

IN THE INCOME TAX APPELLATE TRIBUNAL  
PUNE BENCH "SMC", PUNE

BEFORE SHRI R.S. SYAL, VICE PRESIDENT

आयकर अपील सं. / ITA No.657/PUN/2020

निर्धारण वर्ष / Assessment Year : 2008-09

Navin Sirahmal Mukim, Prop. Lama Gems & Jewellery, 501, Narvel Exotica, Koregaon Park, Pune 411 001 PAN : ADWPM4125F	Vs.	ITO, Ward-7(4), Pune
Appellant		Respondent

Assessee by  
Revenue by

Shri M.K. Kulkarni  
Shri Piyush Kumar Singh Yadav

Date of hearing 29-06-2022  
Date of pronouncement 30-06-2022

आदेश / ORDER

PER R.S. SYAL, VP :

This appeal by the assessee is directed against the order passed by the CIT(A)-8, Pune on 06-08-2019 in relation to the assessment year 2008-09.

2. This appeal is time barred by 318 days. The assessee has filed an affidavit stating the reasons that the lockdown was imposed by the Govt. due to Covid-19 pandemic, which led to the late filing of the appeal. The ld. DR did not seriously object to the delay. Therefore, the delay is condoned and the instant appeal is admitted

for disposal on merits by virtue of judgment of the Hon'ble Supreme Court in *Cognizance for Extension of Limitation, In re 438 ITR 296 (SC)* read with judgment in *Cognizance for Extension of Limitation, In re 432 ITR 206 (SC)* dated 08-03-2021 and 421 ITR 314.

3. The only issue involved in this appeal is against the confirmation of addition of Rs.27,91,507/- made by the AO on account of bogus purchases.

4. Briefly stated, the facts of the case are that the assessee is engaged in the manufacturing and trading of Jewellery items. The Assessing Officer, on verification of information received from the Maharashtra Sales Tax Department, observed that the assessee was one of the beneficiaries of Hawala purchases. Such amount of bills stood at Rs.27,91,507/-. The assessee was called upon to prove the genuineness of the purchases so made. The assessee submitted certain details. Not convinced, the AO made the addition equal to the amount of Hawala purchase bills, which got confirmed in the first appeal. Aggrieved thereby, the assessee has approached the Tribunal.

5. Having heard both sides and gone through the relevant material available on record, it is observed that the assessee

allegedly purchased diamonds through the Hawala purchase bills and thereafter utilized the same in the manufacture of the jewellery. In such a situation, the entire amount of purchase bills does not requires addition but only the profit element because the diamonds must have been actually purchased at lower prices in lieu of which costly hawala purchases were recorded, which were used in the jewellery-making,. The Hon'ble jurisdictional High Court in *Pr.CIT Vs. Paramshakti Distributors Pvt. Ltd., vide its judgment dated 15.07.2019 in ITA No.413/2017*, has sustained the addition @ 10% of the amount of purchases, being, the profit element involved therein. Respectfully following the precedent, I deem it appropriate to restrict the addition to 10% of the amount of purchases. It is ordered accordingly.

6. In the result, the appeal is partly allowed.

Order pronounced in the Open Court on 30<sup>th</sup> June, 2022.

**Sd/-**  
**(R.S.SYAL)**  
**उपाध्यक्ष/ VICE PRESIDENT**

पुणे Pune; दिनांक Dated : 30<sup>th</sup> June, 2022  
*Satish*

**आदेश की प्रतिलिपि □ ग्रेषित/Copy of the Order is forwarded to:**

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent
3. The CIT(A)-8, Pune
4. The Pr.CIT-4, Pune
5. DR, ITAT, 'SMC' Bench, Pune
6. गार्ड फाईल / Guard file.

**आदेशानुसार/ BY ORDER,****// True Copy //**

Senior Private Secretary  
आयकर अपीलीय अधिकरण ,पुणे / ITAT, Pune

		Date	
1.	Draft dictated on	29-06-2022	Sr.PS
2.	Draft placed before author	29-06-2022	Sr.PS
3.	Draft proposed & placed before the second member		JM
4.	Draft discussed/approved by Second Member.		JM
5.	Approved Draft comes to the Sr.PS/PS		Sr.PS
6.	Kept for pronouncement on		Sr.PS
7.	Date of uploading order		Sr.PS
8.	File sent to the Bench Clerk		Sr.PS
9.	Date on which file goes to the Head Clerk		
10.	Date on which file goes to the A.R.		
11.	Date of dispatch of Order.		

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