

आयकर अपीलिय अधिकरण, 'ए' न्यायपीठ, चेन्नई  
**IN THE INCOME TAX APPELLATE TRIBUNAL  
'A' BENCH: CHENNAI**

श्री एबी टी. वर्की, न्यायिक सदस्य एवं  
श्री एस.आर. रघुनाथा, लेखा सदस्य के समक्ष

**BEFORE SHRI ABY T. VARKEY, JUDICIAL MEMBER AND  
SHRI S.R.RAGHUNATHA, ACCOUNTANT MEMBER**

आयकरअपीलसं./ITA Nos.1178 to 1182/Chny/2025  
निर्धारणवर्ष/Assessment Years: 2017-18 to 2021-22

M/s. Mohanlal Jewellers Pvt. Ltd.,  
Old No.68-69, NSC Bose Road,  
Sowcarpet,  
Chennai-600 001.

v.

The DCIT,  
Central Circle-3(3),  
Chennai.

[PAN: AAFCM 9906 M]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

आयकरअपीलसं./ITA Nos.1393 to 1397/Chny/2025  
निर्धारणवर्ष/Assessment Years: 2017-18 to 2021-22

The DCIT,  
Central Circle-3(3),  
Chennai.

v.

M/s. Mohanlal –  
Jewellers Pvt. Ltd.,  
Old No.68-69, NSC Bose  
Road,  
Sowcarpet,  
Chennai-600 001.

[PAN: AAFCM 9906 M]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

Assessee by

:

Mr. D. Anand, Advocate

Department by

:

Ms. E. Pavuna Sundari, CIT

सुनवाई की तारीख/Date of Hearing

:

05.08.2025

घोषणा की तारीख /Date of Pronouncement

:

26.09.2025



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## आदेश / ORDER

### **PER ABY T. VARKEY, JM:**

These cross appeals by the Revenue and the assessee arise out of the orders of the Learned Commissioner of Income Tax (Appeals) - 20, Chennai [in short 'ld. CIT(A)'] all dated 24.02.2025 against the orders passed by the Dy. CIT, Central Circle-3(3), Chennai [in short 'the AO'] for the Assessment Years [in short 'AYs'] 2017-18 to 2021-22. Since several issues involved are common, all the appeals for all the assessment years were heard together. Both the parties also argued them together raising similar arguments on these issues. Accordingly, for the sake of convenience and brevity, we dispose all the appeals by this consolidated order.

**2.** The facts in brief are that, the assessee is a private limited company which is engaged in the business of manufacture and wholesale trading of gold bullion & gold jewellery. The assessee also provides making/job-work services to its customers. A search action u/s 132 of the Income Tax Act, 1961 (hereinafter referred to as "the Act") was conducted on the assessee, its director(s) and others, on 10.11.2020 in the course of which several material & electronic data was found & seized and statement(s) of key person(s) were recorded. Subsequent thereto, the AO issued notice(s) u/s 153A of the Act on 30.08.2021 and the details of income



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returned by the assessee in response to the said notice(s) for the AYs in question, are noted to be as under:-

Asst Year	Return	Amount (in Rs.)
2017-18	153A	4,37,68,120
2018-19	153A	32,99,63,510
2019-20	153A	33,24,62,890
2020-21	153A	32,43,15,690
2021-22	139(1)	53,75,18,770

**3.** The summary of the additions/disallowances in Rupees made by the AO in the assessments which were completed u/s 153A/143(3) of the Act for AYs 2017-18 to 2020-21 and u/s 143(3) of the Act for AY 2021-22, which are in dispute in the cross- appeals are as follows:-

(in AYs)

SI No.	Issue	17-18	18-19	19-20	20-21	21-22
1.	Addition on a/c of 'Ghat'	219,02,81,206	286,13,06,072	251,80,24,276	270,98,30,340	129,31,69,663
2.	Addition on account of 'Making Charges' received from customers	20,44,84,681	41,26,91,635	30,45,93,750	31,00,17,604	13,16,35,575
3.	Addition on a/c of 'Byaj'	8,97,71,261	3,84,86,690	4,48,74,607	6,92,09,435	6,81,77,631
4.	Addition on a/c of 'Vatav'	2,12,06,805	4,23,91,890	1,42,38,299	2,31,21,285	1,45,54,166
5.	Gross Profit on Unaccounted Sales	159,44,96,644	218,05,32,778	10,95,17,554	84,41,38,569	50,16,94,831
6.	Excess Stock	--	--	--	--	152,34,33,364
7.	Unexplained receivables	--	--	--	--	51,62,29,629
8.	Unexplained cash	--	--	--	--	14,29,460
9.	Unexplained Silver	--	--	--	--	42,67,664

**4.** It is noted that the reasoning given by the AO for making the above additions/disallowances were verbatim same across all AYs. Hence, for



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the sake of convenience, and to avoid repetition of facts; we deem it fit to adjudicate each of the common issues across all AYs before us together.

**5.** As noted above, the first five (5) issues are common across all the AYs before us and therefore with the consent of both the parties, we take up and discuss the facts relating to AY 2017-18 as the *lead case* and our findings so rendered shall *mutatis mutandis* apply to all other AYs. Having perused the assessment order for AY 2017-18, it is noted that, the Investigating authorities had found and seized electronic a data maintained in 'J-Pack' Software, which according to them comprised of a record of the unaccounted transactions of the assessee. It is noted that, Shri. Rajendra Kothari, accountant of the assessee group, who was maintaining the data in the J-pack software had *inter alia* admitted that, the entries therein comprised of both accounted and unaccounted transactions of the group. This was also confirmed by Shri. Suresh Khatri, Director of the assessee-company, in his statement recorded u/s 132(4) dated 11.11.2020. These persons had explained that, the transactions involving movement of inventory etc. were recorded in the J-pack Software on the basis of daily reports prepared by the employees of the assessee and the other group concerns, which comprised of both the accounted and unaccounted transactions, and that consolidated entries were made in the J-pack software at the end of the day. As a



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consequence, this software served as a central depository for tracking stock movements across group concerns and branches and thus it did not contain any entity-specific ledgers. The AO in assessment proceedings is noted to have required the assessee to explain the nature of entries found in several of the ledgers extracted from the J-Pack software. It was explained by the assessee that, these were consolidated entries, non-entity specific and also contained entries of inventory movements inter-se group entities, customers, goldsmiths etc. which had no financial implication. It is observed from the assessment order as well as the statement of Shri Kothari that, the daily reports prepared by the assessee and group concerns were the source documents basis which the entries were being made in J-pack software, from which the entries could have been segregated and the unaccounted entries could have been easily identified. The Investigating authorities is noted to have gathered in the course of search that, these daily reports were being destroyed in a periodical manner and that they were able to find and seize the daily reports for the last three months alone. As a consequence, the entire set of daily reports on the basis of which consolidated entries were made in J-Pack Software, was not available for the relevant block period. In this background therefore and due to non-availability of data / source documentation, the AO was not able to segregate or identify the



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unaccounted transactions included in the consolidated entries, as there was no ledger-wise or entity-wise data in the J-pack software, which would have enabled such bifurcation. The AO is therefore found to have proceeded on the presumption that, all the transactions recorded in the J-pack software was unaccounted for and accordingly required the assessee to explain or reconcile the same. Though the assessee is noted to have filed their explanations and objections to the same, the AO is noted to have aggregated the unexplained entries which could not be reconciled and added it under different heads / nomenclatures to the total income of the assessee.

**5.1** It is observed that, the Investigating authorities had found two ledgers titled 'Byaj' and 'Vatav' which according to the enquiries made by them suggested that these ledgers were records of unaccounted *interest-income* earned on delayed payment by customers and unaccounted *commission income* for various services rendered to customers respectively. According to the assessee, these two items had already been considered and offered to tax by the key person of the group, Shri Mohanlal Khatri in his individual hands and therefore it was claimed that no addition on this account was warranted. The lower authorities however were not agreeable to this plea of the assessee and therefore the sum



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total of the entries found in these two ledgers across all the AYs 2017-18 to 2021-22 was added to the total income of the assessee.

**5.2** The Investigating authorities further found a ledger titled 'Ghat' in the J-Pack Software allegedly comprising of metal receipts and metal issue entries. According to the Revenue, the assessee was undertaking job work for their customers, in the course of which, it would receive gold bullion or old gold ornaments, which would be converted into new gold ornaments. The AO was of the view that, the wastage gold generated in this conversion process was recorded by way of receipt entries in this 'Ghat' Ledger which entirely represented the assessee's profit, and that such wastage gold was used outside the books to make new ornaments which was sold through unaccounted means. The assessee is noted to have disputed this version of the Revenue and instead contended that the entries in 'Ghat' Ledger comprised of the alloy addition made to the new gold ornaments manufactured by the company. The assessee submitted that, the gold bullion which was purchased by the assessee or received from customers, was converted into gold ornaments through the goldsmiths and that the quantity of alloy which was added to the gold ornaments was entered in 'Ghat' Ledger for record purposes, and that these entries did not represent any metal entry i.e. gold. The assessee is found to have later on furnished documentary evidences to support its



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claim, which upon being examined in the remand proceedings, was found to be tenable. The Ld. CIT(A) for the reasons set out in his appellate order, is noted to have deleted the addition made on account of 'Ghat'.

**5.3** Similarly another ledger titled 'MC Khata' was found in the J-Pack Software, which according to the Revenue contained entries of making charges paid outside the books of accounts. The assessee, on the other hand, claimed that, the entries in this ledger was relating to the making charges received from customers and furnished reconciliation in support of the same. Though the AO is noted to have disagreed with the submission of the assessee and added the entries found in 'MC Khata' Ledger to the total income in all the years, but the Ld. CIT(A) is noted to have deleted the same.

**5.4** It is further observed that, another ledger titled 'Cash' was also found in the J-Pack Software, which according to the AO *inter alia* contained unaccounted cash sales of the assessee. The AO is noted to have estimated the unaccounted cash sales and thereafter assessed the profit element embedded therein at 8% of the value of such unaccounted sales. The assessee however pointed out several infirmities in the AO's quantification of unaccounted sales. The Ld. CIT(A) is found to have partially agreed with the contention and accordingly made downward



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revision to the quantum of unaccounted sales. Also, for the reasons set out in his appellate order, the Ld. CIT(A) brought down the estimation of profit element from 8% to 2.5%.

**5.5** To sum up, perusal of the orders of the lower authorities for the AY 2017-18 to 2021-22, shows that, according to the AO, the J-Pack Software was a secret software being maintained by the assessee to record their unaccounted transactions and he is noted to have identified the unreconciled ledgers therein and added the same to the total income under different heads. Aggrieved by the order(s) of the AO *inter alia* making these five (5) additions on account of unreconciled differences *qua* the entries found in J-Pack Software and the regular books of accounts, the assessee preferred appeal before the Ld. CIT(A). On appeal, the assessee is found to have submitted detailed explanation along with reconciliations and supporting evidences. The Ld. CIT(A) is noted to have called for a remand report from the AO, who after going through the submissions of the assessee admitted that the assessee was able to reconcile the entries found in the J-Pack software with the regular books of accounts on certain issues and also accepted certain calculation & reconciliation errors in the quantum of addition(s) made by him. At the same time, the AO also gave his remarks where according to him, addition(s) were required to be upheld. Taking into account the comments



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of the AO, the rejoinder filed by the assessee and having regard to the facts of the case, the Ld. CIT(A) is noted to have deleted addition(s) made on certain items in its entirety and allowed partial relief on other issues emanating from the 'J-Pack' Software, which we shall be discussing in the ensuing paragraphs. Being aggrieved by the order of the Ld. CIT(A), now both the assessee and Revenue are in appeal before us.

**6.** Before we advert to the several grounds taken in the cross appeals impugning the above discussed addition(s), it is relevant to cull out the background facts which led to these addition(s), more particularly the nature & purpose of the 'J-Pack' Software which was found in the course of search, as the same would be relevant to adjudicate the issue(s) impugned before us. It is observed that, the assessee group comprises of the assessee (M/s Mohanlal Jewellers Pvt Ltd) which was the flagship company, M/s Mohanlal Jewellers Chennai Private Limited, M/s Mohanlal Jewellers Kolkata (Prop: Shri Mohanlal Khatri HUF), M/s Shanthi Jewellers Mumbai (Prop: Shri Suresh Khatri) & M/s Mohanlal Jewellers & M/s Mohanlal Exports (Prop: Shri Mohanlal Khatri). It is noted that, the business operations involving manufacture, trading & sale of bullion & gold jewellery and making charges was being carried out through all these entities of which Shri Mohanlal Khatri was the key person and Director of this Group. During the course of search, it was found that, this



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assessee group was using a customized software named 'J-Pack' for recording their entire gamut of business transactions, both accounted and unaccounted, and it was being maintained by one Shri Rajendra Kothari, accountant of the assessee group. When enquired about the purpose for using this software, Shri Suresh Khatri, son of Shri Mohanlal Khatri, in his statement recorded u/s 132(4) of the Act, explained that, 'J-pack' software is a useful software implemented to track ornament-based trade and that the entries therein included both accounted & unaccounted transactions. It is seen that, the Investigating authorities had also summoned the Developer of this software, from whom it was gathered that, it is a commonly used jewellery software package for wholesale jewellery business. The Developer had also stated that, this software tool is used primarily for inventory management and quotation purposes and that the software is so designed to only record metal-based trading being done by jewellers. Accordingly, though separate books of accounts for each of these concerns/entities were maintained in the Tally accounting software, but for comprehensive inventory management across all the operating group entities, Shri Mohanlal Khatri was using this specialized J-pack software to control and manage his gold jewellery business *inter alia* including both his accounted and unaccounted transactions.



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**6.1** At the time of hearing, the Bench required the Ld. Counsel/AR appearing for the assessee Shri D Anand to explain the *modus* of assessee's business and the purpose for using this J-Pack Software, when the assessee was already maintaining separate accounts of all their group concerns in the Tally Software. In compliance, the Shri Anand explained the same and has filed a written note. The assessee is seen to be involved in manufacturing & trading activities as well as manufacture of gold jewellery for clients on a job work basis. It is gathered that, as a matter of practice, the three proprietorship entities i.e. M/s Mohanlal Jewellers Kolkata, M/s Shanthi Jewellers Mumbai & M/s Mohanlal Jewellers were based out of Kolkata & Mumbai and they were getting the gold jewellery manufactured on job work basis locally. The finished products so manufactured were dispatched by these entities for sale through the Chennai based companies i.e., M/s Mohanlal Jewellers Pvt Ltd & M/s Mohanlal Jewellers Chennai Private Limited. In April 2018, with the object of augmenting the production capacity & also for partially localizing their manufacturing operations, the assessee company also established an in-house manufacturing facility at Chennai. Consequently therefore, out of the total manufacturing operations, almost 20% of the manufacturing process got localized. The assessee also explained the *modus operandi* behind manufacture of gold jewellery, which involves procurement of 24



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carat gold bullion and its conversion into 22 carat gold jewellery either through outsourced goldsmiths or through the in-house manufacturing facility. The assessee further pointed out that, more than 95% of the total sales comprise of the sales made to retailers, who operate retail jewellery outlets and that only 3-5% of the total sales constitutes direct sales to end consumer. It is therefore observed that, the assessee majorly operates in the B2B gold jewellery segment. It was brought to our notice that, since the assessee operates in the B2B segment, it was a well-known and common industry practice, wherein the wholesale dealers [in this case, assessee] would send across their gold jewellery to retail dealers [in this case, customers] on an "approval-basis" to their showrooms and they would subsequently confirm their purchase decision after examining the same or based on the customer response to the displays, demand patterns and marketability. The assessee emphasized that, the movement involving supply of goods to retailers on 'approval-basis' did not represent sales as the title in the goods continued with the assessee and only when the goods were confirmed upon their express acceptance that, it would be regarded as a sale and invoice would be generated. It was explained that, this was a common model followed in the jewellery industry as it was impractical for retail dealers to maintain high inventories without gauging demand or the traction for the gold



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jewellery designs. Further, due to the constant volatility in the price of gold, which had a direct bearing on assessee's pricing, inventory valuation and commercial strategy, the sale price when sent on approval was not fixed and that the same was negotiated and agreed upon, only at the time of acceptance by the customers.

