

**आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ, चण्डीगढ़**  
**IN THE INCOME TAX APPELLATE TRIBUNAL, CHANDIGARH**  
**BENCH 'B' CHANDIGARH**

**BEFORE: SHRI A. D. JAIN, VICE PRESIDENT AND**  
**SHRI KRINWANT SAHAY, ACCOUNTANT MEMBER**

**आयकर अपील सं./ITA No. 222/CHD/2024**

निर्धारण वर्ष / Assessment Year : 2017-18

National Jewels Near New Market, Jagadhri Road, Yamuna Nagar, Haryana	बनाम VS	The Income Tax Officer, Ward 5, Yamuna Nagar, Haryana
स्थायी लेखा सं./PAN /TAN No: AAEFN 1455E		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारिती की ओर से/Assessee by : Shri Sudhir Sehgal, Adv.

राजस्व की ओर से/ Revenue by : Smt. Kusum Bansal, CIT, DR

तारीख/Date of Hearing : 24.09.2024

उदघोषणा की तारीख/Date of Pronouncement : 22.10.2024

**PHYSICAL HEARING**

**आदेश/ORDER**

**PER KRINWANT SAHAY, ACCOUNTANT MEMBER:**

The appeal in this case has been filed by the assessee against the order dated 27.02.2024 passed by the Ld. CIT(A), NFAC, Delhi. The grounds of appeal are as under:

“1. That the Ld. Commissioner of Income Tax (Appeals), NFAC, Delhi has erred in confirming the order of Assessing Officer in assessing the income of the assessee, at Rs. 6,67,49,380/- and also confirming the addition at Rs.6,57,05,000/- (Le. Rs. 4,14,40,000/- + 2,42,65,000/-) u/s 68 of the Income Tax Act and taxing the same in the ambit of section 115BBE of the Income Tax Act.

2. That the Ld. Commissioner of Income Tax (Appeals), NFAC, Delhi has erred in confirming the addition of Rs. 4,14,40,000/- on account of amount received from M/s Hemant Jewels Pvt. Ltd. on account of sale of gold jewellery and the said addition have been made without considering the evidence put forth by the assessee during the course of assessment/appellate proceedings.

3. That the Ld. Commissioner of Income Tax (Appeals), NFAC, Delhi has erred in making the addition of Rs. 2,42,60,000/- on account of cash deposit out of sale of gold jewellery made during the year consideration and which have been recorded in the regular books of accounts of the assessee.

4. That the Ld. Commissioner of Income Tax (Appeals), has failed to appreciate that the appellant had requisite stock for the purposes of making the sales to M/s Hemant Jewels Pvt. Ltd. and also for making the cash sales and, as such, when no doubt have been made of the requisite stock available with the assessee as, opening stock plus purchases and sold closing stock as on 31.03.2017, for the F.Y 2014-2015, 2015-2016 and 2016-2017 there was no justification in making the addition.

5. That the Ld. Commissioner of Income Tax (Appeals), NFAC, Delhi has erred in confirming the action of the Assessing Officer in rejecting the books of accounts u/s 145(3).

6. That the Ld. CIT(A) has failed to consider the judgment of Hon'ble Delhi in the cases of Pr. CIT Vs Agson Global Pvt Ltd in ITA no. 68-73/2021 dated 19.02.2022 and in the Judgment of Hon'ble Delhi High Court in the case of Pr. CIT Vs Akshit Kumar in ITA No. 348 of 2019 as reported in 197 DTR 121 vide our submissions, dated 11.03.2021, in which,

*it has been held that if requisite stocks are available and which have been sold, there is no justification in making the addition.*

*7. That the Ld. CIT(A) has erred in not accepting the cash sales duly recorded in the books of accounts and not considering the judgment of Hon'ble Punjab & Haryana High Court in the case of PCIT Vs Rajeev Aggarwal, reported in [2024] PHHC 004380 DB, in which, it has been held that for the cash sales (bullion/Gold business) names of buyers not mentioned, no adverse view can be drawn.*

