. DR submitted that it is settled legal position that at the stage of recording of reasons, no final finding is required to be given and only prima facie belief is required to be reached by the assessing authority.

7. In the course of hearing, the Learned AR draws our attention to the case of *ACIT vs. Ravi Parkash Aggarwal* in ITA No. – 1423/Del/2017, in which Co-ordinate Bench quashed the reopening of assessment which were reopened on the basis of search of Bhanwar Lal Jain Group. The Ld. AR submitted that relied upon case quite identical with the present case but perusal of itself shows that it was not as identical as stated by the Ld. AR because in the referred matter, it is clearly mentioned that it was not possible to ensure that whether the assessee has received entries pertaining to loans and purchase and also there was no reference to any specific document except the annexure, which cannot be regarded as material or prime-facie evidence to establish the link to point out escapement of income. But in present case reasons for the belief clearly shows that it was on the basis of evidence collected and the statements of various persons recorded including that of Shri Bhanwarlal Jain and his sons during search established the modus operandi and led to detection of accommodation entries in the form of issuance of bogus sales bills and sufficient details were placed for the satisfaction, which is placed as below;

“



8. The Ld. AR also relied upon in the case of *Sejal Exports (India) vs. DCIT in ITA No.- 3859 & 3858/M/2017*, in which case was

reopened u/s 147 of the Act, after finding information from DGIT (Inv.), Mumbai, dated 13.03.2014 and in which it was mentioned that the assessee availed the accommodation / fictitious bills from the 13 parties and the Co-ordinate Bench endorse the order of the Ld. CIT(A) in upholding the reopening of the proceedings u/s 147 of the Act. It is also submitted that the notice u/s 148 of the Act, dated 25.03.2014 was bad in law, because Investigation Report in question per-se does not constitute tangible material and since there was no tangible material to justify assumption of jurisdiction u/s 148 of the Act, deserves to be quashed. The reasons to believe do not refer to any statement implicating the appellant. This argument is also distinguishable, as the reasons recorded expressly mention that there was sufficient evidence to proceed, including the statements of Shri Bhanwarlal Jain and his sons. It is also relevant to note that the name of assessee figures as one of the beneficiaries of these alleged bogus purchased given by the Directorate after making the necessary enquires.

9. From the facts mentioned hereinbefore, we do not find any error committed by the Ld. CIT(A) in upholding the assumption of

jurisdiction u/s 147 of the Act, and consequently affirms the findings of the Learned CIT(A) and this issue raised by the assessee liable to be dismissed.

Ground nos. 3, 3.1 and 3.2

10. The Ld. AR submitted that the Ld. CIT(A) erroneously confirmed the addition of Rs. 23,70,740/- under Section 68 of the Act, and ignoring there was no cause to treat purchase of diamond of Rs. 23,70,740/- as mere accommodation entry and it is also submitted section 68 is not applicable to purchases made in the ordinary course of business.

11. It is also submitted that the additions made u/s 68 of the Act on the basis of the report of such DIT- Mumbai on search on Bhanwar Lal Jain Group was deleted and the addition was restricted to some % of gross profit and for this purpose, the Ld. AR relied upon the judgments which are reproduced as under:

- “ (i) *M/s Shashvat Jewels Pvt. Ltd. vs. DCIT (ITA No.- 3364/Ahd/2016 dt. 6.2.2020)*
- (ii) *M/s Delux Diamonds v. ITO (ITA No.- 1396/Ahd/2017 dt. 11.04.2018)*
- (iii) *ITO v. M/s Naitaik Gems (ITA No.- 6718/M/2016 dt. 29.11.2017)*
- (iv) *Sejal Exports (india) v. DCIT (ITA Nos.- 3589 & 3858/M/2017 dt. 27.09.2017)”*

12. It was also submitted that in the matter of M/s Shashvat Jewels Pvt. Ltd. (supra), addition of Rs. 37,52,630/- was made for the reasons that purchase made from Rajan Diamond, an entity of Bhanwarlal Jain Group was deleted and addition was restricted to 5% of above value by observing that it is a simple logic that when the AO has not questioned the sales / stocks then there is no logic to disallow the 100% bogus purchases and by relied upon aforesaid judgments, the Ld. AR submitted and requested that the addition may be restricted to 12.5% of the alleged bogus purchase of Rs. 23,70,740/- and further submitted that the Learned AO accepted the trading results as neither the sales nor stocks declared doubted and even Books of account were not rejected.

13. We find material substance in the submissions advanced on behalf of the assessee, and on the basis foregoing fact situation and following judicial precedents, we are of the considered opinion that it is fit case to restrict the addition to 12.5% of the total bogus purchase of Rs. 23,70,740/- and the Learned AO will work out the addition accordingly. Thus, the grounds are partly allowed.

14. In the result, appeal of the assessee is partly allowed as indicated above.

Order pronounced in the Open Court on 06.08.2025

Sd/-
(SHAMIM YAHYA)
ACCOUNTANT MEMBER

Sd/-
(SUDHIR PAREEK)
JUDICIAL MEMBER

Dated: 06/08/2025.
Pooja/-

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT NEW DELHI