**6.2** The discussion regarding the above business model is necessitated to understand the reasons and purpose for using the J-pack software and the inherent differences between the entries in the J-pack software and the regular accounting Tally software. The assessee showed us that, in the J-pack software, the assessee was able to record the entire movement of their metal items viz., (i) from issue of gold bullion to factory or outsourced goldsmiths, (ii) to receipt of finished goods, (iii) then dispatch of the goods to retailers under their 'sale on approval' model, (iv) any further movement from one retailer to another, (v) the return of goods, if not accepted and (vi) the final sale of the gold jewellery when the order is confirmed. This software therefore enabled accurate and real time tracking of the stock movement across group concerns and locations. Further, this specialized software also enabled the assessee to only record the movement of goods without assigning any values or prices thereto. This particular feature was useful as when the goods were dispatched on 'approval-basis' to customers, the sale prices



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were not fixed as it was to be decided and agreed upon only at the time of *approval*, depending upon the gold prices, as prevailing then. Accordingly, the assessee would pass notional entries of the goods sent on 'approval-basis' in the J-Pack Software but no corresponding entry would be passed in Tally Software, as there was no financial transaction involving transfer of ownership in goods from the assessee group to the customers. This software was thus used to integrate and manage the stock movement and the operational data across all entities, thereby providing a consolidated view of the group's inventory and the inter-entity movement of goods. The assessee explained that, the J-pack software was not an accounting software but rather a custom-built inventory software, meant to provide proper inventory control. On the other hand, the regular accounting software was used to maintain separate accounts for each entity as they were separate juridical persons and in this accounting software, only the transactions involving purchase of gold bullion, payment of making charges and sale of gold jewellery (at the time of final sale when the invoice is raised upon the customer) was entered into. Hence, when such costly and high valued goods are sent to outsourced goldsmiths for manufacture, or on approval-basis to customers or when the goods are returned by the customers or any inter-customer movement, these movements are recorded in the J-pack



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software for inventory control purposes but no such entries could have possibly be made in the Tally accounting software as these stock movements do not have any financial implications.

**6.3** Apart from the above, the assessee further brought to our notice that, they were also rendering job work services which involved metal to metal settlements. In such transactions, the customer supplies gold and the assessee undertakes the job to manufacture jewellery, which is dispatched back to the customer. Though there is movement of metal, which is recorded in the J-pack software for inventory control purposes, but the assessee only records the receipt of making charges from the customers in the Tally accounting software, as the transaction involving receipt of gold and issue of gold jewellery, and it does not constitute any purchase or sale.

**6.4** In view of the above, it is therefore understood that, the J-pack software was meant to capture the stock movement entries whereas the Tally accounting software, only records the final purchase or sale transaction. Evidently, the J-pack software would contain several receipt and issue entries involving issue of goods to customers on approval, return of unapproved goods, receipt of gold from customers on job-work, issue of gold jewellery manufactured on customers' behalf, etc. which



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constitute only stock movement notings and were not financial transactions in themselves. We thus find that, the J-Pack Software was essentially specialized inventory control software being used by the assessee, apart from their regular accounting software.

**6.5** The above narrated discussion is of relevance as the five (5) addition(s) impugned in the lead case of AY 2017-18, which is also common in all other AYs, principally emanates from the entries found in J-pack software, which the AO was unable to reconcile with the entries found recorded in Tally accounting software. We now take up the individual issue(s) emanating from J-Pack Software, which are in dispute before us.

## **7. Issue 1: Additions made on a/c of 'Ghat'**

*Ground Nos. 2 to 4 of the Revenue's appeal for AYs 2017-18 to 2021-22*

**7.1** It is observed that, in the course of search, the Investigating authorities had come across one ledger titled 'Ghat' in the J-Pack Software, which contained receipt & issue entries. According to the Revenue, the receipt entry in this ledger was made when wastage gold was being generated from conversion of old gold / bullion bars into new gold ornaments and that the issue entries were only square off entries, which was to be ignored. The AO was of the view that, the wastage gold



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was retained by the assessee was *in lieu* of the fees for the job-work services rendered to its customers. The AO is noted to have explained the same with an example in his assessment order viz., if a customer provided gold bar weighing 995 grams, the assessee would make gold jewellery which would contain minimum of 916 grams as per the government rules and that the remaining 79 grams would be retained by the assessee and that would represent the income derived from rendering this job-work services. The AO was of the view that, this 79 grams would be credited in the receipt side of the Ghat ledger in the J-Pack and such accumulated gold would further be used for manufacturing new gold ornaments and the same would be sold through unaccounted means. For arriving at this inference, the AO is noted to have relied on the statement given by Shri Rajendra Kothari u/s 131 of the Act dated 26.11.2020. According to the AO, Shri Kothari had *inter alia* explained that he would make the Ghat entries from seeing the 'Ghatjama' and 'Ghatnamma' from the daily reports given to him and that 'Ghatjama' means Ghat receipts and 'Ghatnamma' means adjustment entries to square off the Ghat ledger. The AO further observed that, even Shri Suresh Khatri in his statement recorded u/s 132(4) dated 05.01.2021 had agreed to the receipt entries in the Ghat ledger but had claimed that the issue entries ought to be also considered and that only the gross profit element be



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estimated. The AO however disbelieved the statement of Shri Khatri because when Shri Kothari was later on required to explain the issue entries in the Ghat ledger, he had explained that, all the issue side entries were to be ignored, as they were made only to square off the ledgers.

**7.2** The AO therefore, was of the view that the entire Ghat receipts represented income of the assessee and that there were no Ghat payments. The AO accordingly show caused the assessee as to why, income on account of Ghat receipts was not offered to tax. In response, the assessee in their submission is noted to have rebutted the statement of Shri Kothari with facts and showed that Shri Khatri also had retracted from his admission. The assessee claimed that, the Ghat receipts comprised of the 'alloy' [colloquially known as 'ghat'] entries and not 'gold' entries and therefore no addition on this account was warranted. The AO however rejected the submissions of the assessee for want of documentary evidences which would rebut the sworn statements recorded in the course of search. The AO accordingly added the entire Ghat receipt entries, treating it to be wastage gold which was retained by the assessee, while converting gold into gold ornaments on behalf of customers, to the total income of the assessee across all the years in question before us.



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**7.3** Aggrieved by the order of the AO, the assessee carried the matter in appeal. Before the Ld. CIT(A), the assessee submitted that, the Ghat account in the J-Pack Software was used as an 'alloy' account while converting pure gold into gold ornaments and this account was maintained to record the difference in purity of gold. The assessee accordingly sought to rebut the statement of Shri Rajendra Kothari and for this they brought on record several details along with evidences to disprove his statement. The Ld. CIT(A) is noted to have called for a remand report from the AO on this issue. In the remand proceedings, the assessee is noted to have submitted details of fifteen (15) sample transactions for AY 2017-18 [and similar sample size for other years as well] along with invoice copies of purchase, alloy addition calculation, making charges, ledger extracts where the purchase & sale are reflected. The relevant portion of the explanation furnished by the assessee, is noted to be as under:

- "1. The Ghat Account used in the J Pack Software was majorly used as an alloy account while converting Pure Gold into Gold Ornaments and vice versa.
2. The GHAT Account was maintained to record the difference in purity of gold occurring during the time of conversion from gold bar to ornaments and vice versa.
3. The Ghat Issue entries were posted when metal was received from Banks / Customers and Ghat Receipt entries were posted when metal were issued to the Gold Smiths.



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4. The Assessing Officer has merely relied on the statement of Shri Rajendra Kothari who had given contradictory statement on one issue at multiple junctures of the search and post search proceedings.

5. The Assessing officer has not considered the explanation of the director of the appellant company by merely stating that no documentary evidence supporting the said submission was brought on record when in fact, the documentary evidence was duly submitted before the learned Assessing officer and the same is on record.

6. The Assessing Officer did not bring anything on record to state that the submission made by the director of the appellant company with respect to the entries in the Ghat issue side was incorrect.

7. The differential amount being any kind of income on account of metal to metal related transactions have already been recorded in the regular books of accounts as Making Charges received.

8. The Assessing Officer has erred by flagging the detailed submission given by the director of the appellant company as not satisfactory. Further, the Assessing Officer has not stated as to how the same was not satisfactory.

9. The Assessing officer has erred by merely declaring the logical submission supported by documentary evidence as not satisfactory without any reasoning. This action of the Assessing Officer is bad in law, against the principles of natural justice and arbitrary in nature.

10. The Assessing Officer has erred by not commenting on the submission with regards to no discovery of personal or business assets if such huge income was earned."

**7.4** Having considered the sample details and documentary evidences furnished by the assessee, the AO is noted to have acknowledged that, it was the 'alloy' and not 'metal' addition which corresponded to the entry found in the 'Ghat' ledger. The AO further observed that, the corresponding purchase of gold which was converted into new gold ornaments, was found to be reflected in the books of either MJPL



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(assessee) or MJCPL (group entity). Likewise, the AO noted that, the sale value for the converted gold ornaments was also found reflected in the 'Assorted gold Jewellery' ledger. The AO also noted that, where the gold was being converted into new ornaments on behalf of the customers, the assessee was actually earning making charges from such job-work transactions, which was reflected in 'Making Charges for Jewellery mfg' ledger in Tally Accounts and the 'MC-Khata' Ledger in the J-Pack Software. Though having held so, the AO stated that, due to paucity of time, he was unable to verify each and every entry in the Ghat ledger and therefore according to him, possibility of unaccounted transactions being recorded in this ledger cannot be ruled out. The AO reiterating his reliance on the statements of Shri Kothari & Shri Khatri and the Developer of J-Pack Software, in his remand report, urged that the addition(s) made on account of 'Ghat' may be sustained.

**7.5** After considering the submissions of the assessee and the remand report of the AO, the Ld. CIT(A) is noted to have taken specific note of the AO's finding of fact that, the entries in the 'Ghat' ledger are only that of 'alloy' addition value and not that of 'metal' addition. The Ld. CIT(A) also verified and acknowledged that, the corresponding purchase of gold bullion for manufacturing and receipt of gold ornaments after manufacturing and the sale of the gold ornaments, was accounted in the



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regular books of accounts of either the assessee or the group entities. The Ld. CIT(A) further observed that, the corresponding 'making charges' when the gold was being converted into gold ornaments on behalf of customers, was being paid by the customers through banking channel, which was also recorded in the regular books of accounts of the assessee and/or its related concerns. Hence, it was not the case that, the making charges were being received in form of 'wastage gold' as was being alleged by the AO. Having taken note of the foregoing factual aspects, which directly contradicted the statement given by Shri Rajendra Kothari, we note that, the Ld. CIT(A) himself also embarked on a factual exercise to decipher as to how these entries were made in the 'Ghat' Ledger. The Ld. CIT(A) is noted to have called for the relevant seized material for verification and after undertaking an elaborate analysis, he concluded that, the entries in this 'Ghat' ledger did not comprise of any 'metal' addition but was only 'alloy' addition and therefore deleted the addition made by the AO. Aggrieved by the order of the Ld. CIT(A), the Revenue is now in appeal before us.

**7.6** Assailing the action of Ld. CIT(A), the Ld. CIT, DR appearing for the Revenue Ms. E. Pavuna Sundari, relied on the statement(s) recorded at the time of search wherein it was admitted that the entries in Ghat Ledger represented 'metal' entries retained by the assessee during the process of



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conversion of gold into gold ornaments. She further argued that, the Director of the assessee company had admitted that the J-pack software was used for recording both accounted and unaccounted transactions and therefore only because the assessee was able to reconcile the entries recorded in 'Ghat' Ledger with their regular books of accounts on sample basis cannot *ipso facto* mean that all the entries are accounted for. She thus urged that the Ld. CIT(A) was unjustified in deleting the impugned addition and wants us to restore the order of the AO. Per contra, the Ld. AR heavily relied on the findings recorded by the Ld. CIT(A) for deleting the impugned addition.

**7.7** We have heard both the parties and perused the material placed before us. It is observed that, the AO was of the view that, the ledger titled 'Ghat' maintained in the customized software 'J-Pack' contained receipt entries ('Ghatjama') for the excess 'metal' (gold) retained by the assessee outside the books, while rendering job-work services to the customers. This analogy of the AO is found to primarily emanate from the statements given by Shri Rajendra Kothari u/s 132(4) and 131 of the Act, and we note that, there was no other corroborative material or evidence referred to by the AO, to justify such an inference. Relying upon their statements, the AO is noted to have theorized that, the assessee was receiving old gold or bullion bars from the customers for remaking into



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ornaments, and in this process, a portion of the gold supplied by the customers remained as excess, for which receipt entries ('Ghatjama') was passed in 'Ghat' Ledger and that the issue entries ('Ghatnamma') were essentially squaring off entries, which was to be ignored. The sum total of the receipt entries in the Ghat Ledger across all the years was treated as the unaccounted income in the form of wastage gold by the assessee. Before the AO, the assessee is noted to have explained that, the entries in the 'Ghat' Ledger actually represented only 'alloy' adjustments arising during conversion of bullion into ornaments, but the AO disagreed with this submission for want of evidence.

**7.8** As noted earlier, before the Ld. CIT(A), the assessee had reiterated that, the entries in 'Ghat' Ledger were relating to the 'alloy' addition to the new gold ornaments manufactured by goldsmiths and not 'metal' (gold) addition, as had been wrongly inferred by the AO. The case of the assessee was that, as and when the gold bullion is purchased, depending upon its purity content, specific instructions are issued to the Karigars for the addition of alloy while converting such bullion into gold ornaments. The addition of 'alloy' by the goldsmiths in the new gold ornaments was recorded in the 'Ghat' ledger maintained in the J-Pack software, which essentially serves the purpose of accounting for alloy adjustments during conversion. To substantiate the same, the assessee is found to have



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submitted the details of purchases of gold bullion corresponding to these Ghat entries, and it was shown that the purchases were duly recorded in the books of accounts. The details furnished *inter alia* included purchase invoices, alloy addition calculations, ledger extracts of making charges, and entries reflecting the purchase and sale etc. Having examined the same, it is noted that, the assessee was able to make out a valid case that, the foundational premise of the impugned addition made by the AO was based on incorrect assumption of fact and therefore the impugned addition was deleted by the Ld. CIT(A).

**7.9** The Ld. AR Shri Anand, at the time of hearing, by way of illustration, took us through one such instance of entry made in the 'Ghat' Ledger. It is observed that, the assessee had purchased a 15 kg gold bar of 99.5% purity from The Bank of Nova Scotia on 31.03.2016 bearing Invoice No. L/XG1MD 15-16/170 at the rate of Rs.2,630.52 per gram, amounting to Rs.3,97,57,817/-. We note that, the said bullion purchase is duly reflected in the bullion purchase ledger. As the gold purchased was of 99.5% purity, on conversion it yielded 14,925 grams of pure gold. Consequently, when alloy addition at 91.66% was factored in, the total weight worked out to 16,283 grams. The assessee showed that, the difference between 16,283 grams and 14,925 grams, i.e., 1,358 grams of alloy addition, was entered in the 'Ghat' Ledger in the J-Pack Software.