*8. Notwithstanding the above said ground of appeal, the provisions of section 68 read with section 115BBE have wrongly been invoked.*

*9. Notwithstanding the above said ground of appeal, the sales to M/s Hemant Jewels Pvt. Ltd. and other cash sales have already been reflected in the sales as disclosed in the trading account and further the addition of the same amount as confirmed by the CIT(A) is misconceived since it amounts to double addition as per the judgment of Hon'ble Gujarat High Court in the case of President Industries, reported in 258 ITR 654.”*

*10. That the appellant craves leave to add or amend the grounds of appeal before the appeal is finally heard or disposed-off.*

**2.** The facts, in brief, are that the assessee is engaged in manufacturing and trading in jewellery and trading in bullion i.e. gold bar and gold coins and as per the assessment order, most of the purchases of bullions are from Government Agencies likes MMTC, PNB and other agencies. The assessee is maintaining regular books of accounts, which have duly audited and the returns have been filed on

the basis of such audited Balance Sheet and Profit & Loss account. The case was taken up under scrutiny on account of the fact that the assessee had received a sum of Rs.4,14,40,000/- from M/s. Hemant Jewels Pvt. Ltd., Delhi through their bank account with Bank of India and ICICI Bank and against which, the sales of the bullion have been made by the partnership firm. But, it has been reported by the Investigation Wing that the said party namely M/s. Hemant Jewels Pvt. Ltd. do not have any business premises, has not filed Income tax return and not even filed return with ROC and further it was noticed that the assessee had deposited a sum of Rs. 2,42,65,000/- by way of cash in their regular bank account during demonetization period and, accordingly, a show-cause notice was issued by the Assessing Officer that why the above said amount of Rs. 4,14,40,000/- and Rs. 2,42,65,000/- may not be added to the returned income.

**3.** The assessee gave a detailed reply. The assessee has submitted that M/s. Hemant Jewels Pvt. Ltd. has PAN, VAT Nos. and the payment for sale of the jewellery had been received by the assessee, through banking channels

from Hemant Jewels which has either been received in advance or on the same day the sale has been made. It has also been contended by the assessee that it had made the sales out of the available stocks, which has not been doubted by the Department. The assessee is also maintaining complete stock records of jewellery items and bullion and other gold items. Even the cash deposited during the mainly demonetization period is mainly out of the sales of the jewellery. Similar sales have also been made in the entire year and such sales of the assessee have not been doubted at all. However, the Assessing Officer stated that the sale proceeds have been made to the defunct company. M/s. Hemant Jewels Pvt. Ltd. It had made the payments to the assessee for purchases of the bullion, by depositing the cash in their bank account and then immediately, thereafter, the amount have been remitted to the assessee through banking channels. The AO stated that the assessee do not maintain stock register. The assessee has replied that daily stock account depicting the quantity of pure gold and jewellery issued, received and closing balance

was submitted to the Assessing Officer, which have been placed in the paper book also. The same details was furnished for FY 2014-15 & 2015-16. The Assessing Officer also stated in his order that the sales in October & November, 2016 has increased substantially and, accordingly rejected the books of accounts u/s 145(3) of the Act and also, on the basis of the non-compliances to the ROC by M/s. Hemant Jewels, made an addition of Rs. 4,14,40,000/- and Rs. 2,42,65,000/- as 'unexplained cash credit.

**4.** During the course of appeal before CIT(A) the assessee furnished various submissions before the CIT(A) which have been produced before us also and made detailed submissions, that complete quantitative tally is there and the amount received from M/s. Hemant Jewels through banking channel is on account of the sale of gold bullions, similarly, the cash deposits are majorly out of sale proceeds of the gold jewellery and the Ld. CIT(A) stated that the sale bills are self-serving document and the assessee is not maintaining stock

register. He confirmed the finding for rejection of books of accounts and relied upon the report of the Investigation Wing, regarding the fact that Hemant Jewels Pvt. Ltd. is a defunct entity and also the cash sales during the demonetization period have increased substantially. Accordingly he has dismissed the appeal of the assessee.

