

**आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**INDORE BENCH, INDORE**  
**BEFORE BHAGIRATH MAL BIYANI, ACCOUNTANT MEMBER**  
**AND**  
**SHRI PARESH M JOSHI, JUDICIAL MEMBER**

**ITA No.533/Ind/2024 (AY: 2017-18)**

DCIT-3(1), Bhopal	<b><u>बनाम/</u></b> Vs.	Manidhari Jewellers, Room No.202, Metro Walk Bulding, Bitten Market, Arera Colony, Bhopal <b>(PAN: ABAFM6546L)</b>
(Revenue)		(Respondent)
Assessee by	Shri Yashwant Sharma, AR	
Revenue by	Shri Ashish Porwal, Sr. DR	
Date of Hearing	01.05.2025	
Date of Pronouncement	09.05.2025	

**आदेश / O R D E R**

**Per Paresh M Joshi, J.M.:**

This is an appeal filed by the Revenue Under Section 253 of the Income Tax Act, 1961 (hereinafter referred to as the "**Act**" for sake of **brevity**) before this Tribunal. The revenue is aggrieved by the order bearing Number ITBA/NFAC/S/250/2024-25/1064957812(1) dated 17.05.2024 of Ld. CIT(A) passed u/s 250 of the Act which is hereinafter referred to as the "**Impugned order**". The relevant Assessment Year is 2017-18 and the

corresponding previous year period is from 01.04.2016 to 31.03.2017.

2.

**FACTUAL MATRIX**

2.1 The assessee had filed return of income u/s 139 of the Act on 27.10.2017 declaring total income of Rs.46,34,300/-. The assessment u/s 143(3) of the Act was completed on 11.12.2019 at the returned income of Rs.46,34,300/-. Thereafter the case of the assessee was reopened for scrutiny u/s 147 of the Act.

2.2 That as per the information available with the Department of Income Tax a survey was carried out on 02.04.2019 in the case of M/s R.B Enterprises. That from the perusal of the bank account of R.B. Enterprises certain credits were received in the bank account of said R.B. Enterprises which were transferred to the bank account of the assessee. Accordingly summons were issued to the assessee to produce detailed note on the business relation with the said R.B. Enterprises along with ledger and supporting vouchers. That in response thereto the assessee submitted all the relevant documents. On perusal of the document submitted by the assessee, it was found that there has

been transactions **during the demonitization period only I.e. from 11.11.2016 to 09.12.2016.** The total transactions of the assessee with the said M/s R.B. Enterprises was **Rs.2,34,50,000/-.** Further **Shri Ankit Soni** proprietor of said M/s R.B. Enterprises in his statement during survey proceedings had admitted that these are bogus transactions and had surrendered undisclosed income of **Rs.87.85 lakhs.** All these showed that the assessee too was beneficiary of these transactions.

2.3 It is required to noted that the assessee case was reopened u/s 147/148 of the Act for the reasons as mentioned below:-

*"As per information available on record, a survey was carried out on 02.04.2019 in the case of M/s R. B. Enterprises. From the perusal of bank account of R. B. Enterprises, it is found that that such credits received in the bank account of R. B. Enterprises have been transferred to the bank account of M/s Manidhari Jewellers (assessee). Accordingly summons was issued to the assessee to produce detailed note on business relation with R.B. Enterprises alongwith ledger and supporting vouchers. In response to the summons, the assessee submitted relevant document.*

*On perusal of document submitted by the assessee, it has been found that there has been transactions with assessee during demonetization period only i.e. from 11.11.2016 to 09.12.2016. The total transaction of the assessee with M/s R. B. Enterprises is Rs.2,34,50,000/-. Further Shri Ankit Soni, Prop of M/s R. B. Enterprises in his statement during survey proceedings has admitted that there are bogus transactions which he has highlighted in his statement and surrendered undisclosed income of Rs.87.85 Lac. Therefore, it is clear that the assessee is beneficiary in these transactions”.*

2.4 That during the course of the reassessment proceedings following opportunities were given which are tabulated below:-

Type Notice/ communication	Date Notice/ communication	Date Compliance given	Response of the assessee received/ not received	Date Response received	Response (Full/part/ adjournment)	Remarks if any
Notice u/s 148	30.06.2022	29.05.2022	Not received	-	-	-
Notice u/s 142(1) of the Act	04.01.2023	19.01.2023	Not received	-	-	-
Notice u/s 142(1) of the Act	25.01.2023	03.02.2023	Received	08.02.2023	Part	-
Notice u/s 142(1) of the Act	24.03.2023	31.03.2023	Received	31.03.2023	Part	-
AU-7 (SCN)	05.05.2023	09.05.2023	Received	09.05.2023 & 12.05.2023	Full	-
Personal hearing through VC	09.05.2023	At 14.00 on 12.05.2023	Not attended due to technical glitches	-	-	-
Personal hearing through VC	12.05.2023	At 15.00 on 13.05.2023	Not attended	-	-	-