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Having considered the foregoing, we find merit in the assessee's claim that the entry in 'Ghat' ledger was that of 'alloy' addition value to the gold ornaments being made by karigars on their behalf and didn't constitute any entry of wastage gold retained from the customers. It is observed that, similar such instances were also noted by the AO in his remand report dated 18.11.2024, which is reproduced hereunder: -

BNS BANK	
INVOICE NO-L/XG1MD 16-17/10	
PURCHASE BULLION (8000X99.5%)	8000.00
ALLOY 91.66%	684.27
Gold + Alloy	8684.27
GOLD WT (8000.00 X99.5)	7960.00
<b>BALANCE WT GHAT (P NO-3)</b>	<b>724.27</b>
<b>HDFC BANK</b>	
<b>INVOICE NO-L/XG95 CHN 16-17/08</b>	
<b>PURCHASE BULLION (15000X99.5%)</b>	<b>15000.00</b>
<b>ALLOY =91.66%</b>	<b>1283.00</b>
<b>Gold + Alloy</b>	<b>16283.00</b>
<b>GOLD WT (15000.00 X99.5)</b>	<b>14925.00</b>
<b>BALANCE WT GHAT (P NO-4)</b>	<b>1358.00</b>
<b>HDFC BANK</b>	
INVOICE NO-L/XG95CHN16-17/182	
PURCHASE BULLION (20000X99.5%)	20000.00
ALLOY 91.66%	1710.67
Gold + Alloy	21710.67
GOLD WT (20000.00 X99.5)	19900.00
<b>BALANCE WT GHAT (P NO-52)</b>	<b>1810.67</b>



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<b>HDFC BANK</b>	
INVOICE NO-L/XG95CHN16-17/127	
PURCHASE BULLION (3000X99.5%)	3000.00
ALLOY 91.66%	256.60
Gold + Alloy	3256.60
GOLD WT (3000.00 X99.5)	2985.00
<b>BALANCE WT GHAT (PNO38) EPARTME</b>	<b>271.60</b>

<b>SURABI BULLION</b>	
INVOICE NO-G 1040	
PURCHASE BULLION (3000X100%)	3000.00
ALLOY 91.70%	271.54
Gold + Alloy	3271.54
GOLD WT (3000.00 X 100)	3000.00
<b>BALANCE WT GHAT ( P NO - 32)</b>	<b>271.54</b>

<b>SURABI BULLION</b>	
INVOICE NOG 1138	
<b>MOHANLAL JEWELLERS PVT LTD</b>	
INVOICE NO-G-327	
PURCHASE BULLION (4000.00+3091.45- 7091.45X99.5%)	7091.45
ALLOY = 91.70%	603.19
Gold + Alloy	7694.64
GOLD WT (7091.45 X99.5)	7056.00
<b>BALANCE WT GHAT (P NO- 34)</b>	<b>638.64</b>
<b>MOHANLAL JEWELLERS PVT LTD</b>	
INVOICE NO G-1331	
PURCHASE BULLION	13750.00



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(13750X99.5%)	
ALLOY =91.70%	1169.57
Gold + Alloy	14919.57
GOLD WT (13750.00 X99.5)	13681.25
<b>BALANCE WT GHAT (PNO-53)</b>	<b>1238.32</b>

<b>MOHANLAL JEWELLERS PVT LTD</b>	
INVOICE NO - G-1907	
PURCHASE BULLION (7228.00×100%)	7228.00
ALLOY 91.70%	654.22
Gold + Alloy	7882.22
GOLD WT (7228.00 X100)	7228.00
<b>BALANCE WT GHAT ( P NO - 87)</b>	<b>654.22</b>

<b>MMTC-PAMP INDIA PVT LTD</b>	
INVOICE NO-TN-2016-2017-00005	
PURCHASE BULLION (50000.00X99.5%)	50000.00
ALLOY =91.70%	4253.00
Gold + Alloy	54253.00
GOLD WT (50000.00×99.5%)	49750.00
<b>BALANCE WT GHAT (PNO-6)</b>	<b>4503.00</b>

<b>MMTC-PAMP INDIA PVT LTD</b>	
INVOICE NO-TN-2016-2017-0075	
<b>RADHA MOHAN PURSHOTTAM DAS JEWELS PVT LTD</b>	
INVOICE NO-CHN/T/16-17/0070	
<b>SAYSO EXIM PVT LTD</b>	
INVOICE NO-113	
PURCHASE BULLION (17000-15000+10000-42000×99.5%)	42000.00
ALLOY 91.70%	3572.52
Gold + Alloy	45572.52
GOLD WT (42000.00X99.5%)	41790.00
<b>BALANCE WT GHAT (P NO-29)</b>	<b>3782.52</b>



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<b>MMTC-PAMP INDIA PVT LTD</b>	
INVOICE NO-TN-2016-2017-0121	
PURCHASE BULLION (11000.00×99.5%)	11000.00
ALLOY 91.70%	935.66
Gold + Alloy	11935.66
GOLD WT (11000.00X99.5%)	10945.00
<b>BALANCE WTGHAT ( P NO -31)</b>	<b>990.66</b>

<b>MMTC-PAMP INDIA PVT LTD</b>	
INVOICE NO-TN-2016-2017-0201	
PURCHASE BULLION (15000.00X99.5%)	15000.00
ALLOY 91.70%	1275.90
Gold + Alloy	16275.90
GOLD WT (15000.00X99.5%)	14925.00
<b>BALANCE WT GHAT (P NO-35)</b>	<b>1350.90</b>

<b>ZAVERI &amp; CO PVT LTD</b>	
INVOICE NO-CHN/20/2016-17	
PURCHASE BULLION (30700.00X99.5%)	30700.00
ALLOY 91.70%	2611.34
Gold + Alloy	33311.34
GOLD WT (30700.00x99.5%)	30546.50
<b>BALNCE WT GHAT (P NO -40)</b>	<b>2764.84</b>

**7.10** It is seen that even the AO in his remand report had verified the above instances pointed out by the assessee and noted that they reconciled with the entries found in the 'Ghat' Ledger and thereafter recorded a finding of fact that, the entries in 'Ghat' Ledger related to



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'alloy' addition and not 'metal' (gold) addition. The relevant extracts of the remand report is reproduced hereunder: -

"Considering the volume of the transaction the above invoices were verified on sample basis. The following are observed during the verification of the above sample entries selected randomly:

\* The bullion purchase referred to above in sample cases is found to be reflected in the Gold Bullion Purchase ledger of MJPL and MJCPL.

\* In the GHAT ledger of JPACK it is seen that only the alloy addition value is recorded in the sample cases.

\* It is seen that in the Gold Bullion Purchase ledger the alloy addition as shown in GHAT is also reflected for the sample cases.

\* The Gold Bullion Purchase ledger also contains entries on issue of this gold bullion for manufacture (including instruction for Alloy addition) for the sample cases.

\* When the gold bullion is manufactured and returned back for the sample cases, the same is reflected in Assorted Gold Jewellery Register for the same quantity.

\* The sale value for selling this converted gold ornaments are found reflected in Assorted Gold Jewellery Ledger for the sample cases.

\* The making charges for the above transaction for the sample cases is found to be reflected in "Making Charges for Jewellery mfg" ledger.

\* The total sale value and closing stock shown in the Assorted Gold Jewellery register is found to be reflected in the sales shown in the Profit and Loss Account.

However, due to paucity of time and large volume of transaction, it was not possible to verify each and every entry in the GHAT ledger and the possibility of unaccounted transactions cannot be ruled out."

(emphasis supplied)

**7.11** The above comments of the AO make it amply clear that, he had originally acted under the wrong assumption of fact that the entries in



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'Ghat' ledger was that of 'metal' (gold) addition whereas the actual fact was that, it pertained to 'alloy' addition to the new gold ornaments manufactured. Though the Ld. CIT, DR was unable to controvert the above findings of the AO but she contended that, the above findings of the AO pertained to a sample set and that the assessee didn't demonstrate the same across all entries found in the 'Ghat' Ledger. According to us, once the contemporaneous facts brought on record showed that, the entries found in 'Ghat' Ledger (even on sample basis) pertains to alloy addition and not metal (gold), then it is a natural corollary that, all receipt entries in the same ledger would pertain to the same item i.e. alloy and it cannot relate to metal i.e. gold. The assertion of the Ld. CIT, DR that, there may be ghat entries relating to metal (gold) cannot be countenanced, since it not only lacks basis but logic as well, as it would be highly unusual that the same ledger would contain some entries of 'alloy' and some of 'metal'. Considering the facts discussed supra & infra, we agree with the Ld. AR that, once the character of entries was demonstrated to be alloy additions, then it was safe to presume that all entries in the same ledger would bear the same character, which is that of alloy additions, unless it is disproved by relevant materials.

**7.12** Coming to the Ld. CIT, DR's contention that, all the entries ought to have been verified instead of a sample set, it is seen from the remand-



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report that, the AO had refrained from examining all entries in 'Ghat' Ledger citing paucity of time and voluminous size of data. In our considered view, the AO's inability to verify all the entries because of his own time constraints cannot be held against the assessee and the same cannot be the basis to assume that there may be some unaccounted transactions in the 'Ghat' Ledger. According to us, once the assessee had demonstrated on sample basis that, the entries related to alloy addition and not metal addition and that the corresponding purchases & sales were forming part of the regular books of accounts and, this contention was found to be factually verifiable, then the onus lay on the Revenue to bring on record some contrary evidence that some other entries may relate to unaccounted transactions. Without having pointed out even a single instance where any entry was found to be of 'metal' addition and not 'alloy' addition, we are unable to countenance the Ld. CIT DR's plea that, a certain portion of the 'Ghat' entries may be estimated to be unaccounted wastage gold.

**7.13** The Ld. CIT, DR had further contended that, the sample size was identified by the assessee himself and therefore it was imperative to verify some instances on random basis to ascertain the veracity of the assessee's claim. To this, the Ld. AR showed us that, the Ld. CIT(A) was also of the same view, and therefore in exercise of his co-terminus



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powers, he had called for the entire seized material and thereafter himself verified the 'ghat' entries randomly on test-check basis, particularly where the gold was being re-made into new gold ornaments on behalf of the customers and not out of assessee's own gold bullion purchases. The relevant findings of the Ld. CIT(A), taken note of by us, is as under: -

"Further, a doubt was raised by the AO that the receipt side of the GHAT ledger was not explained properly by the appellant. In this regard, I had taken into account the entries made in GHAT ledger of J-Pack both, receipt and issue side, and tried to decipher how these entries were made in the GHAT account. In this process, I had also come to the conclusion that the entries in GHAT ledger is a cumulative entry for each day and the entry for a particular day is made by Shri Rajendra Kothari till 27.10.2019 and thereafter by Shri Kishore Khatri till the date of search with the help of daily reports prepared by Shri Nikhil and Shri Tulsiram on the basis of white and yellow slips for the respective day. It was also noted that the seized materials do not have the daily report along with yellow and white slips for the entire period of FY 2016-17 to 2020-21. However, these seized materials are available for limited period only. For the remaining period, these daily reports and slips were destroyed in a periodical manner by the appellant and it was the reason for which the search team could not find and seize the corresponding reports and slips for the entire period from FY 2016-17 to 2020-21. In this regard, the AO was requested to produce the relevant seized material for verification. In response, the AO had furnished the following seized material which contains the daily reports along with yellow and white slips for verification with the GHAT entry which is available for the period mentioned as under:

<b>Seized material</b>	<b>Period</b>
ANN/VD/RK/LS/S-01	14.07.2020 to 21.07.2020
ANN/VD/RK/LS/S-02	22.07.2020 to 31.07.2020
ANN/VD/RK/LS/S-03	01.08.2020 to 06.08.2020
ANN/VD/RK/LS/S-04	07.08.2020 to 12.08.2020
ANN/VD/RK/LS/S-05	13.08.2020 to 19.08.2020
ANN/VD/RK/LS/S-06	20.08.2020 to 24.08.2020
ANN/VD/RK/LS/S-07	25.08.2020 to 31.08.2020
ANN/VD/RK/LS/S-08	01.09.2020 to 05.09.2020
ANN/VD/RK/LS/S-09	06.09.2020 to 14.09.2020
ANN/VD/RK/LS/S-10	15.09.2020 to 19.09.2020
ANN/VD/RK/LS/S-11	21.09.2020 to 25.09.2020
ANN/VD/RK/LS/S-12	26.09.2020 to 30.09.2020



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ANN/VD/RK/LS/S-13	02.10.2020 to 08.10.2020
ANN/VD/RK/LS/S-14	09.10.2020 to 15.10.2020
ANN/VD/RK/LS/S-15	14.10.2020

5.8.6 I had personally verified the above seized material which has the daily reports for the dates mentioned as above, wherein the 'Ghat Jama' and 'Ghat Naamae' are worked out based on the actual receipt of gold bullion and the quantity of alloy to be added for converting 24 carat gold into 22 carat gold ornament. The component of alloy to be added for manufacturing 22 carat gold ornament is cumulatively added in the GHAT ledger for a particular day by consolidating similar nature of entries. To understand the nature of entries made in the GHAT ledger, a verification was carried out on the basis of seized material, GHAT ledger in J-Pack and Tally accounts seized during the search. For this purpose, I had randomly selected a daily report dated 27.07.2020 seized vide page no. 333 of ANN/VD/RK/LS/S-02 which has the daily report and yellow and white slips for period from 22.07.2020 to 31.07.2020. The copy of the daily report dated 27.07.2020 is reproduced as under:

Daily Report on : 27-07-2020

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Sl. No.	Details	Receipt			Issued		
		Gross	Pure	Amount	Gross	Pure	Amount
<b>TOTAL</b>							
<b>Metal Jama</b>							
1	VIJAY FACTORY	7039.730	7039.730				
4	MUKESH NLR	142.880	125.650				
7	TN GOPI	1250.610	1250.610				
8	T NAGAR SMJ (GRF)	3090.720	2920.730				
9	MALABAR MDS	779.520	717.160				
12	MUMBAI	11275.700	11275.700				
13	CL CHHOGARAM	2909.500	2909.500				
17	ARJUN FACTORY	7763.020	7763.020				
19	MJPL BHIMA BLR	388.730	388.730				
29	TN GOPI	3659.120	3659.120				
	<b>TOTAL</b>	<b>38308.530</b>	<b>38058.950</b>				
<b>Ghat Jama</b>							
6	M S BACK CHAIN	0.830	0.830				
21	ARJUN FACTORY	256.220	256.220				
23	VIJAY FACTORY	169.740	169.740				
	<b>TOTAL</b>	<b>426.790</b>	<b>426.790</b>				
<b>Metal Naamae</b>							
2	TN COUNTER			7023.750	7023.750		
3	MUMBAI (TUKADA BG WT DIF)			14.800	14.800		
5	TN COUNTER			246.050	246.050		
10	LKS			21.280	21.280		
11	T NAGAR SMJ (GRF)			95.100	95.100		
14	TN COUNTER			2033.900	2033.900		
15	TN COUNTER			12218.650	12218.650		
16	KALPESH			153.300	153.300		
18	TN COUNTER			7718.270	7718.270		
20	VIJAY FACTORY			126.070	126.070		
21	ARJUN FACTORY			3181.630	3181.630		
22	ARJUN FACTORY			93.850	93.850		
23	VIJAY FACTORY			2138.880	2138.880		
24	MALABAR MDS			543.370	499.900		
25	MALABAR MDS			40.080	36.870		
26	MALABAR MDS			536.610	493.680		
27	MALABAR MDS			409.060	376.330		
28	GRF			1385.700	1385.700		
30	TN COUNTER			530.910	530.910		
	<b>TOTAL</b>			<b>38511.260</b>	<b>38388.920</b>		
<b>Ghat Naamae</b>							
8	T NAGAR SMJ (GRF)			165.310	165.310		
9	MALABAR MDS			58.750	58.750		
	<b>TOTAL</b>			<b>224.060</b>	<b>224.060</b>		
	<b>NET TOTAL</b>	<b>38735.320</b>	<b>38485.740</b>	<b>38735.320</b>	<b>38612.980</b>		

G/111120  
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The above daily report is one of such yellow slips seized at the time of search in the case of the appellant. In the said daily report, there is a 'Metal Jama' i.e. receipt of gold, from one 'T NAGAR SMJ (GRF)' which states that the gold of 3090.720 grams of gross weight which contains 2920.730 grams of pure gold is entered in the receipt side of the daily report as received from the said party on 27.07.2020. In the same daily report, in the 'Ghat Naamae', 165.310 grams is entered in the issued side. In both, 'Metal Jama' and 'Ghat Naamae' with respect to this party i.e., T NAGAR SMJ (GRF), Sr. no. 8 is mentioned. This Sr. no. 8 represents the number mentioned in rough estimation slip which is also seized as sheet no. 288 of the said annexure. The same is reproduced as under:

ROUGH ESTIMATION			
T NAGAR SMJ (GRF)			
27-07-2020			
8			
Item Name	Wt	%	Fine
<b>Rt</b>			
@@ ME1990X100	2105.820	94.50	1990.00
@@ ME935.41X9	984.900	94.50	930.73
<b>Total</b>	<b>3090.72</b>		<b>2920.73</b>
<b>Balance</b>	<b>-3090.72</b>		<b>-2920.73</b>
<b>Net Balance</b>			<b>-2920.73</b>
TNVAT As Applicable			

From the above seized material, it is noted that the party name - T NAGAR SMJ (GRF), date 27.07.2020 and Sr. no. 8 is appearing on the top of the said slip and it is also mentioned as 'Rt' which denotes metal receipt from the said party and the quantity of metal received is also mentioned in both pure gold i.e. 'Fine' and gross weight with the purity percentage. In the above slip, two bars of 99.5% purity which contains 1990.00 grams of 100% pure gold along with a broken bar of 99.5% purity of 935.41 grams, which contains 930.73 grams of 100% pure gold, was received. The weight of 100% pure gold of 2920.73 grams is recorded under 'Fine', and the gross weight is converted into 94.5% gold of 3090.72 grams and recorded under 'Wt'. The GHAT issued of 165.310 grams is arrived by taking the difference between 3090.72 grams and 2925.41 (1990 + 935.41) grams. This difference is nothing but the alloy to be added for manufacturing gold ornament by



