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

+ ITA 48/2024, CM APPL 2981/2024 (Delay)

PR. COMMISSIONER OF INCOME TAX – 1Appellant

Through: Mr. Prashant Meharchandani,
Senior Standing Counsel with
Mr. Akshat Singh, Junior
Standing Counsel.

versus

BAWA JEWELLERS PRIVATE LIMITEDRespondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE YASHWANT VARMA

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR

KAURAV

ORDER

18.01.2024

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1. Notice. Although the respondent is stated to have been placed on advance notice, none has appeared on its behalf when the matter was called. Consequently, let the appellant take steps for service upon the said respondent through all permissible modes including via approved courier service. The respondent may file a reply, if so chosen and advised, within a period of four weeks from today.

2. Prima facie, we take note of the challenge which stands comprised in ground (a) of the appeal and reads thus:-

”a) Because on the facts and circumstances of the case, and in law, the impugned order is perverse in not appreciating the following peculiar facts of the present case which go on to prove that the cash sales reported by the Assessee in the 8 day period of 01.11.2016 to 08.11.2016 is disproportional by all means:

- i. Assessee claims to have sold INR 21.39 Cr. of gold and diamond jewellery during this 8 day period in FY 2016-17 which is more than 11 times the amount of sale during the same 8 day period in the previous



FY 2015-16 (amounting to INR 1.79 Cr.) and hence cannot be believed to be true.

- ii. Furthermore, after these unusual disproportionate sales during the 8 day period, there was no sale in the entire remaining month from 09 .11.2023 to 30.11.2023.
- iii. Furthermore, the Assessee declared a meagre sale of only Rs. 29.08 lacs in the month of December 2016 and Rs. 60.80 lacs in the month of January 2017.
- iv. Since demonetization was an unexpected incident, it is highly unlikely for the Assessee to have kept such huge stock of jewellery considering that the maximum price of every piece of jewellery sold by the Assessee on 08.11.2023 was less than Rs. 2 lacs as the customers did not want to disclose their PAN details.
- v. While the entire sales of the Assessee for the entire FY 2016-17 was Rs. 54 Cr., Assessee claims to have made cash sales of INR 21.39 Cr. in the said 8 day period which amounts to 40% of the total sales for the entire year.
- vi. The monthly cash sales from April 2015 to March 2017 ranges from Rs.1.3 Cr. to Rs. 3.71 Cr. except for the first 8 days of November 2016 where the cash sales amount to Rs. 21.39 Cr. for only a 8 day period which is 5.76 times the highest monthly cash sale in the 2 years.”

3. It is in the aforesaid backdrop that we find ourselves unable to sustain the view taken by the Income Tax Appellate Tribunal when it observed that there was minimal variation in cash sales. Matter requires consideration.

4. List again on 30.04.2024.

YASHWANT VARMA, J.

PURUSHAINDR KUMAR KAURAV, J.

JANUARY 18, 2024
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