2.5 That during the course of the assessment proceedings vide notice u/s 142(1), the assessee was asked to furnish details of nature of business/profession carried on during the year, copy of computation of income, copy of ITR filed u/s 148(if filed), Balance-sheet, Audit Report, P&L account, statement of all bank accounts for the F.Y.2016-17, detailed note on business relation with M/s R. B. Enterprises, complete details of transaction with M/s R. B. Enterprises during the year under consideration, copies of all sales bills issued to M/s R. B. Enterprises, copy of ledger account of M/s R. B. Enterprises, purchase register, all purchases bills, copy of stock register, manufacturing account, copy of VAT/GST return & copy of cash book. In brief all documents were sought from the assessee for a detailed assessment according to law, to trigger due process of law relating to assessment.

2.6 The assessee submitted that the assessee and M/s R.B. Enterprises are both business concerns. M/s. Manidhari Jewellers (the assessee herein) is the **seller** and the sales done are in the regular course of business and have been made to the

purchaser i.e. M/s R.B. Enterprises (the buyer of the goods i.e. jewellery items) which all has been duly accounted for in its books of accounts. That the assessee furnished copy of the ledger account showing the transactions with M/s. R.B. Enterprises, confirmation of accounts of M/s R.B. Enterprises, copy of ledger account of M/s R.B. Enterprises for the year under consideration, copies of bills of purchases made during the year under consideration, copies of stock register, copy of VAT/GST returns of all quarters of the year under consideration, copy of cash book of the year under consideration, copy of bank accounts statements .

2.7 With regard to the delivery of purchases, the assessee submitted that the firm is dealing in precious metal, **delivery of goods is generally obtained by the partners themselves physically, wherever possible.** Therefore in most of the cases separate delivery challan are not available but wherever available, the same are furnished with relevant purchase bills.

2.8 The replies submitted by the assessee during the assessment proceedings was considered. Though, the assessee had furnished the copies of sale bills issued to M/s R. B. Enterprises, confirmation of accounts of M/s R. B. Enterprises, copy of ledger account of M/s R. B. Enterprises for the year under consideration, copy of purchase register i.e. purchase ledger of the year under consideration, copies of bills of purchases made during the year under consideration, copy of stock register, copy of VAT/GST returns of all quarters of the year under consideration, copy of cash book of the year under consideration, copy of bank account statements but the claim of the assessee that the transaction of Rs.2,34,50,000/-was against sale to M/s R. B. Enterprises was not found to be acceptable due to the following reasons:

1. On perusal of bank account statement of people who had transferred the money into the bank account of M/s R. B. Enterprises (Prop Shri Ankit Soni) it was noticed that these persons **deposited cash before transferring the same to the bank account of the M/s R. B. Enterprises.** Further, on the perusal of bank account statements of

M/s R. B. Enterprises it was found that such credits received in the bank account of M/s R. B. Enterprises have been transferred to the bank account of the M/s Manidhari Jewellers **during the demonetization period only.**

2. From the perusal of bank account of M/s R. B. Enterprises it was found that they has been transactions with the assessee M/s Manidhari Jewellers during demonetization period only i.e. from 11.11.2016 to 09.12.2016. **No transaction prior to 11.11.2016 or after 09.12.2016 has taken place between these two parties i.e. M/s R. B. Enterprises and the assessee.**

3. During the survey proceedings in the case of M/s R. B. Enterprises, Shri Ankit Soni, Prop M/s R. B. Enterprises, in his statement admitted that there are bogus transaction with M/s Manidhari Jewellers (beneficiary) and surrendered undisclosed income of Rs.87.85 Lacs. The other transactions with M/s Manidhari Jewellers are also similar in nature and, therefore, the same are also **accommodation entries only.**

2.9 Synopsis of reply of the assessee to SCN and additional SCN (if any) are stated as below:-

. **09.05.2023** and **12.05.2023**: That the assessee submitted that during the demonetization period the assessee too had deposited cash amounting to Rs.1,80,00,000/- in its bank accounts maintained with Bank of India and ICICI Bank. Subsequently, a survey action u/s 133A of the Act was also conducted on 08.03.2017 at the business premises of the assessee. During the said survey proceedings no material was impounded by the survey party and assessee himself declared Rs.35,00,000/- as its undisclosed income offered for taxation under Pradhan Mantri Garib Kalyan Yojna (PMGKY). The assessee further submitted that the case of the assessee was selected for scrutiny under CASS and that the assessment had been completed u/s 143(3) of the Act on 11.12.2019 with assessment of total income at Rs.46,34,300/- for the year under consideration. The assessee submitted that the assessee firm and M/s R.B. Enterprises are both business concerns engaging themselves in jewellery line respectively.