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converting 24 carat gold into 22 carat gold ornament and also adding the making charges equal to that of gold. The same is mentioned in 'Ghat Naamae' in the daily report for the said date. Further, the total Ghat Naamae for the said date was 224.060 grams which includes 165.310 grams of the transactions related to 'T NAGAR SMJ (GRF)' and another party 'MALABAR MDS' of 58.750 grams and the same was debited as 'GHAT issue' in the GHAT ledger for the date 27.07.2020. The relevant page of the GHAT ledger is also reproduced as under:

22/07/2020	METAL RECEIPT	553.200	100.00	553.200				
22/07/2020	METAL ISSUE				599.970	100.00	599.970	
22/07/2020	METAL ISSUE				540.360	100.00	540.360	
22/07/2020	METAL ISSUE				116.400	100.00	116.400	
23/07/2020	METAL ISSUE				39.920	100.00	39.920	
23/07/2020	METAL RECEIPT	486.740	100.00	486.740				
23/07/2020	METAL ISSUE				617.400	100.00	617.400	
23/07/2020	METAL ISSUE				0.050	100.00	0.050	
23/07/2020	METAL ISSUE				450.300	100.00	450.300	
23/07/2020	METAL ISSUE				459.240	100.00	459.240	
24/07/2020	METAL RECEIPT	860.090	100.00	860.090				
24/07/2020	METAL ISSUE				598.060	100.00	598.060	
24/07/2020	METAL RECEIPT	176.660	100.00	176.660				
24/07/2020	METAL RECEIPT	26.430	100.00	26.430				
24/07/2020	METAL ISSUE				71.160	100.00	71.160	
24/07/2020	METAL ISSUE				180.120	100.00	180.120	
25/07/2020	METAL RECEIPT	68.790	100.00	68.790				
25/07/2020	METAL ISSUE				2.070	100.00	2.070	
25/07/2020	METAL RECEIPT	862.920	100.00	862.920				
25/07/2020	METAL ISSUE				620.240	100.00	620.240	
25/07/2020	METAL ISSUE				1.290	100.00	1.290	
	CBE							
25/07/2020	METAL ISSUE				32.790	100.00	32.790	
25/07/2020	METAL ISSUE				5.400	100.00	5.400	
25/07/2020	METAL RECEIPT	38.540	100.00	38.540				
25/07/2020	METAL ISSUE				24.170	100.00	24.170	
	SJ CBE RATIO DIFF							
25/07/2020	METAL ISSUE				84.400	100.00	84.400	
25/07/2020	METAL ISSUE				0.420	100.00	0.420	
25/07/2020	METAL ISSUE				2.870	100.00	2.870	
27/07/2020	METAL RECEIPT	1.410	100.00	1.410				
27/07/2020	METAL ISSUE				91.650	100.00	91.650	
27/07/2020	METAL RECEIPT	426.790	100.00	426.790				
27/07/2020	METAL ISSUE				224.060	100.00	224.060	
27/07/2020	METAL ISSUE				4.450	100.00	4.450	
	AKB							
28/07/2020	METAL RECEIPT	727.830	100.00	727.830				
28/07/2020	METAL ISSUE				758.960	100.00	758.960	
28/07/2020	METAL ISSUE				0.570	100.00	0.570	
28/07/2020	METAL RECEIPT	0.050	100.00	0.050				
28/07/2020	METAL ISSUE				109.190	100.00	109.190	
28/07/2020	METAL ISSUE				1888.440	100.00	1888.440	
	NEMH							
28/07/2020	METAL ISSUE				585.390	100.00	585.390	
	SAFARI							
28/07/2020	METAL RECEIPT	0.700	100.00	0.700				
28/07/2020	METAL ISSUE				126.940	100.00	126.940	
29/07/2020	METAL ISSUE				1.070	100.00	1.070	

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If the daily report dated 27.07.2020 (reproduced above) is observed closely, there is a 'Metal Naamae' in the same report which means issue of metal. In the 'Metal Naamae' i.e. metal issued, Sr. no. 21 is in the name of 'ARJUN FACTORY'. The Sr. no. 21 is again a rough estimation slip enclosed along with the daily report for the said date, seized during the course of search in the same annexure as sheet no. 275, which is reproduced as under:



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ROUGH ESTIMATION			
ARJUN FACTORY			
Item Name	Wt	%	Fine
N			
@@ ME1990X100	2167.760	100.00	2167.76
@@ ME935.41X9	1013.870	100.00	1013.87
<b>Total</b>	<b>3181.63</b>		<b>3181.63</b>
<b>Balance</b>	<b>3181.63</b>		<b>3181.63</b>
<b>Net Balance</b>			<b>3181.63</b>

TNVAT As Applicable

27-07-2020  
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If the above seized material is observed closely, the item name is mentioned as 'N' which denotes 'Naamae' or 'Issued' on 27.07.2020 to Arjun Factory for the same quantity of metal i.e. two bars of 99.5 % purity which contains 1990 grams of 100% pure gold along with a broken bar of 99.5% purity of 935.41 grams which contains 930.73 grams of 100% pure gold, which were received from T NAGAR SMJ (GRF) for job work of manufacturing 22 carat ornaments by the appellant. In the said rough estimation slip, the total gross weight and net weight are not differentiated and mentioned as 3181.63 grams and the purity is also mentioned as 100%. However, the actual 24 carat gold is also mentioned as 1990 grams and 935.41 grams, respectively for the actual receipt of bullion bars from T NAGAR SMJ (GRF). The GHAT received of 256.22 grams is arrived by taking the difference between 3181.63 grams and 2925.41 (1990 + 935.41) grams. It is also noted that the working of 3181.63 grams was arrived at to convert 2920.73 grams of 100% pure gold to manufacture 91.6% purity, the minimum requirement of 91.8% of pure gold is needed taking into account some wastage while melting and also the impurities in the 24 carat gold beyond the level mentioned in the bullion itself. Thus, the 'Ghat Jama' for this transaction was worked out at 256.22 grams and the same is mentioned in 'Ghat Jama' in the daily report for the said date. Further, the total 'Ghat Jama' for the said date was 426.790 grams which includes 256.22 grams of the transactions related to 'T NAGAR SMJ (GRF)' in the name of 'ARJUN FACTORY, 169.740 grams in the name of 'VIJAY FACTORY' and 0.830 grams in the



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name of another party 'M S BACK CHAIN' and the same was credited as 'GHAT receipt' in the GHAT ledger for the date 27.07.2020 as reproduced above.

5.8.7. The above findings, arising out of the seized material which is available with the AO, clearly proves that the GHAT issue and receipt entered in the GHAT ledger of J-Pack are not that of gold received from the customers as stated by Shri Rajendra Kothari in his statements or concluded by the AO in the assessment order. It is proved beyond doubt that GHAT is only the quantity of alloy added for manufacturing 22 carat gold ornaments from gold bullion of 24 carat."

**7.14** From the above, it is seen that, the Ld. CIT(A) had examined in detail the movement of gold received from customers to their conversion into gold ornaments along with their dates, weight etc. and found that the entry in the 'Ghat' Ledger was attributable to the 'alloy' addition to the gold ornaments made for the customers and that the making charges for rendering this service was received not in form of 'gold' but through banking channel, which was also duly recorded in the regular books of accounts. It was also brought to our notice that, the Ld. CIT(A) had similarly called for the seized material which included the daily reports and the yellow & white slips seized from the possession of Shri Rajendra Kothari. In order to test the veracity of the statement of Mr. Kothari, the Ld. CIT(A) is found to have required the assessee to explain the transactions mentioned in these daily reports and yellow & white slips in the name of 'T NAGAR SMJ (GRF)' and reconcile the same with the regular books of accounts maintained in Tally and the 'Ghat' Ledger. After



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considering the submissions of the assessee, the Ld. CIT(A) found that, the entries in the daily reports along with yellow & white slips reconciled with the regular books of the assessee and that, the assessee was able to show that the entries in Ghat Ledger was the 'alloy' addition made to the new ornaments manufactured on behalf of Shri Mahalakshmi Jewellery ('SMJ'). The Ld. CIT(A) also noted that, the making charges were paid by SMJ through banking channel which was also credited in the books of accounts maintained in Tally Software and corresponding entry was also found in 'MC Khata' Ledger of J-Pack Software. This material fact, according to us, negated the Revenue's theory that the making charges were being received in form of wastage gold; whereas the contemporaneous facts showed that it was being paid through banking channel. The relevant findings rendered by the Ld. CIT(A) in this regard, and as noted by us, is as under:-

"The AR has submitted that M/s Shree Mahalakshmi Jewellery, 148, Usman Road, T.Nagar is the party mentioned as 'T NAGAR SMJ (GRF)' in the seized material and also submitted the delivery challan for the job-work dated 25.07.2020. The same is reproduced as under:



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SHREE MAHALAKSHMI JEWELLERY  
148 Ushaan Road, T. Nagar  
Chennai-600017 Ph : 4424310074  
StateName : Tamil Nadu StateCode : 33

Delivery Challan (JOBWORK)

DC No : SMJ2021D3000018 Date : 23-07-2020

Party Name : M/S. MOHANLAL JEWELLERS P.LTD  
Address : 86B-69, NSU, BUSE ROAD, SOWCARPET  
CHENNAI-1  
Phone : 964277729  
GSTIN : 33AAFC19596M122  
Acct. no :  
StateCode : 33  
StateName : Tamil Nadu

NO	Description	HSN/SAC Code	Weight	Remarks
1	Bullion Gold Alloy	7108	2935.410 239.300 3174.710	
Total ==>			3174.710	

Narration : ISSUED FOR JOB WORK

For SHREE MAHALAKSHMI JEWELLERY  
J. Diya  
25.07.2020

On perusal of the above delivery challan, it is noted that M/s Shree Mahalakshmi Jewellery has delivered 2935.410 grams of bullion of 99.5% purity and gave the instruction to add alloy of 239.300 grams to make 22 carat gold ornaments of 3174.710 grams. The same bullion was received on 27.07.2020 by MJPL which has been acknowledged by both the parties. The quantity mentioned in the delivery challan is exactly matching with the above seized material sheet number 288 of the said annexure (reproduced above), but the only difference is 14.68 grams which is on account of conversion of 99.5% to 100% purity. Thus, the seized material matches with the delivery challan. Further, the party ledger in the name of 'T NAGAR SMJ' maintained in J-Pack (reproduced in para no. 5.8.8. below) is also examined and it is found that the metal receipt of 2920.730 grams of 100% pure gold with the gross of 3090.720 grams of 94.50% purity is also given credit. The quantity of 24 carat pure gold received from M/s Shree Mahalakshmi Jewellery for job-work as per seized material in sheet no. 288 and the delivery challan are exactly matching with entries made in the party ledger maintained in J-Pack and the corresponding GHAT issued and received as per the above seized material is also entered in the GHAT ledger maintained in J-Pack. It was also noted that after manufacturing 3174.710



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grams of 22 carat gold ornaments, the same was also delivered to M/s Shree Mahalakshmi Jewellery on 08.08.2020. In support, the appellant had furnished the making charges invoice raised by the appellant in the name of M/s Shree Mahalakshmi Jewellery dated 08.08.2020, which is reproduced as under:

**Making Charges Tax Invoice (GST)** (DUPLICATE FOR SUPPLIER)

<b>Mohanlal Jewellers Pvt. Ltd.</b> R.R. & Co. N.S.C. Bose Road, Sowcarpet Chennai - 600031 GSTIN/UIN: 33AAF09908M1Z2 State Name: Tamil Nadu, Code: 33 CIN: U28999TN2009PTCO71334 E-Mail: accounts@mohanlaljewellers.com	Invoice No. <b>MCJ202120124</b> Supplier's Ref. <b>Our RV No.154 / 27.07.2020</b> Buyer's Order No. <b>SMJ2021DU000018</b> Dated <b>27-Jul-2020</b> Other Reference(s)
---	--

  

Buyer <b>Shree Mahalakshmi Jewellery</b> 148, Usman Road, T. Nagar, Chennai - 600 017. GSTIN/UIN : 33AAWFR7935F2ZN PANIT No : AAWFR7935F State Name : Tamil Nadu, Code: 33 Place of Supply : Tamil Nadu	
--	--

  

Sl No	Description of Goods	HSN/SAC	Quantity	Rate	per	Amount
1	Assorted Gold Jewellery (J)	996892	3,174.710 Gms	120.00	Gms	3,80,965.00
	Less:					
	Output CGST 2.5%			2.50	%	9,524.13
	Output SGST 2.5%			2.50	%	9,524.13
	Rounding Off					(-10.26)
	<b>Total</b>		<b>3,174.710 Gms</b>			<b>₹ 4,00,013.00</b>

Amount Chargeable (in words) **Indian Rupees Four Laks Thirteen Only**  
 E & O E

HSN/SAC	Taxable Value	Central Tax Rate	Central Tax Amount	State Tax Rate	State Tax Amount	Total Tax Amount
996892	3,80,965.00	2.50%	9,524.13	2.50%	9,524.13	19,048.26
<b>Total</b>	<b>3,80,965.00</b>		<b>9,524.13</b>		<b>9,524.13</b>	<b>19,048.26</b>

Tax Amount (in words) : **Indian Rupees Nineteen Thousand Forty Eight and Twenty Six paise Only**

Company's PAN : **AAF09908M**

Declaration: We declare that this invoice shows the actual price of the goods described and that all particulars are true and correct.

Customer's Seal and Signature:

Company's Bank Details: Bank Name: **HDFC Bank Ltd - CC A/c No.00949480000335**  
 A/C No: **00040460000335**  
 Branch & IFS Code: **ITC Centre Anna Salai & HUF 50000003 for Mohanlal Jewellers Pvt. Ltd.**

SUBJECT TO CHENNAI JURISDICTION  
 This is a Computer Generated Invoice

On perusal of the above, it is observed that the appellant had raised the making charge invoice of Rs.3,80,965/- (excluding GST) for making an assorted gold jewellery of 3174.710 grams @ Rs.120 per gram. Further, the appellant had also furnished the ledger of 'Shree Mahalakshmi Jewellery - MC' as per Tally, wherein the party's account was debited on 08.08.2020 and crediting the Making Charges account. The said ledger is also reproduced as under:



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**Mohanlal Jewellers Pvt. Ltd.**  
 68 & 69, N.S.C. Bose Road,  
 Sowcarpet  
 Chennai - 600001  
 CIN: U28999TN2009PTC071334

**Shree Mahalakshmi Jewellery - MC**  
 Ledger Account  
 148, Usman Road, T.Nagar,  
 Chennai - 600 017.

1-Apr-2020 to 9-Nov-2020

Date	Particulars	Vch Type	Vch No.	Debit	Page 1 Credit
1-4-2020	To Opening Balance				1,20,490.00
11-6-2020	To (as per details) MC for Customer - Intra State	MC/44/20-21			55,288.00
	22d Assorted Gold Jewellery (J) 526.954 Gms	100.00/Gms		52,655.00 Cr	
	Output CGST 2.5%			1,316.38 Cr	
	Output SGST 2.5%			1,316.38 Cr	
	Rounding Off			0.24 Cr	
	New Ref MC/44/20-21			55,288.00 Dr	
17-6-2020	By HDFC Bank Ltd - CC A/c.No.00040460000335 Bank Receipt On Account		TRANSFER		1,20,490.00
8-8-2020	To (as per details) MC for Customer - Intra State	MC/250/20-21			1,28,432.00
	22d Assorted Gold Jewellery (J) 1,319.304 Gms	120.00/Gms		1,22,316.00 Cr	
	Output CGST 2.5%			3,057.90 Cr	
	Output SGST 2.5%			3,057.90 Cr	
	Rounding Off			0.20 Cr	
	New Ref MC/250/20-21			1,28,432.00 Dr	
	To (as per details) MC for Customer - Intra State	MC/251/20-21			4,00,013.00
	22d Assorted Gold Jewellery (J) 3,174.710 Gms	120.00/Gms		3,80,965.00 Cr	
	Output CGST 2.5%			9,524.13 Cr	
	Output SGST 2.5%			9,524.13 Cr	
	Rounding Off			0.26 Dr	
	New Ref MC/251/20-21			4,00,013.00 Dr	
	To (as per details) MC for Customer - Intra State	MC/252/20-21			1,19,883.00
	22d Assorted Gold Jewellery (J) 951.447 Gms	120.00/Gms		1,14,174.00 Cr	
	Output CGST 2.5%			2,854.35 Cr	
	Output SGST 2.5%			2,854.35 Cr	
	Rounding Off			0.30 Cr	
	New Ref MC/252/20-21			1,19,883.00 Dr	
26-8-2020	To (as per details) MC for Customer - Intra State	MC/362/20-21			3,23,901.00
	22d Assorted Gold Jewellery (J) 2,372.902 Gms	130.00/Gms		3,08,477.00 Cr	
	Output CGST 2.5%			7,711.93 Cr	
	Output SGST 2.5%			7,711.93 Cr	
	Rounding Off			0.14 Cr	
	New Ref MC/362/20-21			3,23,901.00 Dr	
10-9-2020	To (as per details) MC for Customer - Intra State	MC/495/20-21			1,65,211.00
	22d Assorted Gold Jewellery (J) 581.224 Gms	120.00/Gms		69,747.00 Cr	
	22d Assorted Gold Jewellery (J) 729.978 Gms	120.00/Gms		87,597.00 Cr	
	Output CGST 2.5%			3,933.81 Cr	
	Output SGST 2.5%			3,933.81 Cr	
	Rounding Off			0.22 Dr	
	New Ref MC/495/20-21			1,65,211.00 Dr	
	Carried Over			13,13,218.00	1,20,490.00

