

(718)

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES: "E" : NEW DELHI**

BEFORE SHRI.P.M.JAGTAP, AM & SHRI.GEORGE MATHAN, JM

**I.T.(S.S.) No.363/Del/2005
Block Period : 1.4.96 to 5.2.03**

ACIT, Central Circle-21, Room
No.344, E-2, ARA Centre,
Jhandewalan Extn., New Delhi.
[Appellant]

Shri Shyam Sunder Mosun, 307,
Vs. Pratap Chamber, Gurudwara Raod,
Karol Bagh, New Delhi.
[Respondent]

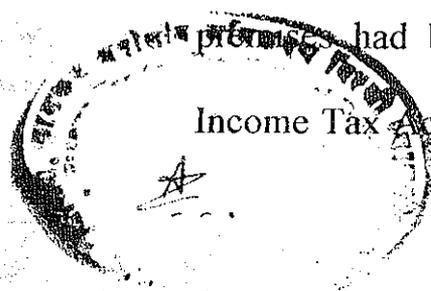
Appellant by : Shri Ganjan Prasad, CITDR
Respondent by : Mr. Rano Jain, CA

ORDER

PER GEORGE MATHAN, JM

This is an appeal filed by the revenue against the order of the CIT(A)II New Delhi in Appeal No: DEL/CIT(A)2/05-06/116 dated 31/05/2005 for the block period 01/04/1996 to 05/02/2003. Mr.Gunjan Prasad learned CIT (DR) represented on behalf of the Revenue and Mr.Rano Jain Chartered Accountant represented on behalf of the assessee.

2. The facts that have given rise to this appeal are that the assessee's premises had been searched under the provisions of section 132 of the Income Tax Act 1961 (the act) on 05/02/2003. During the search substantial



documents had been found. The assessee had as a consequence of the search filed his return in Form 2B on 14/01/2005 declaring undisclosed income of Rs.26,75,000/-. The assessment came to be completed under section 158BC of the act on 29/03/2005 wherein the assessing authority had made an addition of Rs.5,90,804/- being the peak investment as on 15/01/2003 for carrying out the undisclosed business of sales of jewellery. Being aggrieved with the order of assessment the assessee had filed first appeal to the CIT(A) who had vide his order dated 31/05/2005 had deleted the addition by holding that the assessee had declared an amount of Rs.11,46,060/- in his return for the block assessment as undisclosed investment in stocks as per the bills which were found in the course of search. Being aggrieved with the order of the CIT(A) the revenue has filed this appeal before the tribunal.

3. At the time of hearing the learned CIT(DR) submitted that the assessing authority had in the assessment order in para 6 held that the assessee had not been able to state as to what was his actual initial investment for carrying out the undisclosed business of sales of jewellery and therefore had made the addition of the peak sales as per the seized material in annexure 1 as on 15/01/2003. The learned representative on behalf of the assessee submitted that the assessee had considered the peak investment and had offered the amount of Rs.11,46,060/- as undisclosed

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income in the block assessment return. He further submitted that the sales as on 15/01/2003 was Rs.5,90,804 and it was not the investment. It was further submitted that the sum of Rs.11,46,060/- was offered to tax in the return on account of the initial investment.

4. We have considered the rival submissions and perused the orders of the authorities below. It is an undisputed fact that the assessee has filed his return of income for the block period declaring an income of Rs.26,75,000/- and this amount included an amount of Rs.11,46,060/- on account of the unexplained investment in stock as per bills found at the time of search. It is also an undisputed fact that the assessee had declared an amount of Rs12,79,140/- towards to profits earned on the transaction as recorded in the seized materials and the same has also been accepted by the assessing authority in the assessment order. The figure of Rs.5,90,804/- as taken by the assessing authority is from the sales figure in annexure 1 as on 15/01/2003 as seen from page 4 of the assessment order. Thus the assessee has offered the initial investment and the profits from the dealing in the stock outside the books of accounts. In these circumstances we are of the opinion that the finding of the learned CIT(A) is correct that the initial investment and profit on the unaccounted sales has been offered by the assessee.



5. In the circumstances the appeal of the revenue is dismissed.

Pronounced in the open Court on ... 25/1/2008

Sd/—
(P.M. JAGTAP)
ACCOUNTANT MEMBER

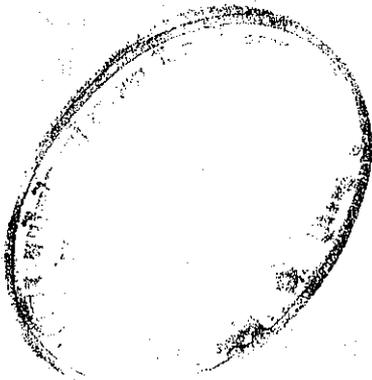
Sd/—
(GEORGE MATHAN)
JUDICIAL MEMBER

Dated : 25th Jan., 2008

Copy forwarded to:

1. ACIT, Central Circle-21, Room No.344, E-2, ARA Centre, Jhandewalan Extn., New Delhi.
2. Shri Shyam Sunder Mosun, 307, Pratap Chamber, Gurudwara Raod, Karol Bagh, New Delhi.
3. CIT(A)
4. CIT
5. Departmental Representative

By Hand



(REGISTRAR)
Assistant Registrar
Income Tax Tribunal
Delhi, New Delhi