. That during the year under consideration, the assessee made a sale transaction amounting to Rs.2,34,50,000/- (**2.56% of total turnover**) to the purchaser i.e. M/s. R.B. Enterprises in **the regular course of business which has been accounted for in the books of accounts**. The assessee further submitted that the **said books of accounts are duly audited and were verified by Ld. A.O during the regular assessment proceedings u/s 143(3) of the Act without taking any adverse view**.

. The assessee stated that **there is no correlation** with the undisclosed income of Rs.87,85,000/- surrendered by M/s R.B. Enterprises and the transaction in question of Rs.2,34,50,000/-. The assessee further submitted that as mentioned in the earlier submissions, the assessee had requested to provide to them the copy of statement recorded of Shri Ankit Soni (Proprietor of M/s R.B. Enterprises) along with the fact given by him on the basis of which the case has reopened. Since the request of the assessee has not been entertained, the assessee itself approached to Shri Ankit Soni and discussed the matter with him. He has stated that **he has not denied** the purchase made by M/s R.B. Enterprises from the assessee before any authority and in order

to confirm his said assertion **he has also provided a copy of notarized affidavit dated 06.06.2022 along with copies of notarized invoices regarding acceptance and verification.**

The assessee further submitted that if said sale transactions of Rs.2,34,50,000/- are not genuine then the **“survey team”** should have found excess inventory related to said sales because in case of bogus sales transactions, assessee would have issued only the invoices & inventory (items/goods) would have not been delivered to M/s R.B. Enterprises or in other words there would be no physical delivery of goods. Since, the **“survey team”** has neither found any excess inventory nor found any discrepancy in cash or in any other matter during survey proceedings. As such the said **“sales” have been made in regular course of business, delivery of goods has been made, sale consideration has been received through banking channels, transactions have been duly recorded in the books of account and accordingly said sales offered for both direct and indirect taxation.**

. Further, the assessee has submitted that the assessee firm has regular business transactions with M/s R.B. Enterprises and this fact already been disclosed in the reply of M/s R.B.

Enterprises dated 02.12.2020 addressed to the learned ADIT, Investigation-3, Bhopal against notice no. ITBA/Inv./S/131/2020-21/1028760913 dated 27.11.2020 wherein M/s R.B. Enterprises has enclosed the **copies of invoices of the year under consideration and next year F.Y. 2017-18**. Further, the assessee stated that how the assessee firm can be concerned by such cash deposits in the bank accounts of the unknown persons is **incomprehensible**. The assessee received all its payments from M/s R.B. Enterprises through banking channel only which is what the assessee could ensure. The assessee is not at all concerned with how M/s R.B. Enterprises is maintaining their bank accounts and getting credits and, for that matter, how those third unknown person. Subsequently, the assessee further submitted that if the impugned sale transactions were not genuine, then the assessee firm should have withdrawn cash in the following months in huge amounts and should have returned it to the original beneficiaries. However, no such heavy cash withdrawal were made by the assessee in the following months as can be seen from the copies of bank statement already presented.

**2.10 That a draft assessment order containing the addition of Rs.2,34,50,000/- u/s 68 of the Act was sent to the assessee** vide SCN dated 05.05.2023. That in response to the SCN the assessee furnished its reply on 09.05.2023 and 12.05.2023 (supra discussed). That the submission of the assessee was considered and were not found acceptable by the Assessing Officer because of following reasons:-

1. The assessee has taken a plea that during the demonetization, the firm has deposited a sum of Rs.1,80,00,000/- in SBN's in the Bank a/c; that a survey was also conducted in case of assessee on 08.03.2017 wherein assessee has disclosed a sum of Rs. 35,00,000/- as its undisclosed income; that during the course of survey no objection was raised on the transaction with M/s R. B. Enterprises; that assessment has been completed u/S.143(3) with accepting returned income 11.12.2019.

In this respect, it is to submit that till before the survey conducted in the case of R.B. Enterprise on 02.04.2019, the issue of transaction entered into with M/s R.B.Enterprises being bogus has never come to light; that

this information has been shared with the Assessing Officer by DDIT(Inv.) only in the year of 2021; that during the original assessment proceedings, the AO had no reasons to doubt the properly documented impugned transactions done through banking channel; that survey conducted in case of assessee does not make it exempt from any further investigations if new facts have come to surface.

