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§-26-32, 34, 35-49

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ ITA 126/2009

COMMISSIONER OF INCOME TAX DELHI Appellant

Through : Mr N. P. Sahni with Mr R. Sinha

versus

GEETA DEVI BINDAL Respondent

Through : Mr V. N. Jha

AND

+ ITA 155/2009

THE COMMISSIONER OF INCOME TAX Appellant

Through : Mr Deepak Chopra with Mr Harpreet Singh
Ahmani

versus

SHRI BRIJ KISHORE Respondent

Through : None

AND

+ ITA 191/2009

THE COMMISSIONER OF INCOME TAX Appellant

Through : Mr N. P. Sahni with Mr R. Sinha

versus

SANJEEV GOEL Respondent

Through : None

AND

+ ITA 311/2009

COMMISSIONER OF INCOME TAX-VII Appellant

Through : Mr N. P. Sahni with Mr R. Sinha

versus

M/S RAJESH KUMAR (HUF) Respondent

Through : None



AND

+ ITA 357/2009

COMMISSIONER OF INCOME TAX

..... Appellant

Through : Mr Sanjeev Rajpal

versus

ANIL KUMAR BANSAL

..... Respondent

Through : None

AND

+ ITA 358/2009

COMMISSIONER OF INCOME TAX

..... Appellant

Through : Ms Suruchi Aggarwal

versus

SHRI NAGARMAL BANSAL

..... Respondent

Through : None

AND

+ ITA 378/2009

COMMISSIONER OF INCOME TAX

..... Appellant

Through : Ms Suruchi Aggarwal

versus

GANVIR KUMAR

..... Respondent

Through : None

AND

+ ITA 594/2009

COMMISSIONER OF INCOME TAX

..... Appellant

Through : Mr N. P. Sahni with Mr R. Sinha

versus

NEELAM JAIN

..... Respondent

Through : None



34

AND

+ ITA 948/2009

COMMISSIONER OF INCOME TAX Appellant

Through : Mr Deepak Chopra with Mr Harpreet Singh
Ahmani

versus

AJIT PRASAD JAIN Respondent

Through : None

AND

+ ITA 965/2009

COMMISSIONER OF INCOME TAX Appellant

Through : Mr Deepak Chopra with Mr Harpreet Singh
Ahmani

versus

AJIT PRASAD JAIN & SONS Respondent

Through : None

AND

+ ITA 990/2009

COMMISSIONER OF INCOMET TAX Appellant

Through : Mr Sanjeev Rajpal

versus

SANJEEV & SONS HUF Respondent

Through : None

AND

+ ITA 1068/2009

COMMISSIONER OF INCOME TAX Appellant

Through : Ms Suruchi Aggarwal

versus

ANJU JAIN Respondent

Through : None



35

AND

+ ITA 1071/2009

COMMISSIONER OF INCOME TAX

..... Appellant

Through : Ms Suruchi Aggarwal

versus

ROMA KAPOOR

..... Respondent

Through : Mr V. K. Sabharwal

AND

+ ITA 1072/2009

COMMISSIONER OF INCOME TAX

..... Appellant

Through : Ms Suruchi Aggarwal

versus

MADHU GUPTA

..... Respondent

Through : Ms Rani Kiyala

AND

+ ITA 1076/2009

COMMISSIONER OF INCOME TAX

..... Appellant

Through : Ms Suruchi Aggarwal

versus

PRADUMAN KUMAR JAIN

..... Respondent

Through : None

AND

+ ITA 1078/2009

COMMISSIONER OF INCOME TAX

..... Appellant

Through : Mr N. P. Sahni with Mr R. Sinha

versus

RAKESH KUMAR JAIN HUF

..... Respondent

Through : None



AND

+ ITA 1084/2009

COMMISSIONER OF INCOME TAX

..... Appellant

Through : Ms Suruchi Aggarwal

versus

KIMTI LAL JAIN

..... Respondent

Through : Mr Navin C. Gupta with Mr Atul Jain

AND

+ ITA 1171/2009

COMMISSIONER OF INCOME TAX

..... Appellant

Through : None

versus

KAMAL KISHORE PANKAJ AGGARWAL

..... Respondent

Through : Mr S. Krishnan

AND

+ ITA 381/2010

COMMISSIONER OF INCOME TAX

..... Appellant

Through : None

versus

ANUJ MEHTA

..... Respondent

Through : None

AND

+ ITA 483/2010

COMMISSIAONER OF INCOME TAX

..... Appellant

Through : None

versus

VK MEHTA

..... Respondent

Through : None

AND



+ ITA 764/2010

COMMISSIONER OF INCOME TAX Appellant
Through : Mr N. P. Sahni with Mr R. Sinha

versus

SARLA JAIN Respondent
Through : None

AND

+ ITA 971/2010

COMMISSIONER OF INCOME TAX Appellant
Through : None

versus

VK MEHTA Respondent
Through : None

CORAM:

**HON'BLE MR JUSTICE BADAR DURREZ AHMED
HON'BLE MR JUSTICE V. K. JAIN**

ORDER
14.03.2012

%

The issue raised in these appeals pertains to the alleged bogus sale of jewellery by the assesseees to either Bishan Chand Mukesh Kumar or Bemco Jewellers. We find that the Tribunal has not returned specific findings in respect of each of these matters as to whether there was a genuine sale or not. It has merely relied upon the case of Tejinder Singh decided on 25.07.2008 in IT (SS) A. No. 404/Del 2003. Though we find that in almost all these cases there is a finding returned by the Commissioner of Income Tax that the transactions were genuine, since the revenue had challenged those findings, it was incumbent upon the Tribunal to independently examine each of the cases and return a



specific finding as to whether there was a genuine transaction of sale of jewellers' assets to Bishan Chand Mukesh Kumar/ Bemco Jewellers.

Since the Tribunal has not done that, we are setting aside the impugned orders and are remitting the matters to the Tribunal for considering this aspect of the matter so that the Tribunal can return a clear finding in respect of each of the matters as to whether the alleged transaction of sale of jewellery was genuine or not.

The appeals stand disposed of accordingly.

Badar Durrez Ahmed
BADAR DURREZ AHMED, J

V. K. Jain
V. K. JAIN, J

MARCH 14, 2012
SR