**5.** During proceedings before us. Though the assessee has raised various grounds of appeal, the Ld. Counsel pointed out that the two main grounds are with regard to the addition of Rs. 4,14,40,000/- on account of amount received on account of sale proceeds of gold the bullion through banking channel from M/s. Hemant Jewels Pvt. Ltd. And second, the addition of Rs. 2,42,65,000/- on account of cash sales out of the existing stock of gold jewellery. The Ld. Counsel argued that the sales to Hemant Jewels Pvt. Ltd. (HJPL) is during the regular course of business and the said concern is very much in existence as per the ROC records and even as per the AO's order, where he has reproduced the company

Master Data of HJPL, the status of the company in the records of ROC have been mentioned as "**Active**" and assessee is not concerned about the fact of HJPL for not filing Income Tax Return or the earlier shop at the given address had been taken over by the PNB on account of default of loan. It was further argued that HJPL has a bank account from which, the payments have been received by the assessee of the sales of bullions/gold and the assessee is not concerned about the affairs of HJPL, since the assessee is only concerned with regard to the recovery of the amount of bullion sold to HJPL. Even some payments had been received in advance from the said party initially while the other payments have been received on the same date on which the sales were made to the Company. The counsel relied upon the following documents to prove the genuineness of the sales made to HJPL and the cash sales during demonetization period as under:

- "a. Copies of invoices issued to HJPL.*
- b. Copy of account of HJPL in the books of assessee depicting the payment received in advance or received on the same date of making sales to the party.*

- c. *The copy of the relevant extract of the bank account of the assessee depicting the amount being received via regular banking channels.*
- d. *The purchase ledger of Delhi Branch (from which goods were supplied to H.JPL) showing the date wise purchase of bullion made from the supplier namely MMTC PAMP India Pvt. Ltd. which is a Government regulated undertaking.*
- e. *The record of HJPL updated with the registrar of companies depicting the 'active' status of the Company.*
- f. *Month wise branch wise details of cash deposited in A.Y 2015-16 to 2017-18 depicting that the assessee has regularly been making cash sales to the tune of 2 crore to 2.3 crore in the earlier years as well.*
- g. *The details of the parties from whom purchase above 5 lakh has been made along with the confirmed copy of ledger accounts.*
- h. *Copies of quarterly VAT returns evidencing the sales made by the assessee during the year.*
- i. *The quantitative summary of every kind of stock traded by the assessee depicting the opening balances, quantity purchased, quantity sold and closing balances for F.Y 2015-16 to 2017-18.*
- j. *The daily quantitative stock of pure gold depicting the quantity of said stock received and issued during the relevant A.Y.*
- k. *The daily stock account of gold jewellery depicting the quantity of said stock received and issued during the relevant A.Y.*
- l. *The above set of documents duly justifies the genuineness of sales made to HJPL and the genuineness of cash sales made by the assessee during the demonetization period.”*

**6.** It was vehemently argued on the basis of the tabular chart submitted during the course of hearing, that no

case could be made of the alleged unexplained credit because, there has been reduction of stock, which have not been doubted as per the stock tally/register submitted during the course of hearings before the AO/CIT(A) and the sales have been accepted as reflected in the audited trading account and the resultant profits arising out of such transactions have been disclosed. They have also been accepted and, thus, under such circumstances, it is not a case of unexplained credit at all.

