

**IN THE INCOME TAX APPELLATE TRIBUNAL  
AHMEDABAD "SMC" BENCH, AHMEDABAD**

**BEFORE SMT. ANNAPURNA GUPTA, ACCOUNTANT MEMBER AND  
Ms. SUCHITRA KAMBLE, JUDICIAL MEMBER**

**ITA No.2237/Ahd/2018  
Assessment Year: 2014-15**

Kundanlal Jewellers,  
6/7, Krishna Complex,  
Near Maninagar Railway Station,  
Maninagar,  
Ahmedabad – 380 008.  
[PAN – AAEFK 7349 C]  
(Appellant)

vs. The Income Tax Officer,  
Ward – 6(1)(4), Ahmedabad.

(Respondent)

Appellant by : Shri Suresh Gandhi, AR  
Respondent by : Shri Atul Pandey, Sr. DR

Date of hearing : 24.06.2022  
Date of pronouncement : 06.07.2022

**ORDER**

**PER SUCHITRA KAMBLE, JUDICIAL MEMBER :**

This appeal is filed by assessee against the order dated 24.08.2018 passed by the CIT(A)-6, Ahmedabad for the Assessment Year 2014-15.

2. The assessee has raised the following grounds of appeal :-

- “1. *The learned CIT(A) has erred in law and on facts in confirming the addition of Gross Profit of Rs.1,87,230/- on the alleged sales of silver items outside the books of account merely on surmises and not appreciating the fact that silver items were already there in the business premises and accordingly, the addition made by the AO ought to have been deleted.*
2. *The learned CIT(A) has erred in law and on facts while denying the telescoping of unaccounted sales of gold ornaments of Rs.9,09,457/- against the shortage of 304.524 grams of gold ornaments between physical stock and book stock found during the course of survey merely on surmises and without proper appreciation and consideration of the facts and submission. In view of the facts and submission filed, the Ld. CIT(A) ought to have allowed the telescoping of the shortage of 304.524 grams of gold ornaments against the unaccounted sales amounting to*

*Rs.9,09,457/- which has been accepted by the AO and the addition of Gross Profit made thereon has been accepted by the appellant.*

3. *The learned CIT(A) has erred in law and on facts in confirming the addition of Rs.31,01,091/- on account of alleged difference of 975.186 grams between the book stock of 18 Ct. & 22 Ct. gold jewellery and physical stock of same found during the course of survey merely on surmises and not properly appreciating the fact and submission filed. In view of the facts and submission filed, the Ld. CIT(A) ought to have deleted the impugned addition."*

3. The assessee is engaged in the business of trading of bullion, gold, silver and diamond jewellery. The return of income for A.Y. 2014-15 was filed on 29.11.2014 thereby declaring taxable income of Rs.1,95,140/-. The Assessing Officer observed that in this case the survey action under Section 143A of the Income Tax Act, 1961 was carried out at the business premises of the assessee on 23.10.2013. During the course of survey proceedings, physical verification of the stock lying within the business premises was carried out. As per the books of accounts maintained in the computer, the closing stock was of Rs.3,27,28,347/- (excluding the stock of silver of Rs.11,96,308/-), whereas as per physical verification of stock, the stock of Rs.5,58,22,907/- was found and the Assessing Officer held that there was difference in stock of Rs.2,42,90,918/- which is an excess stock. Thus, the Assessing Officer made addition of Rs.1,87,230/- on unaccounted sale made by the assessee in respect of GP rate. The Assessing Officer further made addition of Rs.1,42,330/-. As regards to sales not recorded in the books of account and GP on above sales at the rate of 15.65%. The Assessing Officer also made addition of Rs.31,01,091/- towards the difference in value of total stock on the date of survey as unexplained investment under Section 69 of the Act.

4. Being aggrieved by the assessment order, the assessee filed appeal before the CIT(A). The CIT(A) dismissed the appeal of the assessee.

5. The Ld. AR submitted that the Assessing Officer while making the addition of GP of Rs.1,87,230/- calculated at 15.65% on the alleged sale of silver items worth Rs.11,96,350/- outside the books of account. The same observation of the Assessing Officer is merely on surmises and contrary to the facts that silver items were already there in the business premises but the survey party has not taken into stock. Thus, the Ld. AR submitted that the said addition made be deleted.

6. As regards the addition of GP of Rs.1,42,330/- calculated at 15.65% on unaccounted sales on the basis of the impounded Annexures A-2, A-7, A-8 and A-9 is again on surmises. The Ld. AR submitted that ground no.1 is not pressed. But as regards to the gross profit to the extent of unaccounted amount of gold ornaments made be taken into account.

7. As regards to ground no.2 related to denying the telescoping of unaccounted sales of Gold ornaments of Rs.9,09,457/- against the shortage of 304.524 grams of gold ornaments between physical stock and book stock found during the course of survey merely on surmises and without proper appreciation and consideration of the facts, the CIT(A) as well as the Assessing Officer has ignored the factual aspect of the physical stock while denying the telescoping of the shortage of 304.524 grams of gold ornaments. In fact, the addition of GP made thereon was accepted by the assessee and, therefore, the Assessing Officer should have given telescoping of unaccounted sale of gold ornaments.

8. As regards to ground no.3 in respect of confirming the addition of Rs.31,01,091/- on account or difference of 975.186 grams between the book stock of 18 ct. & 22 ct. gold jewellery and physical stock of the same found during the during the course of survey merely on surmises and the same should have been deleted by the CIT(A).

9. The Ld. DR submitted that during the survey under section 133A at the premises of the assessee excess stock of gold was found and the same was rightly added by the Assessing Officer. In fact, the assessee himself has accepted the fact that there was excess stock. As regards the branded jewellery (Agni jewellery) the same was also not supported by any family evidence before the Assessing Officer, therefore, the Ld. DR submitted that the Assessing Officer has rightly made the addition.

10. As regards granting of telescoping of unaccounted sales, the Ld. DR submitted that the same cannot be for granted as the assessee failed to prove the evidence in support of his contentions.

11. We have heard both the parties and perused relevant material available on record. Ground no.1 is dismissed as not pressed.

12. As regards to ground nos.2 & 3, it is undisputed fact that the assessee has accepted that there is excess stock recorded by the survey team. The valuation and the supportive documents given before us by the assessee/AR needs to be verified as the assessee is submitting that the branded jewellery (Agni) were not considered by the Assessing Officer as well as CIT(A). As regards telescoping of unaccounted sales, the same also needs to be verified and after verification if the assessee proves his case the same may be granted. Therefore, the entire issue is remanded back to the file of the Assessing Officer for proper adjudication of the stock and in consonance with the statement made by the assessee. Needless to say that the assessee be given opportunity of hearing by following the principles of natural justice.

13. In the result, appeal of the assessee is partly allowed for statistical purposes.

Order pronounced in the open Court on this 6<sup>th</sup> day of July, 2022.

Sd/-  
**(ANNAPURNA GUPTA)**  
Accountant Member

Sd/-  
**(SUCHITRA KAMBLE)**  
Judicial Member

**Ahmedabad, the 6<sup>th</sup> day of July, 2022**

**PBN/\***

Copies to: (1) The appellant  
(2) The respondent  
(3) CIT  
(4) CIT(A)  
(5) Departmental Representative  
(6) Guard File

By order

Assistant Registrar  
Income Tax Appellate Tribunal  
Ahmedabad benches, Ahmedabad