

THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD "A" BENCH

**Before Dr. BRR Kumar, Vice President
And Ms. Suchitra Kamble, Judicial Member**

**ITA No. 395/Ahd/2025
Assessment Year 2017-18**

M /s Dagina Jewellers, Shop No. 7/8 353 Dedhia Estate, Bhandarkar Road Matunga (E), Mumbai-400019, Maharashtra, India PAN: AAAFD1292M (Appellant)	Vs	The ACIT, Circle-2(1)(1), Ahmedabad (Respondent)
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**Assessee by: Adjournment Application Filed
Revenue by: Shri B.P. Srivastava, Sr. D.R.**

Date of hearing : 07-05-2025
Date of pronouncement : 18-06-2025

आदेश/ORDER

Per Suchitra Kamble, Judicial Member:

This is an appeal filed against the order dated 20-03-2023 passed by National Faceless Appeal Centre (NFAC), Delhi for assessment year 2017-18.

2. The grounds of appeal are as under:-

"1. The order dated 20/03/2023 bearing No. ITBA/NFAC/250/2022-23/1050964254[1] passed under section 250 of Income Tax Act 1961 by the Hon'ble CIT(Appeal), National Faceless Appeal Centre [NFAC], Delhi is unreasonable arbitrary, against the provisions of Income Tax Act 1961 and therefore liable to be quashed.

2. The delay in filing the present appeal, being beyond the control of the Appellant and in the interest of the justice may kindly be condoned and appeal be decided on the basis of merits of the case.

3. *On the facts and in circumstance of the case and in law, the Hon'ble CIT(A) has erred in restricting the Appellants claim of labour charge at Rs 3,88,382/- even though no such disallowance/addition was made by the Assessing Officer and the same was not even part of the grounds of appeal before the Hon'ble CIT (Appeal).*

4. *The appellant craves leave to add to, amend or alter the above grounds as may be deemed necessary."*

3. The assessee is a partnership firm and engaged in the business of trading of gold, silver and diamond ornaments. During the year under consideration, it has shown gross profit of Rs. 2,10,75,870/- and made profit of Rs. 87,63,550/- against the total gross receipts of Rs. 12,94,60,836/-. The assessee filed return of income on 18-10-2017 declaring total income of Rs. 87,69,640/-. The case of the assessee was selected for complete scrutiny and notice u/s. 143(2) was issued on 13-08-2018 which was duly served to the assessee. Notice u/s. 142(1) was issued on 03-12-2019, 17-12-2019 and 27-12-2019. In response to the notice, the necessary details and information was filed by the assessee. The Assessing Officer observed that there was a shortfall in gross profit ratio from assessment year 2015-16 till the relevant assessment year. After taking into consideration of the assessee's reply that there was a labour charges and increase in cost of manufacturing jewellery, the gross profit ratio has decreased. The Assessing Officer did not accept the assessee's submissions. The Assessing Officer therefore calculated the gross profit ratio of three years taken as average and calculated it to 25.55% amounting to Rs. 3,30,77,243/-. Thus, the Assessing Officer made addition of Rs. 1,20,01,333/- on account of low gross profit.

4. Aggrieved by the assessment order, the assessee filed appeal before the CIT(A). The CIT(A) partly allowed the appeal of the assessee.

5. At the time of hearing when the matter was called, the assessee filed adjournment application but since the issue is only related to the assessee's claim of labour charges which was restricted to Rs. 3,88,382/-, we are taking up this matter. The assessee's submissions before the CIT(A) and A.O. are taken into account while deciding this appeal. There is a delay of 630 days which has been explained by the assessee by filing condonation of delay along with the affidavit filed by the Managing Partners of the assessee firm, the same is taken on record. The reason explained for delay appears to be genuine, hence delay condoned.

6. Ld. D.R. relied upon the assessment order and the order of the CIT(A).

7. We have heard ld. D.R. and perused all the relevant material available on record. It is pertinent to note that the CIT(A) has taken the ratio of labour cost to total sales in the present assessment year thereby pointing out the same at para 9 (page 17) of the CIT(A)'s orders which was increased to 2.4% from 0.003% in the previous assessment year. But the assessee's specific statement that merely fall in gross profit ratio cannot be the same for rejection of books appears relevant and in fact variation in GP was due to the change in grouping of expenses and certain selling and

distribution expenses which were treated as part of manufacturing cost along with the labour cost which was increased during the relevant assessment year has not been taken into account either by the Assessing Officer as well as by the CIT(A). Thus, rejecting the labour charges to the extent of Rs. 3,88,382/- as against assessee's claim of Rs. 31,04,000/- is not justifiable and therefore the CIT(A) was not right in giving finding without taking proper cognizance of the assessee's details such as the purchase details, sales and stock details which were recorded in the books of accounts and in fact the same was accepted by the Sales Tax Department (VAT Authorities) and therefore the appeal of the assessee is allowed.

8. In the result, the appeal of the assessee is allowed.

Order pronounced in the open court on 18-06-2025

Sd/-
(Dr. BRR Kumar)
Vice President

Sd/-
(Suchitra Kamble)
Judicial Member

Ahmedabad : Dated 18/06/2025

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण,
अहमदाबाद