**Mohanlal Jewellers Pvt. Ltd.**  
 Shree Mahalakshmi Jewellery - MC Ledger Account : 1-Apr-2020 to 9-Nov-2020

Date	Particulars	Vch Type	Vch No.	Debit	Page 2 Credit
	Brought Forward			13,13,218.00	1,20,490.00
11-9-2020	By HDFC Bank Ltd - CC A/c.No.00040460000335 Bank Receipt		TRANSFER		10,12,837.00
	Agst Ref MC/44/20-21			54,498.00 Cr	
	Agst Ref MC/250/20-21			1,26,597.00 Cr	
	Agst Ref MC/251/20-21			3,94,299.00 Cr	
	Agst Ref MC/252/20-21			1,16,170.00 Cr	
	Agst Ref MC/362/20-21			3,19,273.00 Cr	
	By TDS Receivable - A.Y. 2021-22		Office Journal 1062		14,679.00
	Agst Ref MC/44/20-21			790.00 Cr	
	Agst Ref MC/250/20-21			1,835.00 Cr	
	Agst Ref MC/251/20-21			5,714.00 Cr	
	Agst Ref MC/252/20-21			1,713.00 Cr	
	Agst Ref MC/362/20-21			4,627.00 Cr	
	By Rounding Off		Office Journal 1063		1.00
	Agst Ref MC/362/20-21			1.00 Cr	
17-10-2020	To (as per details) MC for Customer - Intra State	MC/829/20-21			2,17,246.00
	22d Assorted Gold Jewellery (J) 219.913 Gms	120.00/Gms		26,390.00 Cr	
	22d Assorted Gold Jewellery (J) 468.093 Gms	120.00/Gms		55,931.00 Cr	
	22d Assorted Gold Jewellery (J) 1,038.164 Gms	120.00/Gms		1,24,580.00 Cr	
	Output CGST 2.5%			5,172.83 Cr	
	Output SGST 2.5%			5,172.83 Cr	
	Rounding Off			0.06 Dr	
	New Ref MC/829/20-21			2,17,246.00 Dr	
	By Closing Balance			15,30,464.00	11,48,007.00
				15,30,464.00	3,82,457.00
				15,30,464.00	15,30,464.00

On perusal of the above ledger, it is clearly seen that the making charges is receivable on account of job-work for M/s Shree Mahalakshmi Jewellery as per the invoice raised by the appellant dated 08.08.2020.

5.8.8. Further, the entries made in 'MC KHATA' ledger in J-Pack are also examined to find out the corresponding entries made for the respective 'Making Charges' received/receivable from M/s Shree Mahalakshmi



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Jewellery. It is also found that the J-Pack data has individual party ledger in the name of 'T NAGAR SMJ' which pertains to M/s Shree Mahalakshmi Jewellery. The entries made with respect to the making charges for manufacturing of gold ornaments on job-work basis by the appellant are found in both 'MC KHATA' and 'T NAGAR SMJ' ledger accounts maintained in J-Pack. Both ledgers are reproduced as under:

MC Khata

MC KHATA									
Date	Details	Receipt				Issued			
		Gross	Touch	Net Wt	Amount	Gross	Touch	Net Wt	Amount
11/09/2020	Opening Balance								9011.87
11/09/2020	CASH SMJ T NAGAR								9785.87
	<b>Total</b>								18797.74
	<b>Balance</b>								18797.74

Party Ledger

T NAGAR SMJ									
Date	Details	Receipt				Issued			
		Gross	Touch	Net Wt	Amount	Gross	Touch	Net Wt	Amount
01/04/2020	Opening Balance					912.140	97.74		891.560
08/07/2020	METAL ISSUE					48.190	93.55		45.080
08/07/2020	METAL ISSUE					48.050	93.55		44.950
08/07/2020	METAL ISSUE					10.490	95.42		10.010
14/07/2020	METAL RECEIPT	992.340	94.50	937.760					
27/07/2020	METAL RECEIPT	3090.720	94.50	2920.730					
05/08/2020	METAL ISSUE					32.950	93.54		30.820
05/08/2020	METAL ISSUE					2678.050	94.55		2532.050
05/08/2020	METAL ISSUE					354.080	93.10		329.650
05/08/2020	METAL ISSUE					62.140	95.00		59.030
07/08/2020	METAL RECEIPT	921.400	95.00	875.330					
11/08/2020	METAL ISSUE					1394.880	95.83		1336.650
11/08/2020	METAL ISSUE					1299.940	96.17		1250.160
14/08/2020	METAL RECEIPT	2310.130	94.50	2183.070					
20/08/2020	METAL ISSUE					470.740	93.63		440.760
20/08/2020	METAL ISSUE					23.940	92.98		22.260
20/08/2020	METAL ISSUE					268.450	93.00		249.650
20/08/2020	METAL ISSUE					40.010	93.53		37.420
20/08/2020	METAL ISSUE					30.030	95.97		28.820
20/08/2020	METAL ISSUE					120.270	93.55		112.510
20/08/2020	METAL ISSUE					811.940	95.07		771.880
27/08/2020	METAL RECEIPT	74.340	94.50	70.250					
27/08/2020	METAL RECEIPT	491.500	94.50	464.470					
04/09/2020	METAL RECEIPT	706.930	95.00	671.580					
04/09/2020	METAL ISSUE					15.450	95.99		14.830
04/09/2020	METAL ISSUE					375.480	94.00		352.950
04/09/2020	METAL ISSUE					372.530	94.00		350.170
07/09/2020	METAL ISSUE					69.060	94.45		65.230
11/09/2020	CASH				9785.87				
12/09/2020	RATE PURCHASE	184.970	100.21	185.360					9785.58
15/09/2020	METAL RECEIPT	69.000	94.49	65.200					
19/09/2020	METAL ISSUE					37.970	94.00		35.690
19/09/2020	METAL ISSUE					24.070	92.98		22.380
22/09/2020	METAL RECEIPT	214.100	94.50	202.320					
25/09/2020	METAL RECEIPT	453.760	94.50	428.800					
28/09/2020	METAL RECEIPT	1010.700	94.50	955.110					
28/09/2020	METAL ISSUE					516.010	93.61		483.020
28/09/2020	METAL ISSUE					464.250	94.00		436.390
28/09/2020	METAL ISSUE					144.620	94.25		136.300
10/10/2020	METAL ISSUE					193.000	100.00		193.000
11/10/2020	CASH								0.29

On perusal of the 'MC KHATA' ledger (as reproduced above), it is noted that Rs.9785.87/- (the actual amount is Rs.9,78,587/- as the decimal in the amount column in the ledger extracted from J-Pack is to be ignored, as stated by Shri. Suresh Khatri in his statement u/s. 132(4) of the Act dated 11.11.2020) was entered in 'issued' side i.e debit side on 11.08.2020 against T NAGAR SMJ. However, it is seen from T NAGAR SMJ party's ledger (as reproduced above) that the same amount of



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Rs.9,78,587/- was entered as receipt from M/s Shree Mahalakshmi Jewellery on 11.09.2020 in the credit side of the said ledger. Further, it is also noted from the party's ledger account maintained in Tally (as reproduced above) that an amount of Rs.10,12,837/- was received by bank transfer on 11.09.2020. The said payment received through bank on 11.09.2020 is against the making charges payable by M/s Shree Mahalakshmi Jewellery to the appellant for which the following invoices were raised for making charges payable:

Sr.No	Date	Making Charges (in Rs.)	GST (in Rs.)	Total (in Rs.)
1.	11-06-2020	52,655	2,632	55288
2.	08-08-2020	1,22,316	6,116	128432
3.	08-08-2020	3,80,965	19,048	400013
4.	08-08-2020	1,14,174	5,709	119883
5.	26-08-2020	3,08,477	15,424	323901
TOTAL		9,78,587	48,929	10,27,517

As seen from the above table, the making charges of Rs.9,78,587/- received on 11.09.2020 is included in the amount received through bank transfer of Rs.10,12,837/- (after considering TDS of Rs.14,679) and the same is accounted in the Tally and also in 'MC KHATA' and party's ledger in J-Pack. Thus, it clearly shows that the entries recorded in 'MC KHATA' ledger in J-Pack is also accounted in the regular books of accounts and offered as an income by the appellant. Further, it is also noted that after the amount is received in the bank account of the appellant, the party's ledger in J-Pack is also credited on the same day. However, it is also noted that there is a reversal entry to the equivalent amount of gold for the amount received by way of bank transfer in the party's ledger on 12.09.2020 and the same is recorded as 'RATE PURCHASE' and against the said reversal entry, there is an entry in the debit side of the party's ledger on the same day for equivalent amount. It is also observed that the said party's account i.e T NAGAR SMJ, is a running account where there is receipt of gold bar/ old gold from the party and issue of gold ornaments by the appellant on a continuous basis. Since it is a running account, each and every entry of debit and credit cannot be verified with the entries in Tally account w.r.t. gold received for job-work from the party on a specific date with subsequent gold ornaments issued by the appellant as recorded in J-Pack. In other words, the gold bars/ old gold given for job-work by the party is adjusted against the gold ornaments issued by the appellant on a continuous basis and same is shown as either outstanding debit or credit balance for any specific date in J-Pack ledger. Thus, there is always an outstanding balance as either the gold of customer is left with the appellant or vice-versa. However, it is also noted that when the gold ornaments are issued to the parties, as in the



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case of T NAGAR SMJ, it is always a case of mentioning the touch above minimum gold requirement of 91.66 percent, which vary from 93% to 100% for the reason that even though 22 carat ornament is issued which contain minimum pure gold of 91.66%, the minimum touch is always shown above 91.66% i.e. 91.80% and over and above including making charges (which is normally 2-2.5%), interest charged for any late/delayed payment by the party or additional wastage for manufacturing delicate and specific designs, etc. Meaning thereby, the metal weight equivalent to that of making charges is already debited to the party's ledger before-hand and when the making charges invoices are raised subsequent to delivery of the gold ornaments and receipt of payment by way of cheque, the reversal of equivalent metal for the amount received is credited in the same party's ledger. Hence, it can be concluded that when the metal equivalent to that of making charges are debited at the time of issue of gold ornaments in advance, the parties get equivalent amount of metal back into their account by way of credit entry when there is a payment of making charges after the invoices were raised by the appellant for the making charges. Thus, this reversal of metal on account of receipt of making charges by way of payment does not alter the transactions already recorded in Tally on account of making charges received. This also proves beyond doubt that there is no escapement of income on account of MC KHATA ledger maintained in J-Pack vis-à-vis the making charges already accounted in the regular books of accounts."

**7.15** At the time of hearing, the Ld. CIT, DR on behalf of the Revenue had referred to one debit entry of 95.10 grams of metal found in the name of the above party in the same daily report which was seized in the course of search, and contended that this entry also ought to have verified by the Ld. CIT(A). We find that this assertion of the Revenue is factually misplaced as the matter at hand pertains specifically to the "GHAT" entries recorded in the J-Pack software, which as noted above, relates to the technical accounting of 'alloy' added during the process of converting 24-carat bullion or old gold into 22-carat ornaments. It was



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brought to our notice that, the debit of 95.10 grams of metal corresponded to "Metal Jama" transactions and was not made in "Ghat Jama" transactions and that these two are separate and distinct accounts having complete different purpose and accounting treatment. It was shown that the "Metal Jama" entries are separately accounted and not incorporated in "Ghat" ledger. We agree with the Ld. AR of the assessee that, this entry pointed out by the Revenue under the head 'Metal Jama' had no nexus with the impugned issue of 'Ghat' entries and therefore we disregard the same as being irrelevant and out of context to the present case before us.

**7.16** Having regard to the above, we find that, the Ld. CIT(A) had undertaken an elaborate factual exercise and has given his well-reasoned findings for arriving at his conclusion that the entries in 'Ghat' ledger was relating to 'alloy' addition and not 'metal' addition. We thus concur with the Ld. CIT(A) that the entire case made out by the AO was factually erroneous and based on wrong assumption of facts and therefore the impugned addition was unsustainable.

**7.17** We are also not able to countenance the Ld. CIT, DR's emphasis on the statements given by Shri Kothari and Shri Khatri to support the action of the AO. Instead, we are in the agreement with the Ld. CIT(A) that their



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testimonies, have been shown by the assessee, to be based on wrong assumption of facts, which makes it unsafe to be relied upon, and as discussed above, the assessee has successfully rebutted the same with relevant documentary evidences. Hence, we hold in aforesaid factual matrix that, the AO had erred to draw adverse inference in the hands of the assessee solely based on an incorrect admission made by these persons on wrong assumption of fact/mistake of fact. Moreover, the Revenue was also not able to bring any contrary material on record to dislodge the factual matrix submitted by the assessee and show that, the testimonies of these persons had substance which would merit consideration. In the absence of the same, it would be neither prudent nor safe to rely on their statements to draw adverse view against assessee. In this context therefore, we concur with the following findings rendered by the Ld. CIT(A), which is reproduced hereunder:-

"..Firstly, the statements of the above persons are examined in detail. The AO had relied on the statement of Shri Rajendra Kothari dated 26.11.2020 which is also part of the assessment order. However, it is also noted from the assessment order that there is one more sworn statement recorded from Shri Rajendra Kothari on 30.11.2020, which is after four days from the initial statement recorded from him, which is also part of the assessment order itself. If both these statements are seen closely, it is noted that Shri Rajendra Kothari has changed his initial statement dated 26.11.2020 in the subsequent statement recorded on 30.11.2020. Shri Rajendra Kothari, in his initial statement had explained that M/s MJPL receive gold bars for making ornaments from the parties and it normally receives 975 grams of gold for making 1 kg of gold ornaments and they add alloy to make the ornaments and make 1 kg of ornaments with only 935 grams of gold and the remaining



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40 grams of gold is kind of profit for them and this 40 grams is credited into the GHAT account and he makes this entry by seeing yellow and white slips of the daily reports prepared by Shri Nikhil and Shri Tulsiram from 'Ghat Jama' and 'Ghat Naamae' columns. Whereas in the subsequent statement recorded on 30.11.2020, Shri Rajendra Kothari had stated that the gold ornaments are made with 91.6% purity and for making 1 kg of ornaments, M/s MJPL issues gold bar of 925 grams (92.5 %) to Karigars to make ornaments of 916 grams and the remaining 9 grams is the making charge for Karigars. When M/s MJPL sells this ornament for the rate equivalent to 940 grams (94%) and this ornament is sold for margin of 15 grams and these 15 grams is charged from the customers in the form of metal credit and the receipt side entries in GHAT ledger are the income of M/s MJPL. In the said statement only, Shri Rajendra Kothari had asked to ignore the issue side entries in the GHAT ledger. If both the statements are seen closely, it can be seen that Shri Rajendra Kothari is not clear about the nature of GHAT receipts entries made in J-Pack and he had explained the same transaction in two different manners. Further, if the said example is being taken, at the first instance, the profit of MJPL for making 1 kg of ornaments was arrived at 40 grams and in the second instance it is reduced to 15 grams and tried to explain that the same is entered as GHAT receipt in the GHAT ledger. Further, he had totally disregarded the entries in the issue side of GHAT ledger for the reason that there are no GHAT payments.

