



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

+ ITA 23/2012

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**Date of Decision : 17<sup>th</sup> January, 2012.**

CIT

..... Appellant

Through Mr. Anupam Tripathi, sr. standing  
counsel with Ms. Anusha Singh, Adv.

versus

PANNA LAL ROSHAN LAL JEWELLERS  
PVT LTD

..... Respondent

Through

**CORAM:**

**HON'BLE MR. JUSTICE SANJIV KHANNA**

**HON'BLE MR. JUSTICE R.V. EASWAR**

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest?

**SANJIV KHANNA,J: (ORAL)**

The present appeal under Section 260A of the Income Tax Act, 1961 impugns the order dated 17.6.2011 passed by the Income Tax Appellate Tribunal (Tribunal, for short) in the case of Panna Lal Roshan Lal Jewellers Pvt. Ltd. The appeal pertains to assessment year 2006-07. The impugned order has been passed by the tribunal in ITA



1262/(Del.)/2011.

2. Ld. counsel for the appellant submits that the impugned order is perverse and the tribunal has erred in accepting the stand of the respondent-assessee. It is contended that the tribunal has ignored and not given due credence to the valuation made at the time of the survey.

3. In the present case, survey under Section 133A was conducted in the business premises of the respondent-assessee on 13.12.2005. The assessee thereafter filed their income tax return on 14.11.2006 declaring total income of Rs.47,97,730/-. This included undisclosed investment of Rs.42,65,924/- found at the time of the survey.

4. The Assessing Officer made an addition of Rs.61,64,407/- under Section 69B. He observed that at the time of the survey, the stock found was valued at Rs.1,95,94,828/- and the stock as per books of accounts was Rs.91,64,407/-. Thus the assessee had undisclosed stock of Rs.1,04,30,431/- and not of Rs.42,65,924/- declared and accepted by the respondent-assessee.

5. It is noticeable that the assessment order records that the respondent-assessee had given detailed reconciliation of the stock with



specific explanation. The aforesaid reconciliation was referred to in the assessment order but has not been dealt with and considered. The assessment order is cryptic and does not meet the contentions of the respondent-assessee.

6. Before the CIT (Appeals) the assessee submitted various computation and details. The CIT (Appeals) held that the assessee had been able to show and establish that undisclosed stock to the extent of Rs.23,08,033/- belonged to third parties. Accordingly, relief to that extent was granted. In respect of the balance amount, the CIT (Appeals) did not agree with the respondent-assessee. He held that the assessee should have taken objection to the valuation at the time of survey.

7. Revenue did not prefer any appeal against deletion of addition of Rs.23,08,033/-. The assessee however, preferred an appeal before the Tribunal against the balance amount of Rs.38,56,574/-. By the impugned order, the appeal of the respondent-assessee has been allowed. It is noticeable that the assessee in their explanation had pointed out that the valuation reports had taken the value of 24 carat gold at Rs.790 per gram but did not correspondingly reduce the value of 18 carat and 22 carat gold.



Further, even the stock, recorded in the books of account, was valued as per the market rates, which is not correct, because no profit arises till the stock is sold and under the mercantile system of accounting an assessee is entitled to value the stock in hand (declared stock) on the basis of the rule “cost price or market price, whichever is lower”. The respondent-assessee had valued the stock at cost price. The cost price as recorded in the books was not rejected or adversely commented upon in the assessment order. Thus an obvious mistake has been corrected by the tribunal. We do not understand how the decision can be categorized or regarded as perverse. As noticed above in respect of unrecorded/unaccounted stock found at the time of survey, the respondent-assessee had surrendered Rs.42,65,924/-.

8. The Appeal is dismissed. No costs.

**SANJIV KHANNA, J**

**R.V.EASWAR, J**

**JANUARY 17, 2012/vld**