**7.** It was further argued that the sale invoices have been issued in the regular course of business and the finding of CIT(A) that the HJPL did not have resources to pay the amount for the purchase of jewellery by the said concern is none of the concern of the assessee. The Ld. Counsel relied upon judgments on account of cash sales made to the customers, during demonetization period wherein, it was held that the assessee is not bound to give the details of cash sales to its customers as per the judgment of the Hon'ble Bombay High Court in the case

of 'RB Jessaram Fatehchand vs. CIT as reported in 75 ITR 33 and "ITO vs. Sunny Jewellery House" in ITA No. 196/Chd/2014 vide order dated 06.05.2016 and "ITO vs. Jethu Ram Prem Chand as reported in (2001) 114 Taxman 219 (Delhi)".

**8.** The Ld. counsel of the assessee also argued that the CIT(A) is correct in holding that the assessee has sold gold jewellery to HJPL, while as per the stock registers, invoices and other documents filed by the assessee, reflect that the assessee has actually sold gold gold bullion to the said concern. It was further argued that even the AO and CIT(A) were incorrect when they stated that the assessee had only made purchases of bullion during the year. It was argued that the jewellery was also purchased for which the evidence in the form of ledger accounts and stock register had been submitted before the AO/CIT(A) alongwith the invoices of purchase.

**9.** It was further argued by the Ld. Counsel that no defects have been pointed by the Assessing Officer as recorded in the Audited Books of accounts and confirmed

copies of the accounts of the parties, from whom, purchases have been made. He further submitted that there is a availability of stocks with the assessee and without pointing out any specific defects, the books of accounts have been rejected, without any reason and consequent addition have been made against the facts & circumstances of the case.

**10.** The Ld. Counsel also relied upon judgments of Hon'ble Delhi High Court in the case of CIT vs. Akshit Kumar reported in 197 DTR 121, Agson Global Pvt. Ltd. in ITA No. 68 to 71/2021 vide order dated 19.01.2022 and also the judgments of the Chandigarh Bench of ITAT in the case of Akriti Jain in ITA No. 481/Chd/2023, Fashion Zone in ITA No. 331/Chd/2023, Charu Aggarwal of Chandigarh Bench reported in 96 ITR (Trib.) 66 and other judgments of the co-ordinate Bench i.e. of 'Jaipur Bench' for the preposition that if the requisite stock is available with the assessee and sales are made during the demonetization period and the stock have been reduced correspondingly. The addition cannot be

sustained and all such judgments are on account of the deposits of the cash in the bank account during the demonetization period.

**11.** The Ld. DR took us to the assessment order as passed by the AO and argued that, since HJPL did not have requisite capacity to buy such substantial jewellery. It was not filing any returns of income and there has been cash deposits in the accounts of HJPL, from where, the remittances of the amount of the sales made by the assessee concern, have been made. It causes a doubt and suspicion about the capacity of the HJPL. Further, there is no name & address of the person to whom the cash sales have been made and, thus, under such circumstances, the books of accounts have rightly been rejected by the AO and the addition as confirmed by the CIT(A) be sustained.

**12.** We have considered the arguments of the Ld. Counsel of the assessee and we also heard the CIT (DR), we have also gone through the assessment order and the order of the CIT(A) and "brief synopsis' and the paper

books submitted by the Ld. Counsel. The Ld. Counsel has explained the source of the cash deposit of Rs. 2,42,65,000/- and as also the amount of Rs. 4,14,40,000/- as received from HJPL through banking channel and the said amount is on account of the sale proceeds of available stock with the assessee concern, for which, no doubt have been raised by the AO and the CIT(A). The assessee had realized its sale proceeds of the bullion to HJPL and for making the sales, the assessee is not concerned about the identity, creditworthiness of the party. Since it is not unexplained credit and such provisions of section 68 are not applicable. All the sales are subject to VAT and VAT has been collected and deposited with the Government Treasury and copy of the VAT returns and inter-state sales have been placed on record before the Authorities below and before us also. No defects have been pointed out in the regular books of accounts maintained by the assessee and remittance by the HJPL on account of purchase of bullion, made by that concern, is through banking channel and the sales have been accepted by the Assessing Officer and CIT(A).