5.8.5. If the findings of the AO in the remand report on account of the entries made in the GHAT ledger for the purchase of gold bullion and manufacturing of gold ornaments is considered, the facts are entirely different from the statement of Shri Rajendra Kothari as above. In the verification carried out by the AO in the remand proceedings, he had concluded that the alloy is calculated on the basis of conversion of 24 carat bullion into 22 carat gold ornaments, the exact difference of the gold purity between 24 carat and 22 carat is calculated as the component of alloy and said alloy is added into the GHAT account. This proves without any doubt that the GHAT account is entered with only the quantity of alloy which is contrary to the statement given by Shri Rajendra Kothari..."

**7.18** Overall therefore, the specific findings rendered by the AO in his remand report acknowledging that, the entries in 'Ghat' ledger were that of alloy adjustments and not wastage gold, coupled with the verification exercise undertaken by the Ld. CIT(A) clearly disproved the testimonies of



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Shri Kothari & Shri Khatri making it unreliable. Hence, the reliance placed by the Revenue on the decision rendered in the case of B Kishore Kumar Vs CIT (52 taxmann.com 449) is found to be misplaced and factually distinguishable, as that decision turned on facts where the statement was consistent, credible, and corroborated with evidence, which as discussed in the foregoing, is absent in the present case. Instead, we find the reliance placed by the Ld. AR of the assessee Shri Anand on the decision of the Hon'ble jurisdictional High Court in the case of CIT v. S. Jayalakshmi Ammal (390 ITR 189)(Mad) to be of relevance, wherein it was held that, unless the statement recorded under Section 132(4) of the Act is corroborated by documentary evidence, such statement alone cannot be the sole basis for making additions in the assessment. The relevant findings of the Hon'ble High Court is as under:-

"19. While advertng to the above, we are of the considered view that, for deciding any issue, against the assessee, the Authorities under the Income Tax Act, 1961 have to consider, as to whether there is any corroborative material evidence. If there is no corroborating documentary evidence, then statement recorded under Section 132(4) of the Income Tax Act, 1961, alone should not be the basis, for arriving at any adverse decision against the assessee. If the authorities under the Income Tax Act, 1961, have to be conferred with the power, to be exercised, solely on the basis of a statement, then it may lead to an arbitrary exercise of such power. An order of assessment entails civil consequences. Therefore, under Judicial review, courts have to exercise due care and caution that no man is condemned, due to erroneous or arbitrary exercise of authority conferred.

20. In the case on hand, statement recorded on 29.12.1999 from the son of the assessee under Section 132(4) of the Act is not corroborated



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by any material document. Admittedly, Revenue has also not confronted the assessee, with the said statement of his son. If that be the case, it can be safely concluded that, there was no material documentary evidence, to substantiate and corroborate the statement of Mr.Natarajan, son of the assessee. If the assessee makes a statement under Section 132(4) of the Act, and if there are any incriminating documents found in his possession, then the case is different. On the contra, if mere statement made under Section 132(4) of the Act, without any corroborative material, has to be given credence, than it would lead to disastrous results. Considering the nature of the order of assessment, in the instant case characterised as undisclosed and on the facts and circumstances of the case, we are of the view that mere statement without there being any corroborative evidence, should not be treated as conclusive evidence against the maker of the statement.

21. In the light of our discussion, we are of the considered view that the Revenue has not made out a case for reversal of the orders impugned, on the grounds raised, and thus we hold that all the substantial questions of law, are answered in the negative against the Revenue, and in favour of the respondent/assessee."

**7.19** In the present case also, apart from the unsubstantiated statements of Shri Kothari and Shri Khatri, no independent corroborative material has been brought on record by the AO which would show that the receipt entries in 'Ghat' ledger comprised of 'metal' received by the assessee. Rather, the contemporaneous facts as discussed above, proves the contrary viz., the entries related to 'alloy' additions to the gold ornaments. Hence, having examined of the gamut of facts placed on record, we find that the 'Ghat Jama' entries only related to the quantities of alloy added for conversion of 24 carat bullion into 22 carat gold ornaments and does not involve any gold entries. We thus are entirely in



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concurrence with the following conclusive findings of the Ld. CIT(A) which is reproduced hereunder: -

"After examination and verification of the contents of available seized material in ANN/VD/RK/LS/S-1 to 15 for the period available (as reproduced above in Para 5.8.5) with GHAT and MC KHATA ledger maintained in J-Pack software, it can be concluded that:

(i) The GHAT account is entered with only the quantity of alloy added for conversion of 24 carat bullion into 22 carat gold ornaments and does not involve any gold.

(ii) The issue and receipt side of GHAT account is also verified from the daily report along with yellow and white slips available for limited period as brought out in the above paragraphs. On the basis of verification, it is found the GHAT entered in GHAT ledger is matching with the working in rough estimation slips and daily report for the available period. Further, it is also found that the appellant is maintaining the daily report along with yellow and white slips and on the basis of these slips only, the entries are made in GHAT account in J-Pack ledger. Without these daily reports and slips, it is impossible either for appellant or the AO to match and explain each and every entry in GHAT ledger. However, it is also found on verification that the entries in the GHAT ledger for the period where the materials are found and seized vide ANN/VD/RK/LS/S-1 to 15 are in the nature of alloy addition only. Further, it is also noted that these daily reports along with slips were either destroyed or not found during the course of search for the remaining period. Thus, on the basis of verification of available seized material and the GHAT ledger in J-Pack, it can be concluded beyond doubt that the GHAT account does not have any gold value in it.

(iii) The AO had relied on the statement of Shri Rajendra Kothari as the basis for arriving at the conclusion that GHAT account has the gold component, however, the same was found otherwise as observed in above paragraphs. Hence, the statement given by Shri Rajendra Kothari can only be considered as mere statement without any corroborative material to support and also it is contrary to the material evidence found and seized.

(iv) Further, the AO had also relied on the statement of Shri Thavisanantham who had developed the J-Pack software. On perusal of the said statement, it is noted that J-Pack software is used for recording



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the metal-based transactions, which is not available in Tally. However, he had also stated that some of the clients are using it for unaccounted cash and metal trading. This second part of statement of Shri Thavisanantham is also found to be correct in the case of the appellant with regard to recording unaccounted transactions w.r.t. the issue of unaccounted sales, BYAJ and VATAV income recorded in J-Pack. However, the AO cannot take shelter under this part of statement of Shri Thavisanantham in respect of GHAT, which is otherwise also found to be correct with the other part of his statement that it is primarily used for recording metal-based trading which is not available in Tally.

(v) Furthermore, the AO had also relied on the statement of Shri Suresh Khatri dated 04.12.2020, wherein he had stated that for manufacturing 1 kg of gold ornaments, 960 grams of gold bar is used, whereas in the process of adding alloy only 930 grams will be used and remaining 30 grams will be the wastage for him. Further, he has also stated that small portion of weights will be credited in the GHAT ledger and also admitted that 3764.109 kgs of gold received as per the GHAT ledger are of gold metal weight for FY 2016-17 to 2020-21. He had also claimed that there are GHAT outgo. On the basis of the findings of the AO in the remand report after verification carried out by him in the remand proceedings and also the verification carried out by me independently on the basis of seized material and ledgers of J-Pack and Tally, the facts are found otherwise. Thus, this statement of Shri Suresh Khatri is found to be not correct as per the contents of seized material and entries made in the books of accounts. Hence, it can be concluded that the above statement of Shri Suresh Khatri can only be considered as mere statement without any corroborative material to support and also it is contrary to the material evidence found and seized.

5.8.10. On the basis of above findings, I am of the opinion that the addition made on account of GHAT receipt for the respective years cannot be sustained."

**7.20** For the reasons set out above, we see no reason to interfere with the order of Ld. CIT(A) deleting the impugned addition across all the AYs 2017-18 to 2021-22. Hence, these grounds of the Revenue in all the AYs stands dismissed.



**8. Issue 2: Additions made on a/c of making charges (MC Khata)**

*Ground No. 1 of the Revenue's appeal for AYs 2017-18 to 2021-22*

**8.1** The facts in brief are that, the assessee being a wholesale manufacturer of gold ornaments, *inter alia* takes up orders from his customers to manufacture gold ornaments on job work basis, for which the customers pay making charges. According to AO, usually, the making charges rates are fixed based on the intricacies of the gold ornament designs and that in his view, Shri Khatri has been receiving making charges for gold ornaments in cash from his customers, for which he has been maintaining a ledger named "MC Khata" in the J-pack software. The AO is found to have quantified the alleged receipt of making charges in this "MC Khata" Ledger at Rs.136,34,23,245/- from FY 2016-17 to 2020-21.

**8.2** The AO thereafter observed that, the assessee and the group concerns, in aggregate had also incurred making charges in all these years, which amounted to Rs.181,20,03,679/- and that as per the statement of Shri Rajendra Kothari recorded u/s. 131 of the Act dated 26.11.2020, the entries in 'MC Khata' ledger was not towards the receipt of making charges but for the making charges which was paid through



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banking channels but received back in cash by the assessee group. The AO further observed that, Shri Khatri, the Director of the assessee, in his statement recorded u/s 132(4) of the Act had however sought time to explain this ledger. Relying on the statement of Shri Kothari, the AO is found to have show caused the assessee to justify the genuineness of the making charges paid through banking channel and explain as to why the same should not be disallowed. The assessee pointed out that the show cause was based on incorrect premise and also demonstrated that the entries in the J-Pack Software were not pertaining to making charges incurred by the assessee but related to the receipt of making charges from various parties through banking channel / RTGS. The assessee is found to have shown that all these entries in 'MC Khata' ledger were that of receipts (not payments) which were accounted and credited in the Profit & Loss Account of the respective years across the respective concerns of the assessee group. The assessee is noted to have submitted the entry-wise details in the 'MC KHATA' ledger of J-Pack software with that of the party-wise ledgers maintained in Tally software to correlate that the entries of amount received in 'MC KHATA' ledger was entirely accounted in the regular books of accounts of the assessee.

**8.3** Though the AO is found to have dropped his initial show cause that, the entries in 'MC Khata' Ledger related to unaccounted making charges



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payments which was based on the statement of Mr. Kothari, but the AO still treated the entries to be unaccounted for, by referring to one note book found in the course of search at Super Saravana Stores Group of companies, which was marked as ANN/SR/SSSLLP/B&D/1. According to AO, this note book contained details of cash received back by Super Saravana Stores from different persons on the account of bogus Making Charges which *inter alia* included the name of the assessee. Referring to the statement given by Shri A Julian, Manager of M/s Super Saravana Stores (Jewel) Super LLP, the AO held that, though these making charges were received by the assessee but they were paid back in cash to these customers and that Shri Khatri was providing accommodation entries to his customers. The AO accordingly treated the entries found in 'MC Khata' Ledger as unaccounted making charges received by the assessee and made addition(s) aggregating to Rs.136,34,23,245/- across AYs 2017-18 to 2021-22.

**8.4** On appeal, the Ld. CIT(A) is noted to have called for a remand report from the AO to ascertain the exact nature of the entries in the ledger 'MC Khata' maintained in J-Pack viz., whether it was in the nature of expenses paid by the assessee or income received by it. The AO is noted to have verified the claim of the assessee afresh and rendered his findings that the entries found in the 'MC Khata' Ledger of J-Pack software



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related to making charges earned by the assessee, all of which was accounted for in the books of accounts of the assessee and/or their group entities. The AO is noted to have examined and cross checked the same with the parties ledger in the books of accounts of MJPL, Mohanlal Jewellers (Prop Concern) and MJCPL and found the same to be in order. Though having observed so, the AO asserted that, an entry was found in one notebook seized from the premises of M/s New Saravana Stores Super LLP, as discussed in the assessment order, wherein it was found that the customer had received back cash from the assessee in lieu of making charges paid to the assessee. Hence, referring to the same, the AO wanted the Ld. CIT(A) to sustain the addition.

**8.5** After considering this remand report, the Ld. CIT(A) is found to have held that, the making charges entered in 'MC Khata' ledger are not in the nature of expenses booked by the assessee, instead, it is in the nature of income received for manufacturing of gold ornaments on job-work basis, which, as admitted by the AO, was already accounted in the books of accounts of the assessee and offered to tax in the respective years. and therefore, according to Ld. CIT(A), no further addition on this account was warranted. The Ld. CIT(A) is noted to have also examined the statements of Shri Rajendra Kothari and Shri A. Julian of M/s Super Saravana Stores (Jewel) Super LLP and found the same to be factually



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incorrect. With these observations, the Ld. CIT(A) is noted to have deleted the impugned addition. Now, the Revenue is in appeal before us.

**8.6** The Ld. CIT, DR appearing for the Revenue primarily relied on the note book found in the course of search at the premises of M/s Super Saravana Stores (Jewel) Super LLP which according to her suggested that the assessee was paying cash in lieu of making charges income received from the customers, to justify the impugned addition. Per contra, the Ld. AR relied upon the verification exercise undertaken by the AO in his remand report and also the findings rendered by the Ld. CIT(A).

**8.7** Heard both the parties. From the facts as narrated in the foregoing, it is observed that the initial case sought to be made out by the AO was that the entries found in 'MC Khata' Ledger represented unaccounted making charges payments made by the assessee, as Shri Kothari had averred so in his statement recorded u/s 132(4) of the Act. However, after considering the submissions put forth by the assessee in the course of assessment, we find that, the AO himself disregarded the statement of Shri Kothari as it was found to be rebuttable on facts. Though the AO agreed with the assessee that the entries found in 'MC Khata' ledger represented receipt of making charges from customers, but he treated the same to be unaccounted income of the assessee.



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**8.8** Before the Ld. CIT(A), the assessee had shown that the making charges (net) earned from the customers had already been recorded in the books of account and offered to tax. The year-wise reconciliation of gross and net figures furnished before the Ld. CIT(A), also taken note of by us, is as under:-

FY 2016-17

<b>Entity</b>	<b>Gross Receipts (₹)</b>	<b>Net Receipts (₹)</b>
MJPL	16,53,21,918	8,14,17,869
Mohanlal Jewellers (Prop. Concern)	13,91,37,035	5,00,38,778
Mohanlal Jewellers Chennai Pvt. Ltd.	2,59,15,185	1,46,31,971
<b>Total</b>	<b>33,03,74,138</b>	<b>14,97,83,013</b>

FY 2017-18

<b>Entity</b>	<b>Gross Receipts (₹)</b>	<b>Net Receipts (₹)</b>
MJPL	34,61,69,838	10,03,77,671
MJPL HYD	1,01,83,791	64,94,332
Mohanlal Jewellers (Prop. Concern)	9,44,19,580	2,94,09,348
Mohanlal Exports (Prop. Concern)	45,59,908	17,88,029
<b>Total</b>	<b>45,53,33,117</b>	<b>13,80,69,380</b>

FY 2018-19

<b>Entity</b>	<b>Gross Receipts (₹)</b>	<b>Net Receipts (₹)</b>
MJPL	33,42,52,831	16,45,78,603
MJPL HYD	29,07,312	20,54,826
<b>Total</b>	<b>33,71,60,143</b>	<b>16,66,33,429</b>

FY 2019-20

<b>Entity</b>	<b>Gross Receipts (₹)</b>	<b>Net Receipts (₹)</b>
MJPL	31,32,87,048	17,55,49,384
<b>Total</b>	<b>31,32,87,048</b>	<b>17,55,49,384</b>

FY 2020-21

<b>Entity</b>	<b>Gross Receipts (₹)</b>	<b>Net Receipts (₹)</b>
MJPL	15,75,66,963	8,44,79,471
MJCPL	95,92,855	68,43,546
<b>Total</b>	<b>16,70,89,818</b>	<b>9,13,23,017</b>



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**8.9** The assessee is noted to have furnished the complete ledgers, profit & loss account evidencing the credit of making charges and computation of income to show that the same was also offered to tax. It is seen that, the AO had also verified and acknowledged these contemporaneous facts in his remand report and had admitted that, the entries found in 'MC Khata' ledger fully reconciled with the books of accounts of the entities belonging to the assessee group and that they had offered the same tax in their respective ITRs for the respective years. The relevant verification observations made in the remand report in AY 2017-18 [which is found to be similar in subsequent AYs 2018-19 to 2021-22 as well], is noted to be as under:-

"In the assessment order a sum of Rs 20,44,84,681 was added as unaccounted income on account of making charges for the AY 2017-18. It is seen that this is the total amount of MC Khata ledger in the JPACK software for the AY 2017-18. The assessee submitted that they have admitted the making charges (Net figure) in their books of accounts and offered to tax as under :-

Ledger of	Gross Receipts	Net Receipts
MJPL	16,53,21,918	8,14,17,869
Mohanlal Jewellers ( Prop Concern)	13,91,37,035	5,00,38,778
Mohanlal Jewellers Chennai P Ltd	2,59,15,185	1,46,31,971
Total	33,03,74,138	14,97,83,013

In order to verify the claim of the assessee that the entries relating to making charges found in the JPACK software are accounted for in their books of accounts, the same were examined and cross checked. The entries found in the JPACK ledger (M C Khata) were cross checked with



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the parties ledger in the books of accounts of MJPL, Mohanlal Jewellers (Prop Concern) and MJCPL.