2. The assessee further contended that 'if said sale transactions of Rs.2,34,50,000/- are not genuine then the Survey team should have found excess inventory related to said sales because in case of bogus sales transactions, assesses should have issued only Invoices and inventory should have been not been delivered to M/s R.B. Enterprises or in other words there should be no physical delivery of goods.

In this respect, it is to submit that assessee has made a disclosure of Rs.35,00,000/- during the course of survey proceedings against the cash deposited during demonetization; that it is a conclusive proof to the effect

that assessee was not clean and has manipulated his books of account based on which a disclosure was made; that no one would pay such heavy taxes as paid by assessee on disclosure made under PMGKY if everything is right in his books of account; that not founding excess inventory during survey does not give certificate to the assessee; that similar presumption can be made as to assessee keeping excess stock at his home or at some other place.; that in fact the whole case is based on the premise that on the day of demonetization assessee had huge cash in SBN's earned from unaccounted cash sales and the same has been brought back into banking channel by entering into bogus sale transactions with R.B. enterprise who in turn has received money from people who have deposited cash in their bank accounts.

3. The assessee also contended that it has regular business transactions with the R.B. Enterprises and in support has **submitted copy of invoices for the F.Y. 2017-18 as well.**

It is to submit, in this respect, that assessee during the F.Y. 2016-17 year has only transacted eight times with the assessee on 11/11/2016, 14/11/2016, 16/11/2016, 19/11/2016, 29/11/2016, 30/11/2016, 30/11/2016 and 09/12/2016 and has not transacted even for once before or after the said period i.e. between 11.11.2016 to 09.12.2016, during the whole financial year; that during the F.Y. 2016-17, first sale transaction was entered into with R.B. Enterprises on 11.11.2016 i.e. immediately after the banks reopened after demonetization and last transaction on 09.12.2016 which also was during the demonetization period; that this raises suspicion on nature of transactions supported by the fact that cash was deposited by different people in their bank accounts who in turn transferred these amount to R.B. enterprises and which amounts finally landed in the assessee's accounts; that Ankit Soni Prop. R.B. enterprises have admitted in his statement of these transactions being bogus and has disclosed a sum of Rs.87.85 lakhs for the F.Y. 2016-17; that these facts create

an unbreakable chain of circumstantial evidences which assessee has failed to disprove so far.

In fact, from the facts of case, it emerges that it is a case where the assessee has assumed that since during the course of survey, transactions with M/s R. B. Enterprises have gone unnoticed, it may continue to enter into such bogus transaction with the R.B. Enterprises; assessee has submitted copy of invoices evidencing regular business for the F.Y. 2016-17 and F.Y.2017-18 but since Survey on M/s R. B. Enterprises was conducted on 02.04.2019 and modus operandi being exposed, has not submitted a single copy of invoice of F.Y. 2019-20 evidencing his regular business with the M/s R. B. Enterprises that too when he had the opportunity to do that. Moreover, only two invoices has been raised in the F.Y. 2017-18 which further points to the fact that there was no regular business between assessee and M/s R. B. Enterprises. It appears that it was a matter of convenience for the assessee to continue entering into bogus transactions with the R.B. Enterprises until the R.B. Enterprises was surveyed.

3. Assessee has submitted a notarized affidavit from Shri Ankit Soni stating that the Impugned sale transactions have been entered into with the assessee.

It is to submit that despite the affidavit filed by Sh. Ankit Soni, the circumstantial chain of evidences as discussed in the foregoing speaks otherwise. Shri Ankit Soni has made a disclosure of Rs. 87, 85,000/-against the amount received from five persons, namely, Shri Yousuf Mohammad Khan, Trendz Trading Company, She fabrics, Raju Vishwakarma. Pertinent to mention that the above amount was received between the period 13.11.2016 to 16.11.2016 i.e. the period when impugned sale invoices were issued by the Manidhari Jewellers. Further, details of assessment proceedings u/s.147 of the act in the case of M/s R. B. Enterprises, concluded on 16/03/2023, revealed that he has not complied to a single notice and assessment order was passed u/s.147 r.w. Section 144 of the I.T. Act, 1961. Hence, his testimony is proved to be not reliable.

2.11 It is to conclude that assessee has failed to justify the transactions being genuine. The whole circumstantial chain of evidences stands tall despite of assessee's submission and preponderance of probability in the present case is tilted onwards the case of revenue.