For making such sales, the requisite stock is available supported by day to day stock register and, as such, under such circumstances, when the corresponding stock have been reduced as per the day to day quantitative details furnished before the AO/CIT(A).The corresponding sale realization is there, under such circumstances, the very basis of confirming the addition by the CIT(A) is not in order and under such circumstances. The CIT(A) was not justified in rejecting the books of accounts u/s 145(3) as complete records in respect of the purchases and sales of gold bullion have been maintained and all such purchases & sales are backed by all the invoices. The judgments as relied upon by the assessee of 'Delhi High Court and of the co-ordinate benches are fully applicable to the facts and circumstances of the case. There is no material with the AO/Ld. CIT(A) to hold that it is 'unexplained credit' as the sales have been recorded in the regular books of accounts and, as such, such sales would have already be a part of the profit & loss account and the AO have already accepted the availability of cash in the hands of the assessee and then

the deposit of such cash in the bank account cannot be rejected.

**13.** We rely on the finding under similar circumstances being given in identical facts & circumstances in the case Aakriti Jain in ITA No. 481/Chd/2023 for AY 2018- 19 vide order dated 14.06.2024, in which, it has been held as under:

*"9. We have also heard the rival submissions of the parties and perused the material available on record. The Id. Counsel for the Assessee has explained the source of such cash deposits and it has also explained that such cash sales are subject to VAT where VAT has been collected and deposited with the Government treasury. In support of her explanation, the Assessee has furnished the documents of the relevant period of VAT returns, copy of trading and profit and loss accounts and balance sheets, which are duly audited. We find that the Assessing Officer has accepted the cash sales and the Assessing Officer has also accepted the VAT collected and deposited in the Government account. Even the Assessing Officer has accepted the VAT returns filed by the Assessee and accepted by the Indirect Taxes Department. Therefore, it clearly shows that the Assessing Officer has not doubted the availability of cash in the hands of the Assessee. Once availability of*

*cash in the hands of the Assessee is accepted, then deposit of such cash in bank account cannot be rejected.*

*10. Lastly, we find that accepting the cash sale by the Assessee offered to tax, and then addition of same cash deposited in the bank, will amount of double taxation and the same is clearly unsustainable in the law and cannot be justified. Therefore, we find that the explanation offered by the Assessee is genuine, reasonable and duly supported by the documentation, books of account and audited accounts of the Assessee. Therefore, we find no reason to disturb the findings of the Id. CIT(A). Accordingly, Departmental appeal on this issue is dismissed."*

**14.** We have considered the findings given by the AO in the Assessment Order and by the Id. CIT(A) in the appeal order. We have also considered the brief submissions filed by the Id. counsel of the assessee and his arguments made during proceedings before us. We have considered the arguments made by the Id. AR and we find that the Id. DR mostly relied upon the findings given by the Id. CIT(A). We find that as per the facts and legal positions discussed above, the Id. CIT(A)'s action of sustaining addition of Rs.4,14,40,000/- as received on account of sales made to M/s. Hemant Jewels Pvt. Ltd.

and cash sales made by the assessee to the tune of Rs. 2,42,65,000/- cannot be sustained. Accordingly, the assessee's appeal on both these grounds of appeal are allowed.

**15.** In the result, the appeal filed by the assessee is allowed.

Order pronounced as on 22.10.2024.

**Sd/-**  
**(A. D. JAIN)**  
**VICE PRESIDENT**

**Sd/-**  
**(KRINWANT SAHAY)**  
**ACCOUNTANT MEMBER**

“GP-Sr. PS”

आदेश की प्रतिलिपि अग्रेषित/ Copy of the order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकर आयुक्त/ CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
5. गार्ड फाईल/ Guard File

आदेशानुसार/ By order,  
सहायक पंजीकार/ Assistant Registrar