On a detailed examination of all entries found in the MC KHATA ledger as extracted from the JPACK software, it is seen that they are found reflected in the parties ledger of MJPL, Mohanlal Jewellers (Prop Concern) and MJCPL. The same is enclosed as Annexure VII.

The Profit and Loss Account of MJPL, and Mohanlal Jewellers (Prop Concern) reflecting the receipt of Making Charges are enclosed in Annexure VIII

	Making Charges Receipt	Making Charges paid	Net Making Charges
Mohanlal Jewellers P Ltd	16,53,21,918	8,39,04,049	8,14,17,869
Mohanlal Jewellers (Prop Concern)	13,91,37,035	8,90,98,257	5,00,38,778

It is seen that the Making charges as reflected in the MC KHATA ledger as extracted from the JPACK software is found to be reflected in the parties ledger in the books of accounts of MJPL, and Mohanlal Jewellers (Prop Concern). The closing balance of these parties ledger are found to be reflected in the Making charges ledger, the total of which is found to be reflected in the profit and loss account as receipt."

(emphasis supplied)

**8.10** We note that, the Ld. CIT(A) had taken specific cognizance of the AO's verification exercise wherein the AO had stated that, each and every entry recorded in the 'MC KHATA' ledger was duly reflected in the books of accounts and offered as an income of the assessee and having regard to the same, deleted the impugned addition, as it had already been offered and assessed to tax. The relevant findings of the Ld. CIT(A) taken note of by us, is as follows:-



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"5.9.4. The assessment order, remand report and the rejoinder submitted by the appellant are considered. During the remand proceedings, the AO had verified the claim of the appellant and given his findings in Para 6.4.3 of the remand report that he had verified the entries found in the MC KHATA ledger in J-Pack and found that they are reflected in party's ledger in the books of accounts of the appellant and MJCPL. He had also enclosed the details of both MC KHATA Ledger and party's ledgers from Tally accounts in Annexure-VII along with remand report. Further, he had also verified the P & L account of the appellant and MJCPL and found that the making charges recorded as received in the MC KHATA ledger are already offered in the return of income. He had also found that the closing balance of these parties are fully reflected in the P & L account of the appellant as a receipt. Thus, the AO had verified each and every entry of the MC KHATA ledger in J-Pack with the books of account maintained and the P & L account of the appellant and found that it is fully offered as an income in the hands of the appellant. In addition, the AO had also verified and found that against the making charges received of Rs.16,53,21,918/- for the year under consideration, the appellant had debited Rs.8,39,04,049/- as making charges paid and offered net income from making charges of Rs.8,14,17,869/- in the hands of appellant. Similarly, Rs.5,00,38,778/- was offered as net income from making charges in the hands of M/s Mohanlal Jewellers, Proprietary concern of Shri Mohanlal Khatri. However, after coming to the conclusion that the entries made in the MC KHATA ledger are in fact making charges received by the appellant and recorded in the books of accounts, the AO had also relied on the statement of Shri A Julian of M/s Super Saravana Stores (Jewel) Super LLP dated 01.12.2021 and stated that the addition made by the Assessing Officer is on account of receiving back cash for the making charges paid to the customers and he has sought the addition to be sustained.

...To verify the statement of Shri Rajendra Kothari with respect to the said date, the MC KHATA ledger and the party's ledger along with invoices raised for making charges were called for. On examination of the same, it is found that the amount of Rs.13,99,128/- was received for six making charge invoices raised by the appellant for manufacturing of gold ornaments on job-work basis for M/s Prince Jewellery, Chennai which is duly accounted in the books of accounts of the appellant. The relevant party's ledger from J-Pack, Tally and MC KHATA ledger are reproduced asunder:

Party Ledger as per J-Pack



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13/03/2019	METAL ISSUE					1093.690	94.53	1033.840	
17/03/2019	CASH TALLY								
19/03/2019	CASH					19113.32			
19/03/2019	RATE PURCHASE	549.280	105.00	576.740					19113.32
20/03/2019	RATE PURCHASE	408.290	104.00	424.620					13991.28
20/03/2019	METAL RECEIPT	131.880	95.22	125.580					
20/03/2019	METAL ISSUE					771.860	95.13	734.250	
21/03/2019	CASH MC					3668.70			
21/03/2019	CASH MC					5592.30			
21/03/2019	CASH MC					1596.25			
21/03/2019	CASH MC					1027.44			
21/03/2019	CASH MC					1042.44			
21/03/2019	CASH MC					1064.15			
24/03/2019	RATE PURCHASE	11.010	95.00	10.460					346.75
24/03/2019	CASH TALLY								
28/03/2019	METAL ISSUE					62.290	95.49	59.480	
31/03/2019	CASH TALLY								
	<b>Total</b>	54538.530		52008.860	87782.63	56604.170		54065.240	88129.38
	<b>Balance</b>					2065.640	99.55	2056.380	346.75

### MC Khata

MC KHATA									
Date	Details	Receipt				Issued			
		Gross	Touch	Net Wt	Amount	Gross	Touch	Net Wt	Amount
21/03/2019	Opening Balance								374809.49
21/03/2019	CASH ANANDRAJ								3095.79
21/03/2019	CASH ANANDRAJ								2215.94
21/03/2019	CASH PRINCE								3668.70
21/03/2019	CASH PRINCE								5592.30
21/03/2019	CASH PRINCE								1596.25
21/03/2019	CASH PRINCE								1027.44
21/03/2019	CASH PRINCE								1042.44
21/03/2019	CASH PRINCE								1064.15
	<b>Total</b>								394112.50
	<b>Balance</b>								394112.50

### Party Ledger as per Tally



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Mohanlal Jewellers Pvt. Ltd.						
Prince Gold and Diamonds India Pvt Ltd (MC)						
Ledger Account						
1-Apr-2018 to 31-Mar-2019						
Date	Particulars	Vch Type	Vch No.	Debit	Credit	Page 1
1-4-2018	Cr Opening Balance			26,75,000.00		
17-4-2018	Dr State Bank of India - 31798655471 (as per details)	Bank Receipt	644599		26,75,000.00	
24-5-2018	Cr MC for Customer - Intra State	MC/104/18-19		1,51,412.80	1,51,412.80	
	Assorted Gold Jewellery (J)	70.00/Gms		1,51,412.80		
	Output CGST 2.5%			3,785.32	3,785.32	
	Output SGST 2.5%			3,785.32		
	Rounding Off			0.44		
25-5-2018	Cr MC for Customer - Intra State	MC/106/18-19		2,72,543.00		
	Assorted Gold Jewellery (J)	80.00/Gms		2,59,564.80		
	Output CGST 2.5%			6,489.12	6,489.12	
	Output SGST 2.5%			6,489.12		
	Rounding Off			0.04		
11-6-2018	Cr MC for Customer - Intra State	MC/136/18-19		2,55,509.00		
	Assorted Gold Jewellery (J)	75.00/Gms		2,43,342.00		
	Output CGST 2.5%			6,083.95	6,083.95	
	Output SGST 2.5%			6,083.95		
	Rounding Off			0.10		
13-6-2018	Dr HDFC Bank Ltd - CG A/c No.3004046000335	Bank Receipt			6,73,949.00	
Dr TDS Receivable - A.Y. 2019-20	Journal	Prince Gold and Diamonds India Pvt Ltd (MC)			13,086.00	
20-6-2018	Cr MC for Customer - Intra State	MC/174/18-19		1,81,695.00		
	Assorted Gold Jewellery (J)	80.00/Gms		1,73,043.20		
	Output CGST 2.5%			4,326.08	4,326.08	
	Output SGST 2.5%			4,326.08		
	Rounding Off			0.36		
29-6-2018	Cr MC for Customer - Intra State	MC/180/18-19		2,04,407.00		
	Assorted Gold Jewellery (J)	90.00/Gms		1,94,673.60		
	Output CGST 2.5%			4,866.84	4,866.84	
	Output SGST 2.5%			4,866.84		
	Rounding Off			0.28		
11-7-2018	Dr State Bank of India - 31798655471	Bank Receipt	CHQ NO - 949059		3,78,749.00	
Dr TDS Receivable - A.Y. 2019-20	Journal	PRINCE			7,354.00	
19-7-2018	Cr MC for Customer - Intra State	MC/232/18-19		2,15,763.00		
	Assorted Gold Jewellery (J)	95.00/Gms		2,05,489.00		
	Output CGST 2.5%			5,137.23	5,137.23	
	Output SGST 2.5%			5,137.23		
	Rounding Off			0.46		
25-7-2018	Cr MC for Customer - Intra State	MC/241/18-19		1,70,339.00		
	Assorted Gold Jewellery (J)	75.00/Gms		1,62,226.00		
	Output CGST 2.5%			4,055.70	4,055.70	
	Output SGST 2.5%			4,055.70		
	Rounding Off			0.00		
	Carried Over			41,35,135.00	37,49,033.00	

Mohanlal Jewellers Pvt. Ltd.						
Prince Gold and Diamonds India Pvt Ltd (MC) Ledger Account : 1-Apr-2018 to 31-Mar-2019						
Date	Particulars	Vch Type	Vch No.	Debit	Credit	Page 3
	Brought Forward			64,99,907.00	56,89,230.00	
15-1-2019	Cr MC for Customer - Intra State	MC/84/18-19		6,17,172.00		
	Assorted Gold Jewellery (J)	105.00/Gms		5,87,763.00		
	Output CGST 2.5%			14,694.58	14,694.58	
	Output SGST 2.5%			14,694.58		
	Rounding Off			0.16		
	Cr MC for Customer - Intra State	MC/844/18-19		5,79,049.00		
	Assorted Gold Jewellery (J)	98.00/Gms		5,51,475.00		
	Output CGST 2.5%			13,766.88	13,766.88	
	Output SGST 2.5%			13,766.88		
	Rounding Off			0.24		
18-1-2019	Cr MC for Customer - Intra State	MC/858/18-19		3,85,214.00		
	Assorted Gold Jewellery (J)	100.00/Gms		3,66,870.00		
	Output CGST 2.5%			9,174.75	9,174.75	
	Output SGST 2.5%			9,174.75		
	Rounding Off			0.50		
19-1-2019	Cr MC for Customer - Intra State	MC/871/18-19		5,07,192.00		
	Assorted Gold Jewellery (J)	97.00/Gms		5,09,230.00		
	Output CGST 2.5%			13,989.75	13,989.75	
	Output SGST 2.5%			13,989.75		
	Rounding Off			0.50		
25-1-2019	Cr MC for Customer - Intra State	MC/903/18-19		1,67,606.00		
	Assorted Gold Jewellery (J)	98.00/Gms		1,59,625.00		
	Output CGST 2.5%			3,980.83	3,980.83	
	Output SGST 2.5%			3,980.83		
	Rounding Off			0.26		
5-2-2019	Cr MC for Customer - Intra State	MC/953/18-19		1,07,881.00		
	Assorted Gold Jewellery (J)	95.00/Gms		1,02,744.00		
	Output CGST 2.5%			2,568.60	2,568.60	
	Output SGST 2.5%			2,568.60		
	Rounding Off			0.20		
22-2-2019	Cr MC for Customer - Intra State	MC/1065/18-19		1,09,455.00		
	Assorted Gold Jewellery (J)	96.00/Gms		1,04,244.00		
	Output CGST 2.5%			2,606.10	2,606.10	
	Output SGST 2.5%			2,606.10		
	Rounding Off			0.20		
7-3-2019	Cr MC for Customer - Intra State	MC/1177/18-19		1,11,736.00		
	Assorted Gold Jewellery (J)	98.00/Gms		1,06,415.26		
	Output CGST 2.5%			2,660.38	2,660.38	
	Output SGST 2.5%			2,660.38		
	Rounding Off			0.02		
19-3-2019	Dr State Bank of India - 31798655471	Bank Receipt	581284		19,68,670.00	
Dr TDS Receivable - A.Y. 2019-20	Journal	Prince Gold and Diamonds India Pvt Ltd (MC)			30,220.00	
21-3-2019	Dr State Bank of India - 31798655471	Bank Receipt	581304		14,41,103.00	
Dr TDS Receivable - A.Y. 2019-20	Journal	Prince Gold and Diamonds India Pvt Ltd (MC)			27,982.00	
				91,65,213.00	91,65,213.00	



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On perusal of the MC KHATA ledger in J-Pack (as reproduced above), it is noted that on 21.03.2019, there are six entries in the name of 'PRINCE' for Rs.13,99,128/- and the same six entries were also entered in the party's ledger in J-Pack vide entry dated 21.03.2019 as the amount received. Further, the party's ledger in the Tally account was also debited by six entries for the period of 18.01.2019 to 07.03.2019 as six entries for each invoice raised and the total amount received through bank on 21.03.2019 of Rs.14,41,103/-, which includes the Making Charges and GST, was also credited in the party's ledger maintained in Tally. Thus, it shows that the appellant has raised invoices for manufacturing of gold ornaments on job-work for M/s Prince Jewellery from 18.01.2019 to 07.03.2019 and duly entered in the party ledger in the books of accounts maintained in Tally and considered it as making charges receivable from M/s Prince Jewellery. After actual receipt of invoice amount through bank on 21.03.2019, first the party ledger in J-Pack is credited with six entries for Rs.13,99,128/- on 21.03.2019 and then the MC KHATA ledger in J-Pack is debited by the same amount on the same date. It is also noted that the 'PRINCE' ledger account in J-Pack is a running account maintained by the appellant which contains both debit and credit of metal on a continuous basis during the entire year. When the gold ornaments are issued to M/s Prince Jewellery, the debit entries in the party's ledger are made by debiting with equivalent weight of 91.66% ornament and also adding additional metal weight equivalent to that of making charges payable by the party for job work done by the appellant. In other words, whenever the 22-carat gold ornaments are issued by the appellant to the party, M/s Prince Jewellery, the appellant debits the gold equivalent to that of making charges in the party's ledger in J-Pack at the time of delivery of ornaments to the party. However, when the making charges are received by way of payment through banking channel from the said party, the gold equivalent to the amount received in bank account is duly credited in the same party's ledger account in J-Pack, otherwise, it will be a double payment by the party towards making charges which no customer will allow to happen. In this case of M/s Prince Jewellery, the appellant had given credit of 424.620 grams equivalent to Rs.13,99,128/- in the same party's ledger account vide entry dated 20.03.2019 which is equivalent amount of prevailing gold rate as on that date. Thus, it can be stated that the making charges included as metal weight at the time of issue of gold ornaments by the appellant is duly reverted back once the same is paid through banking channel with equivalent amount of metal in the party's ledger by way of crediting their account. Since, it is running account, there cannot be one to one matching of metal receipt and issued. However, on verification of the J-Pack ledgers and Tally account, both are matching. On the basis of examination and findings as above, I am of the opinion that the statement given by Shri Rajendra Kothari explaining the transactions of Prince Jewellery with the appellant is contrary to the facts appearing from the seized material and the books of accounts.

