

IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD “SMC” BENCH
(Conducted Through Virtual Court)
**Before: Ms. Annapurna Gupta, Accountant Member
And Shri T.R. Senthil Kumar, Judicial Member**

**ITA No. 1415/Ahd/2019
Assessment Year 2016-17**

| | | |
|---|----|---|
| Imran Mohammed Iqbal Memon 5/2 Ravindra Park Society Inside Bangeshree Soc. Dani Limda, Ahmedabad PAN: ANWPM2525P (Appellant) | Vs | The I.T.O., Ward-6(1)(5), Ahmedabad (Respondent) |
|---|----|---|

**Appellant by : Shri S. N. Divetia, A.R.
Respondent by : Shri R.R. Makwana, Sr.D.R.**

Date of hearing : 20-04-2022
Date of pronouncement : 29-04-2022

ORDER

PER : ANNAPURNA GUPTA, ACCOUNTANT MEMBER:-

The present appeal has been filed by the Assessee against the order passed by the Commissioner of Income Tax (Appeals)-6, Ahmedabad, (in short referred to as CIT(A)), dated 26-06-2019, u/s. 250(6) of the Income Tax Act, 1961(hereinafter referred to as the “Act”) pertaining to Assessment Year (A.Y) 2016-17.

2. The grounds raised by the assessee reads as under:

1.1 *The order passed u/s.250 on 29.06.2019 for A.Y.2016-17 by CIT(A)-6, Abad, ex-parte and upholding addition aggregating to Rs.25,0,3,321/- as bogus purchases is wholly illegal, unlawful and against the principles of natural justice.*

1.2 *The Ld. CIT(A) has grievously erred in law and or on facts in not appreciating the appellant was prevented by sufficient cause from complying to the alleged notices of hearing. The CIT(A) ought to have allowed sufficient opportunity to the appellant to comply with the notices of hearing. Hence, he may be allowed to produce additional evidence and it may be admitted.*

2.1 *The Ld. CIT(A) has grievously erred in law and on facts in upholding that the purchases aggregating to Rs. 25,0,3,321/- from Aarti Jewellers and , Prakash Gold as bogus purchases and thereby making an addition of Rs. 25,0,3,321.*

2.2 *That in the facts and circumstances of the case as well as in law, the Id. CIT(A) ought not to have upheld the purchases aggregating to Rs. 25,0,3,321/- from Aarti Jewelers and Prakash Gold as bogus purchases and thereby confirming an addition of Rs. 25,0,3,321.*

2.3 *Without prejudice to above, the impugned addition is highly excessive and calls for substantial reduction.*

2.1 Ground no. 1 and 1.2 it was stated before us by the Id. Counsel for the assessee were general in nature and are therefore not being dealt with by us.

3. Ground no. 2.1 to 2.3, Id. Counsel for the assessee stated related to addition made of Rs. 25,03,321/- on account of outstanding balances of

two parties M/s. Aarti Jewelers and M/s. Prakash Gold held to be bogus. The assessment order reveals that the said two parties were included in the list of current liabilities which included sundry creditors and advances as under:

- (i) Aarti Jewelers Rs. 12,98,295/-
- (ii) Prakash Gold Rs. 12,05,026/-.

4. These were noted to be balances relating to sundry creditors by the A.O. who had also noted the fact that the liability in the case of M/s. Prakash Gold had been carried forward from assessment year 2014-15 and thereafter there was no transaction in the said account. The balances in the case of Aarti Jewelers pertained to purchases of Gold made during the impugned year. Both these balances were held to be bogus entries and addition made to the income of the assessee. The relevant findings of the A.O. at para 8.1 of the order is as under:

8.1 Addition on account of unexplained liability of Rs. 25.03.321/-.

In view of the non submission of reply, the liabilities have remained unverifiable. Therefore both the liability are not treated as genuine. It is ascertained from the balance sheet in respect of liability of Rs. 12,05,026/- of Prakash Gold no transaction has been carried out during the year the liability pertains to f.Y. 2014-15 as the liability is not proved genuine. Therefore it is added to the total assessee's total income as per provisions of section 41(1) of the I.T Act. Penalty proceedings are initiated separately u/s. 274 r.w.s. 271(1)(c) of the IT Act for concealment of income.

The confirmation submitted by the assessee during the assessment proceedings in the case of Aarti Jewelers without mentioning address and PAN. Therefore, this office vide notice u/s. 142(1) and show cause notice requested the assessee to

furnish address and PAN of Aarti Jewelers but till dated assessee has failed to furnish the details called as above. Therefore, it is clear that liability of Aarti Jewelers of Rs. 12,98,295/- is nothing but bogus entry shown as sundry creditors to increase the liabilities. In other words the corresponding investment has been made from undisclosed sources. Penalty proceedings are initiated separately u/s. 274 r.w.s. 271(1)(c) of the IT Act for concealment of Income.

5. Considering the above facts, vis-à-vis the outstanding balance relating to M/s. Prakash Gold amounting to Rs. 12,05,026/-, the addition having been made finding it to be bogus, since the consistent finding of fact is that the transaction was entered into by the assessee with the said party not in the impugned year but in earlier year i.e in A.Y. 2014-15 ,the addition in any case could not have been made in the impugned year but only in the year in which the liability arose i.e. A.Y. 2014-15. Therefore the addition on account of outstanding liability pertaining to Prakash Gold amounting to Rs. 12,05,026/- is directed to be deleted.

6. As for the liability on account of M/s. Aarti Jewelers, the Id. Counsel for the assessee has contended that the said liability was discharged in the succeeding years through banking channels. Copy of the ledger account of the parties was also placed before us.

7. In view of the same therefore there is no question of holding the said party to be ingenuine and the addition made on this count is directed to be deleted.

8. In effect, appeal of the Assessee is allowed.

Order pronounced in the open court on 29 -04-2022

Sd/-

(T.R. SENTHIL KUMAR)
JUDICIAL MEMBER True Copy
Ahmedabad : Dated 29/04/2022

Sd/-

(ANNAPURNA GUPTA)
ACCOUNTANT MEMBER

Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.

By order