

## IN THE HIGH COURT OF DELHI AT NEW DELHI

06.05.2009

Present : Ms. Prem Lata Bansal, Mr M.P. Gupta and Mr Sanjeev Rajpal,  
Advocates for the Appellant.

ITA 280/2009

**LUTHRA JEWELLERS**

Two issues arose for consideration before the ITAT. The first was on account of additions made due to under-valuation of diamonds found in stock with the assessee and the second issue pertained to addition made to the tune of Rs 5.00 lacs on account of unexplained capital introduced by the partners of the assessee. In so far as the first issue is concerned it is accepted that the Assessing Officer sought to add the difference in the valuation between one carried out by the assessee and the Revenue, by relying upon the error committed by the officers of the Revenue during survey operations, whereby the weight of the diamonds was recorded in grams as against its correct denomination, which is, carats. There was no dispute as to the rate to be applied which in the instant case was Rs 7,000/- per carat as against Rs 7,000/- per gram. We note that there is concurrent finding of fact to the effect that recordal of weight of diamonds in grams was done erroneously and that the measure of the diamonds was actually intended to be in carats. In view of this the difference in valuation was explained and the deletion of a sum of Rs 13,02,490/- was sustained by ITAT. We find

no error in the view taken by the ITAT.

As regards the second issue, in our view, once again the ITAT has correctly appreciated the law that no addition under Section 68 of the Income Tax Act, 1961 could have been made in respect of money introduced by the two partners of the assessee on the first day of the assessee coming into existence. The addition, if any, could have been made in the hands of the partners which the partners claimed in any event they had disclosed in their income tax returns for assessment years prior to the assessee coming into existence. We find no perversity in the view taken by the Tribunal.

No substantial question of law arises for our consideration.

Resultantly the appeal is dismissed.

VIKRAMAJIT SEN, J.

RAJIV SHAKDHER, J.

MAY 06, 2009

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