

IN THE INCOME TAX APPELLATE TRIBUNAL  
'C' BENCH – AHMEDABAD

(BEFORE SHRI G. D. AGARWAL, VP AND SHRI BHAVNESH SAINI, JM)

**ITA No.2975/Ahd/2009**

A. Y.: 2006-07

The Income Tax Officer, Ward 6 (2), Room NO.615, Aayakar Bhavan, Majura Gate, Surat	Vs	M/s. Gem Art, 6/1247, Bhut Sheri, Mahidharpura, Surat
PA No. AADHG 3339 B		
(Appellant)		(Respondent)

Appellant by	Shri Roopchand, Sr. DR
Respondent by	None (written submission)

Date of hearing: 05-09-2011

Date of pronouncement: 09-09-2011

**ORDER**

**PER BHAVNESH SAINI:** This appeal by the revenue is directed against the order of the learned CIT(A)-IV, Surat dated 28<sup>th</sup> July, 2009 for the assessment year 2006-07, challenging the order of the learned CIT(A) in deleting the addition of Rs.15,00,000/- on account of keyman insurance.

2. The learned CIT(A) noted that similar issue of premium paid towards keyman insurance policy is covered by ITAT's decision in

assessee's own case for assessment year 2005-06 in which the Tribunal in ITA No.1722/Ahd/2008 dated 06-03-2009 has held that premium paid under keyman insurance policy on the life of the partners cannot be disallowed. The learned CIT(A) following the order of the Tribunal in the case of the same assessee for earlier year deleted the addition and allowed the appeal of the assessee.

3. None appeared on behalf of the assessee. However, written submission is forwarded containing the order of the Tribunal above for preceding assessment year 2005-06. The learned DR referred to the statement of fact in which it was stated that the department has not accepted the order of the Tribunal on this issue for assessment year 2005-06 and appeal is filed before the Hon'ble Gujarat High Court.

4. On consideration of the above facts. We do not find any merit in this ground of appeal of the revenue. On the similar issue admittedly the Tribunal dismissed the departmental appeal in ITA No.1722/Ahd/2008 for assessment year 2005-06 vide order dated 06-03-2009. The issue is, therefore, covered in favour of the assessee. Merely because the department preferred appeal before the Hon'ble High Court is no ground to take a different view. The learned CIT(A), therefore, rightly followed the order of the Tribunal for deleting the addition.

5. In the result, the appeal of the revenue is dismissed.

Order pronounced in the open Court.

Sd/-  
(G. D. AGARWAL)  
VICE PRESIDENT

Sd/-  
(BHAVNESH SAINI)  
JUDICIAL MEMBER

*Lakshmikant/-*

Copy of the order forwarded to:

1.	The Appellant
2.	The Respondent
3.	The CIT concerned
4.	The CIT(A) concerned
5.	The DR, ITAT, Ahmedabad
6.	Guard File

BY ORDER

Dy. Registrar, ITAT, Ahmedabad