All of the eight transactions have happened between the period 11/11/2016 to 09/12/2016 (just after demonetization) and no other transaction has been entered into before or after this period, during the year. It was found in survey action conducted in case of M/s R. B. Enterprises that the cash was deposited in bank accounts of several persons and the same amount was then transferred to the account of R.B. Enterprises who has further transferred this amount to others. Against the findings of Survey proceedings, Ankit Soni prop M/s R. B. Enterprises has disclosed a sum of Rs.87.85 lakhs as his unaccounted income. Shri Ankit Soni, proprietor of M/s R. B. Enterprises, in his statement recorded during the course of survey proceedings has admitted to have entered into bogus transactions with persons depositing cash in their accounts and

transferring the same to bank account of R.B. Enterprises. The Books of account of assessee cannot be relied upon since disclosure of Rs/35,00,000/- was made during the Survey Action on assessee.

During the course of Survey proceedings in the case of M/s R. B. Enterprises, no books of account or any purchase bill related to Manidhari jewellers could be found. In the succeeding year as well, assessee and M/s R. B. Enterprises has entered into only two transactions and. therefore there is no regular business between the two.

**2.12 That in view of the above discussions and premises drawn up by us** the Ld. A.O has held that the impugned sale amount of Rs.2,34,50,000/- is presumed to be the unaccounted cash of the assessee which has been routed back into the books of account by taking bogus sales entry from M/s R. B. Enterprises. Accordingly, the sum of Rs.2,34,50,000/- found in books of account of assessee is treated as unexplained cash credits in terms of the provision u/s 68 of the Income tax Act, 1961 and is added back to the total income. The provisions of

section 115BBE of the I.T. Act, 1961 are also invoked in this case. Penalty proceeding u/s 271AAC(1) of the Act is separately initiated.

2.13 That the aforesaid Ld.A.O assessment order bears No.ITBA/AST/S/147/2023-24/1052964353(1) and that the same is dated 18.05.2023 wherein assessed total income of the assessee is computed at Rs.2,80,84,300/- (Rs.46,34,300/- ROI + Rs.2,34,50,000/- as addition), which is hereinafter referred to as the **"impugned assessment order"**.

2.14 That the assessee being aggrieved by the aforesaid **"impugned assessment order"** prefers first appeal before Ld. CIT(A) in terms of Section 246A of the Act and that the same was partly allowed by Ld. CIT(A) as and by way of **"impugned order"**.

2.15 That the **revenue being aggrieved** by the **"impugned order"** has filed the present appeal before us and has raised following grounds which are as under:-

*1. "On the facts and in the circumstances of the case, the Ld. CIT(A) has erred In considering the genuineness of the documents offered by the assessee after completion of assessment proceedings. The Ld..CIT (A) did not offer any comments upon the sanctity of confirmation ledger, bills vouchers etc, submitted by the assessee during appeal."*

2. *"on the facts and in the circumstances of the case, the Ld. CIT(A) has erred in not considering the Modus Operandi of M/s R.B. Enterprises and also the fact that transaction between the assessee and M/s R.B. Enterprises took place only during the demonetisation period i.e. between 11.11.2016 & 09.12.2016 and no transaction has taken place prior to 11.11.2016 or after 09.12.2016."*

3.

### Record of Hearing

3.1 The hearing in the matter took place before this Tribunal on 01.05.2025 when the Ld. AR for and on behalf of assessee appeared. A paper book from pages 1 to 365 has been placed on the record of this Tribunal and so also a compilation of judgments on **05.05.2025**. The Ld. DR for and on behalf of the Revenue has not placed on record any exclusive paper book in support of the case of revenue. This Tribunal therefore in order to better appreciate the facts under the circumstances requested the Ld. AR to **address first** which Ld. AR agreed and so also Ld. DR.

3.2 The Ld. AR for and on behalf of the assessee brought to our notice that the present appeal is filed by the Revenue against the **"impugned order"**. The Ld. AR then submitted that the **"impugned order"** is well merited and a reasoned one where

entire gamut of case has been considered and analysed by the Ld. CIT(A) and it is only thereafter the **"impugned order"** is passed which is in favour of the assessee. The Ld. AR brought to our notice that in Form No.36 which is a form of appeal to this Tribunal **no cogent grounds** are urged by the Revenue with a view to **assail** the **"impugned order"**. There is no ground whatsoever in Form No.36 wherein it is expressly urged that the **"impugned order"** is illegal, bad in law and deserves to be set aside by this Tribunal in exercise of its appellate jurisdiction. In brief the Ld. AR interalia contended that grounds urged are vague and grievance of revenue against the **"impugned order"** is not expressly decipherable and/or made known. Hence grounds urged by revenue are baseless and on this limited ground the appeal of the revenue should be dismissed by this Tribunal. This Tribunal as and by way of **abandoned caution** then sought **necessary clarification** from Ld. DR who was appearing for the revenue who fairly conceded that the grounds of appeal numbering **two** in Form No.36 are indeed bit vague vis-a-vis **"impugned order"**. This Tribunal thereafter requested Ld. AR to proceed further in the matter.

3.3 The Ld. AR then interalia submitted and contended that the assessee firm is **seller of jewellery items** and had sold the goods/jewellery to one M/s. R.B. Enterprises. It is a matter of record that M/s. R.B. Enterprises had sold goods/jewellery to 7 individuals too. In so far as additions are concerned the Ld. AR contended that inter-se transactions between the assessee as seller and buyer M/s. R.B. Enterprises **are through banking channels only**. It is a simple and plain commercial transactions and that there are **no ambiguities in it**. The inter-se transaction between the assessee firm (seller) and the buyer (M/s. R.B. Enterprises) are duly **recorded in the books of account of the assessee**. That there is no documentary evidence on record evidencing that the **“sell and buy transaction”** inter-se between the seller (the assessee) and buyer (M/s. R.B. Enterprises) are bogus and fictitious. It was therefore urged by Ld. AR that the **“recorded sales” cannot be re assessed as undisclosed income under the Act**. The **“impugned order”** of Ld. CIT(A) has taken in to consideration **entire gamut of the case**. The Ld. A.O too had originally had taken entire gamut of the case in to consideration including fact of survey which had taken place

independently both with regard to **“seller”** and **“buyer”**. It was **emphatically** pointed out by Ld. AR that **additions** made are not challenged expressly by the revenue in the instant appeal. Revenue has filed the appeal for sake of filling. Per contra Ld. DR for and on behalf of the revenue has interalia contended that **“impugned assessment order”** of Ld. A.O is well reasoned and merited. The Ld. CIT(A) in the **“impugned order”** ought not to have set aside the **“impugned assessment order”** as it was based on material on record, appreciation of evidence etc. The Ld. CIT(A) has mis read the whole facts and circumstances of the case as a result of which additions came to be made by Ld. A.O in the **“impugned assessment order”**. In rejoinder argument Ld. AR for and on behalf of the assessee contended that the revenue has no legs to stand on and that is why they are relying on the **“impugned assessment order”** instead of finding faults with the **“impugned order”**. In the **“impugned order”** the Ld. CIT(A) has appreciated, analysed entire gamut of case and has even referred to crucial evidence part with which revenue cannot found fault with. The Ld. AR finally prayed for dismissal of revenue appeal

both on legal submissions and merits. On merits the Ld. CIT(A) finding are **flawless**.

3.4 The Ld. AR for and on behalf of the assessee has taken us through page 17 of "**impugned order**" for proposition that once sales are duly recorded in the books of accounts then such sales cannot be added as cash credit u/s 68 of the Act as it amounts to double taxation. Decisions in this regard recorded on page 17 of "**impugned order**" were simply reiterated as stated therein and our attention was drawn. Ld. AR therefore contended that addition of Rs.2,34,50,000/- was rightly deleted, in the impugned order.

4. **Observations, findings & conclusions.**

4.1 We now have to adjudge and adjudicate the present appeal filed by the revenue on basis of the records of the case and contentions canvassed before us during the course of hearing. In brief we have to decide the legality, validity and the propriety of the "**impugned order**".

4.2 We have carefully perused the records of the case as presented to this tribunal by both Ld. AR and Ld. DR to determine the legality, validity of the **"Impugned Order"** basis law and by following due process of law.

4.3 This Tribunal on basis of records of the case and after hearing and upon examining the rival contentions are of the considered view that the **"impugned order"** has properly examined the merits of the case U/s 250(6) of the Act. The revenue **has not assailed** the **"impugned order"** on any sound grounds before us. The additions made are not challenged at all on meritorious grounds because revenue has no materials, contentions, evidences to set at naught the **"impugned order"**. The Ld. AR has made a grievance about it and we concur with his submissions. Revenue has not been able to refute the submission of Ld. AR on any sound and meritorious grounds/material.

4.4 In so far as contention of Ld. AR is concerned that assessee was a seller of the jewellery items and has sold the same to buyer (M/s B.R. Enterprises) through proper documentations and that the transactions were carried out through normal banking channels remains undisputed even in final analysis before us. All the papers and the documents with regard to **"sale"** were on record both before original authority as well as before the first appellate authority in which 1<sup>st</sup> appellate authority has not found any flaw. The documents were even before **in direct tax authorities** which is proof enough that it was a open and clear transaction well within four corners of law. We are of the considered opinion that purchases and sales made by the assessee firm have not been disputed by the Department of Income Tax with a document/evidence which has directly and/or close promiate connection to either purchases or sales or both to establish otherwise. No document worth a credence is placed on record showing a nexus or direct connection to dub and treat the transactions as bogus. We hold that it is not a case of accommodation entry. There are no sudden withdrawals after

receipt of payment by seller who admittedly received payment for goods sold through banking channels. The revenue has not been able to establish any bad nexus between goods sold and payment received by seller (the assessee). We hold that sell and buy transaction was genuine and not a make believe arrangement with a view to evade any tax or to convert excess cash back into system.

4.5 We have also noted that legal contentions canvassed before Ld. CIT(A) on issue or reopening u/s 147/148 of the Act was rejected. However the same is not contested by the assessee before us even as a legal ground hence we refrain from commenting upon reopening u/s 147/148 of the Act whether the same was correct or not (para 5.2 of impugned order). This ground is too not agitated by the revenue in any manner before us.

4.6 We concur with the following findings of Ld. CIT(A) in the **“impugned order”** which have not been even contended and

argued by revenue as being non maintainable. The same has gone unrebutted before us.

***"5.3 Ground No. 3 & 4 of the appeal is related to the addition of Rs. 2,34,50,000/- u/s 68 of the Act.***

***5.3.1 During the course of assessment proceedings, the appellant furnished requisite details as mentioned in para 3 of this order. However, the AO did not accept the contention of the appellant stating that Shri Ankit Soni, Prop. R.B. Enterprises, in his statement admitted that there are bogus transactions with M/s Manidhari Jewellers and had surrendered income of Rs. 87.85 Lacs. However, on perusal of statement of Shri Ankit Soni recorded on oath on 02.04.2019, it is noticed that Shri Ankit Soni has never admitted that transactions with Manidhari Jewellers are bogus. Infact, in reply to question No. 11 of the aforesaid statement, Shri Ankit Soni has stated that his firm used to buy bullion from G.M. Gold & Mandihari Jewellers. Further, in reply to question No. 12. Shri Ankit Soni has also stated that during the year under consideration genuine purchase and sale transactions has also been made by his firm i.e. R.B. Enterprises. In the statement, Ankit Soni has admitted that he has provided entries in the form of bogus sales amounting to Rs. 87,85,000/- to only 7 parties which are as follows:***

- Shri Raju Vishwakarma***
- Trenz Trading Company***
- She Fabrics***
- Shri Azam Tirm***
- Shri Yusuf Mohd Khan***
- M/s New World Tours and Travels***
- M/s Completo Fabrics***

*The same has been surrendered as his undisclosed income by Ankit Soni in his statement.*

*5.3.2 Therefore, in view of the above it is clear that Ankit soni Prop. Of R.B. Enterprises has never admitted that Transactions with Mandihari Jewellers are bogus. Therefore, the assertion of the AO in this regard is not correct and far from the facts."*

4.7 We concur with the following findings of Ld. CIT(A) in the "impugned order" which too have not been even contended and argued by revenue as being unsustainable on any grounds whatsoever. Thus same has gone unrebutted before us.

*5.3.5 In the present case, the appellant has discharged its onus to prove that sales made to R.B. Enterprises were genuine in nature by submitting documents, sale bills, confirmation from purchaser, bank statement etc. Further, the appellant during assessment proceedings has also submitted copy of affidavit from Ankit Soni Prop. Of R.B. Enterprises in which Ankit Soni has admitted that he has made purchases amounting to Rs. 2,34,50,000/- from the appellant during the year under consideration. Even in his statement dated 02.04.2019, Ankit Soni has never stated that the transactions from Mandihari Jewellers were bogus and non-genuine. Infact, in reply to question No. 11 of the aforesaid statement, Shri Ankit Soni has stated that his firm used to buy bullion from G.M. Gold & Mandihari Jewellers. Further, in reply to question No. 12, Shri Ankit Soni has also stated that during the year under consideration genuine purchase and sale transactions has also been made by his firm i.e. R.B. Enterprises. Once the onus has been discharged by the appellant, onus shifts on AO to bring conclusive evidence on record to counter the contention of appellant and prove that transactions was non-genuine. However, AO has failed to do the same. The AO has rejected the contention of the appellant on the basis of presumption and surmises only. Even in the assessment order, the AO on page 9 has stated the following:*

*"In light of above discussion, the impugned sale amount of Rs. 2,34,50,000/- is presumed to be the unaccounted cash of the assessee which has been routed back into the books of account by taking bogus sale entry from M/s R.B. Enterprises."*

*5.3.6 As per settled law, the initial onus is on the assessee to establish by cogent evidence the genuineness of the transaction under section 68. Hon'ble Supreme Court in the case of Kale Khan Mohammad Hanif Vs CIT [1963] 50 ITR 1(SC) and, Roshan Di Hatti Vs CIT [1977] ITR 938 (SC) laid down the onus of proving the source of a sum of money found to have been received by the assessee, is on the assessee. Once the assessee has submitted the documents relating to the genuineness of the transaction, then AO must conduct inquiry, and call for more detail before invoking provisions of section 68.*

*In the decision of CIT vs Kamdhenu Steel & Alloys Ltd. [2012]19 Taxmann.com 26, wherein :*

*\*38. Even in the instant case, it is projected by the Revenue that the DIT(Investigation) had purportedly found such a racket of floating bogus companies with sole purpose of lending entries. But, it is unfortunate that all this exercise is going in vain as few more steps which should have been taken by Revenue in order to find out casual connection between the cash deposited in the bank accounts of the applicant banks and the assessee were not taken. It is necessary to link the assessee with the source when that link is missing, it is difficult to fasten the assessee with such a liability"*

*The above judgment cited hold that the AO ought to conduct an independent enquiry & bring some conclusive evidence to prove that transaction is non-genuine before making addition u/s 68 of the Act. However, the AO has not done so. The AO has made addition on the basis of presumption only.*

*.The AO at page 4 of assessment order has stated that Shri Ankit Soni admitted in his statement that there are bogus transactions with M/s Manidhari Jewellers i.e. the appellant which itself is not true as Shri Ankit Soni has never admitted the same in the statement.*

*.Further, the AO presumed that excess inventory was not found during survey proceedings because inventory would*

*have been kept at some other premise. However, no evidence regarding the same has been stated by the AO in the order.*

*.The AO stated that during F.Y. 16-17, all the transactions between appellant and R.B. Enterprises have happened during demonetization period. Therefore, the business of appellant with R.B. Enterprises are not regular in nature. However, the AO in his order has also stated that during F.Y 2017-18 also appellant has made two transactions with R.B. enterprises. Therefore, the stance taken by AO is itself contradictory.*

*.The AO stated that cash in the account of beneficiaries to whom R B. enterprises have made bogus sales has been deposited during the same period when appellant made transaction with R.B. enterprises. However, nothing on record has been brought by AO to prove the fact that appellant has routed his money in the accounts of the beneficiaries. Therefore, with any corroborative evidence, this is also a presumption.*

*5.3.7 Various higher courts have ruled that AO cannot make addition just on the basis of presumptions and surmises only. There has to be conclusive evidence before making addition u/s 68 of the Act. However, in the present case, AO has made addition on the basis of presumptions only.*

*5.3.8 Considering the facts of the case, I am of the view that AO has made addition on the basis of presumption only and on the basis of wrong facts and interpretations. as detailed above without any evidence. The fact is very clear that surrender of Rs. 87.85 Lacs which was made by R.B. Enterprises in respect of bogus sales made by it to 7 parties & not on the basis of any purchase made by it from appellant amounting to Rs. 2,34,50,000/-. Moreover, he has also admitted that cash deposited in the bank account of those 7 persons was unaccounted cash of R.B. Enterprises & hence allegation of AO that said cash relates to appellant is just wild presumption without establishing any basis of link with the appellant Accordingly, addition of Rs. 2,34,50,000/- made u/s 68 of the Act is deleted. Ground No.3 & 4 of the appeal are allowed."*

4.8 We have also seen two grounds raised by the revenue before us. Even if we analyse the same we come to only conclusion that the assessee's all transactions with M/s. R.B. Enterprises were duly and properly recorded both in commercial documents including books of accounts. The transactions stands in books of accounts and any attempt to disrupt the said transactions in the absence of any hard core evidence would amount to doing injustice to the assessee as there is no malicious nexus between the seller and the buyer (supra). Further survey carried out at the premises of assessee as well as M/s R.B. Enterprises has not found any direct and close promixation with addition of Rs.2,34,50,000/- (sale value Rs.2,32,17,823/- + VAT Rs.2,32,177/-) which admittedly was done between seller and buyer as a commercial transaction. Merely because Ld. CIT(A) has not seen date and time of transaction (during demonetization) perse does not invalidates the pure commercial nature of transactions, statements made during survey, (2 in nos supra) surrender made are all inconsequential as no direct nexus or link is established nor there is any direct evidence in support. Reliance is not placed on circumstantial evidence by

Ld. CIT(A) rightly as documents speaks for it.

**Order**

5.1 In the premises set out herein above we dismiss the appeal of revenue.

5.2 In result Revenue's appeal is dismissed and impugned order is upheld.

**Order pronounced in open court on 09.05.2025.**

Sd/-

**(BHAGIRATH MAL BIYANI)  
ACCOUNTANT MEMBER**

Sd/-

**(PARESH M JOSHI)  
JUDICIAL MEMBER**

Indore

दिनांक/ Dated : 09/05/2025

Dev/Sr. PS

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

By order  
Senior Private Secretary  
Income Tax Appellate Tribunal  
Indore Bench, Indore