5.9.6. Further, the AO had also relied on the statement of Shri A Julian of M/s. Super Saravana Stores (Jewel) Super LLP and stated that there is a receipt of cash back by M/s Super Saravana Stores (Jewel) Super LLP on account of making charges paid by them to the appellant and he has sought the same addition to be sustained. In this regard, the MC KHATA ledger, party's ledger in



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J-Pack and party's ledger accounts in Tally are verified. On verification of the same, it is found that the findings are exactly the same as that of M/s Prince Jewellery which has been discussed in above paragraph. The relevant copies of the ledgers from J-Pack and Tally are reproduced as under:

Party ledger as per J-Pack;-

SSS TNAGAR									
Date	Details	Receipt				Issued			
		Gross	Touch	Net Wt	Amount	Gross	Touch	Net Wt	Amount
01/04/2019	Opening Balance					8.540	95.90	8.190	
01/04/2019	RATE PURCHASE	482.920	95.00	458.770					15084.51
01/04/2019	CASH MC				15084.51				
03/04/2019	METAL ISSUE					42.450	94.49	40.110	
04/04/2019	METAL ISSUE					117.740	94.33	111.070	
06/04/2019	METAL RECEIPT	97.650	94.00	91.790					
19/04/2019	METAL ISSUE MAHARAJA					70.510	95.32	67.210	
02/05/2019	METAL RECEIPT	141.550	95.20	134.750					
13/05/2019	METAL ISSUE					32.520	96.59	31.410	
21/05/2019	METAL ISSUE					14.170	95.48	13.530	
21/05/2019	METAL ISSUE					450.360	94.88	427.320	
27/05/2019	METAL ISSUE					126.150	96.00	121.100	
11/06/2019	METAL RECEIPT NIL	140.320	95.94	134.630					
15/06/2019	CASH MC				5283.14				
18/06/2019	SALES								5283.49
18/06/2019	CASH NIL				0.35				
01/07/2019	METAL ISSUE					2786.780	96.25	2682.390	
03/07/2019	METAL RECEIPT	2786.780	96.25	2682.390					
03/07/2019	METAL ISSUE					1071.080	96.90	1037.850	
08/07/2019	METAL RECEIPT BILL MJPL	1071.080	96.90	1037.850					
01/08/2019	SALES WATCH								618.30
01/08/2019	METAL ISSUE					3523.350	95.09	3350.250	
02/08/2019	CASH CASH NIL				618.30				
02/08/2019	METAL RECEIPT NIL	3523.350	95.09	3350.250					
12/08/2019	METAL ISSUE					11.880	93.94	11.160	
20/08/2019	METAL ISSUE					12.160	94.00	11.430	
22/09/2019	METAL ISSUE					2214.140	94.21	2086.020	
24/09/2019	METAL RECEIPT	2238.180	94.21	2108.610					
16/10/2019	SALES WATCH								22.75
16/10/2019	METAL ISSUE					23.250	97.98	22.780	
25/10/2019	CASH CASH NIL				22.75				
25/10/2019	METAL RECEIPT	23.250	96.00	22.320					



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MC Khata

MC KHATA									
Date	Details	Receipt				Issued			
		Gross	Touch	Net Wt	Amount	Gross	Touch	Net Wt	Amount
01/04/2019	CASH DRV								23436.00
01/04/2019	CASH SSS PORUR								15084.51
01/04/2019	CASH OKJ								17576.49
	<b>Total</b>								56097.00
	<b>Balance</b>								56097.00

Party Ledger as per Tally

Mohanlal Jewellers Pvt. Ltd.									
Old No.121 N.S.C.Bose Road, Sowcarpet Chennai - 600001 CIN: U28999TN2009PTC071334									
Saravana Stores (Jewel) Super LLP- Mc									
Ledger Account									
No.106, Ground Floor,Mount Poonamallee Road, Porur, Chennai - 600 116 FAN NO.ADMF8656GJ									
1-Apr-2018 to 31-Mar-2019									
Date	Particulars	Vch Type	Vch No.	Debit	Credit	Page 1			
5-1-2019	To (as per details)		MC/798/18-19	5,76,002.00					
	MC for Customer - Intra State	5,48,573.00 Cr							
	Assorted Gold Jewellery (J) 5,567.680 Gms	98.00/Gms		5,48,573.00					
	Output CGST 2.5%	13,714.33 Cr							
	Output SGST 2.5%	13,714.33 Cr							
	Rounding Off	0.34 Cr							
6-1-2019	To (as per details)		MC/800/18-19	5,82,789.00					
	MC for Customer - Intra State	5,55,037.00 Cr							
	Assorted Gold Jewellery (J) 5,863.640 Gms	98.00/Gms		5,55,037.00					
	Output CGST 2.5%	13,875.93 Cr							
	Output SGST 2.5%	13,875.93 Cr							
	Rounding Off	0.14 Cr							
28-1-2019	To (as per details)		MC/919/18-19	4,25,083.00					
	MC for Customer - Intra State	4,04,841.00 Cr							
	Assorted Gold Jewellery (J) 4,131.030 Gms	98.00/Gms		4,04,841.00					
	Output CGST 2.5%	10,121.03 Cr							
	Output SGST 2.5%	10,121.03 Cr							
	Rounding Off	0.06 Dr							
22-2-2019	To (as per details)		MC/1077/18-19	5,54,730.00					
	MC for Customer - Intra State	5,28,314.00 Cr							
	Assorted Gold Jewellery (J) 5,870.160 Gms	90.00/Gms		5,28,314.00					
	Output CGST 2.5%	13,207.85 Cr							
	Output SGST 2.5%	13,207.85 Cr							
	Rounding Off	0.30 Cr							
12-3-2019	By HDFC Bank Ltd - CC A/c.No.00040460000335	Bank Receipt	TRANSFER		5,65,031.00				
	By TDS Receivable - A.Y. 2019-20	Journal	SSJ SUPER LLC-MC		10,971.00				
26-3-2019	By HDFC Bank Ltd - CC A/c.No.00040460000335	Bank Receipt	TRANSFER		9,88,674.00				
	By TDS Receivable - A.Y. 2019-20	Journal	SSJ SUPER LLC-MC		19,198.00				
31-3-2019	By TDS Receivable - A.Y. 2019-20	Office Journal	2748		10,566.00				
				21,38,604.00	15,94,440.00				
	By Closing Balance				5,44,164.00				
				21,38,604.00	21,38,604.00				

On perusal of the above, it is noted that the amount of Rs.5,48,573/-, Rs.5,55,037/-and Rs.4,04,841/- which was recorded in the small notebook seized from the search

in the case of M/s Super Saravana Stores (Jewel) Super LLP are appearing in the MC KHATA ledger, party's ledger in J-Pack and the



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ledger account in Tally. The same amounts are also offered as an income of the appellant, which is already subjected to tax.

5.9.7. On the basis of the above observations and findings, it can be concluded that the making charges entered in MC KHATA ledger are not in the nature of expenses booked by the appellant, instead, it is in the nature of income received for manufacturing of gold ornaments on job-work basis, which is already accounted in the books of accounts of the appellant and offered to tax in the respective years. The AO had also verified each and every entry recorded in the MC KHATA ledger in the remand proceedings and found that all the entries are duly reflected in the books of accounts and offered as an income of the appellant in the ITR filed. However, the AO had relied on the statement of Shri Rajendra Kothari and Shri A. Julian of M/s Super Saravana Stores (Jewel) Super LLP, which was also found to be incorrect as per the detailed discussion in the above paragraphs. Hence, I am of the opinion that the addition of Rs.20,44,84,681/- made by the AO on account of entries made in MCKHATA ledger account in J-Pack is to be deleted. Accordingly, these grounds raised by the appellant are allowed.”

**8.11** The Ld. CIT, DR appearing for the Revenue was unable to pin point any factual infirmity in the above findings of the Ld. CIT(A) nor was she able to controvert the remarks given by the AO in his remand report wherein he himself had accepted that the entries in the 'MC Khata' ledger are duly reflected in the books of account of the assessee and the corresponding amounts have already been offered to tax. According to us, when it is not in dispute that the impugned sum has already been credited and offered to tax by the assessee, the case sought to be made out by the Revenue for sustaining the addition(s) being impugned before us has no legs to stand on, as it would amount to double addition of the same amount, which is impermissible in law.



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**8.12** In spite of the above admitted factual matrix, the Ld. CIT, DR still supported the order of the AO by relying on the statement recorded from Shri Julian of M/s Super Saravana Stores (Jewel) Super LLP who had allegedly stated that, the making charges paid by them was received back in cash. We however are unable to comprehend as to how does this statement is of any assistance to the Revenue to justify the impugned addition which is in dispute before us. Admittedly, the assessee has already credited the making charge received inter alia from M/s Super Saravana Stores (Jewel) Super LLP to their P&L A/c and offered the same to tax and therefore any further addition on this same count would evidently tantamount to double addition.

**8.13** There is also merit in the Ld. AR's submission that, if the statement of Shri Julian had any substance, then corresponding entry of cash payment back to M/s Super Saravana Stores (Jewel) Super LLP would have been found in the 'J-Pack Software', as by Revenue's own admission contained record of both accounted and unaccounted transactions of the assessee. It is seen that, the Ld. CIT(A) had verified this aspect and found that the amounts of Rs.5,48,573/-, Rs.5,55,037/- and Rs.4,04,841/- which appeared in the seized note-book of Saravana Stores was also reflected in the MC Khata ledger in J-Pack, the party's ledger in J-Pack, and the Tally ledger account of Saravana Stores and that these



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amounts were already recorded as part of the assessee's making charges income and were duly offered to tax in the relevant return of income. We note that, there was no entry found in J-Pack software which suggested that this amount was paid back in cash. Hence, on these facts, we uphold the Ld. CIT(A)'s findings treating the statement of Shri Julian was unreliable.

**8.14** We also agree with the alternate plea of the Ld. AR that the entry of a miniscule value of Rs.20.36 lacs found in the premises of M/s Super Saravana Stores (Jewel) Super LLP cannot be the basis to disbelieve that the entire making charges of Rs.135.32 crores received and credited in P&L A/c across all the years was not genuine. We find merit in the assessee's submission that the hypothetical extrapolation sought to be made by the Revenue on the basis of this entry found at the premises of M/s Sarvana Stores (0.1% of the total value of making charges) was per-se arbitrary and un-reasonable. Further, it is an admitted fact that the assessee is in the business of rendering job work services for its customers and therefore the making charges earned by it cannot arbitrarily be disbelieved as non-genuine, particularly when no such contrary material or evidence was found or seized in the course of search. Rather, the verification exercise done by the AO & Ld. CIT(A) is found to support the assessee's case.



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**8.15** Moreover, assuming for a moment that there is some credence in the statement of Shri Julian, then by that logic, the receipt of making charges from M/s Super Saravana Stores (Jewel) Super LLP as credited in the P&L A/c is to be treated as not genuine, then such income ought to have been excluded from the computation of the assessable income, which has not been done by the Revenue. Hence, the action of the Revenue itself is found to be contrary to the statement of Shri Julian, which they seek to rely upon. According to us therefore, the statement of Shri Julian is of no assistance to the Revenue.

**8.16** For the above set out reasons therefore, we therefore uphold the order of Ld. CIT(A) deleting the addition(s) made on account of making charges, as it was already accounted in the regular books of accounts and assessed to tax as well. We thus dismiss these grounds of the Revenue.

### **9. Issue 3 &4 : Additions made on a/c of 'Byaj' & 'Vatav'**

*Ground Nos. 1 to 5 of the Assessee's appeal for AYs 2017-18 to 2021-22*

**9.1** It is noted that, these two issues are inter-linked and the arguments raised by both the parties were also common and therefore they are being taken up together. Briefly stated, the facts relating to this issue are that, in the course of search, one ledger titled 'Byaj' was found in J-Pack software. It is understood that, the term 'interest' in the Hindi



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language is pronounced as 'Byaj'. According to the Investigating authorities, the entries in this ledger denoted the interest received either in the form of cash or metal (gold) from customers for delayed payment of their dues. The AO noted that, Shri Khatri in his statement recorded u/s 132(4) of the Act dated 05.01.2021 had agreed to offer the said interest income to tax. After examining the ledgers, the AO noted that, the receipt entries could be classified into two categories viz., cash receipts and metal receipts. So far as the metal receipts is concerned, the AO is noted to have converted the entries recorded in grams into rupees by adopting per gram rate of Rs.4881/- prevailing as on 10.11.2020. The AO accordingly calculated the interest income recorded in the 'Byaj' Ledger as follows:-

AY	Interest received in metal (in grams)	Equivalent value of gold(@Rs.4881 per gram as on 10.11.2020)	Interest in Cash (in Rs.)	Total Interest (in Rs.)
2017-18	6030	2,94,32,430	7,45,40,039	10,39,72,469
2018-19	5784.8	2,835,609	1,39,07,037	4,21,42,646
2019-20	7951.3	3,88,10,295	2,32,85,519	6,20,95,814
2020-21	8397.4	4,09,87,709	6,02,51,200	10,12,38,910
2021-22	0	0	7,80,72,778	7,80,72,778
TOTAL	28163.5	13,74,66,043	25,00,56,573	38,75,22,617

**9.2** In addition to the above, the AO also found one ledger titled 'Vatav' in the same J-Pack Software, whose colloquial meaning was commission, rate differences etc. in the assessee's line of business. According to the



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AO, both Shri Kothari and Shri Khatri had admitted that, the entries in this ledger was also unaccounted for and therefore the AO quantified the 'Vatav' income from this ledger, which is as follows:-

AY	Vatav (in Rs.)
2017-18	7,68,38,850
2018-19	8,80,42,489
2019-20	7,04,04,429
2020-21	8,62,761
2021-22	1,45,54,166
TOTAL	25,07,02,695

**9.3** According to the AO, the above 'byaj' & 'vatav' receipts had not been offered to tax and therefore added the same to the total income of the assessee across all the years. Aggrieved by the order of the AO, the assessee preferred appeal before the Ld. CIT(A).

**9.4** Before the Ld. CIT(A), the assessee is noted to have claimed that, while calculating the 'byaj' income, the AO had erroneously included the squared off entries as interest receipts which were routed through 'PP' Account and sought exclusion of the same. The assessee further pointed out that, there were several debits to the account of one Shri Laxmi Pandy, expressed in gold weight (grams), but they were only book entries, and no such interest was actually received in gold or cash from this person. The assessee thus prayed for deletion of the 'byaj' amount reflected in Shri Pandy's account as well. The Ld. CIT(A) is noted to have called for a remand report on this issue from the AO. After considering the facts of the case and the remand report, the Ld. CIT(A) is noted to have



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held that the assessee was unable to substantiate that the entries routed through 'PP' A/c were in the nature of squared off entries. So far as the debits appearing in the account of Laxmi Pondy is concerned, the Ld. CIT(A) is noted to have analyzed all the ledger entries and found that though there were debit entries in her account in all the years but the interest in form of gold was received only in FYs 2017-18 & 2018-19 being 3,994.520 grams and 958.750 grams respectively. The Ld. CIT(A) accordingly directed that, the interest is chargeable to tax in the hands of the assessee only to the extent of value of the gold received from the said party and the remaining balance amount debited in Pondy's account was directed to be deleted from the total interest income. The Ld. CIT(A) also held that, the AO was unjustified in adopting uniform rate of Rs.4,881/gm prevailing as on 10.11.2020 for valuing the interest income in form of metal receipts in all the years and directed that the market rates as prevailing in the respective years be adopted. In light of these directions issued by the Ld. CIT(A), the revised quantum of 'byaj' income stood as follows:-

AY	Interest computed by AO(inRs.)	Interest computed by Ld. CIT(A) (in Rs.)
2017-18	10,39,72,469	8,97,71,261
2018-19	4,21,42,646	3,84,86,690
2019-20	6,20,95,814	4,48,74,607
2020-21	10,12,38,910	6,92,09,435
2021-22	7,80,72,778	6,81,77,631
TOTAL	38,75,22,617	31,05,19,624



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**9.5** So far as the quantification of 'vatav' income is concerned, the assessee is found to have claimed that, the 'vatav' ledger was closed on a monthly basis by passing squaring-off entries and therefore when the receipts side exceeded the issue side, the difference was recorded as a balancing entry on the issue side, and vice versa. These entries, according to the assessee, were merely adjustment entries without any actual inflow or outflow of cash. The assessee further pointed out that, while quantifying the 'vatav' income, only the credit entries had been considered and the debit entries being in the nature of cash expenses was wrongly ignored. In support, the assessee is noted to have furnished a detailed reconciliation with evidences before the Ld. CIT(A). The Ld. CIT(A) is noted to have called for a remand report from the AO on this issue of 'Vatav'. The Ld. AR showed us that, the AO had accepted these infirmities in the calculation as pointed out by the assessee, and as a consequence the quantum of the aggregate 'vatav' income was reduced across AYs 2017-18 to 2021-22 from Rs.25,07,02,695/- to Rs.11,55,12,445/-. It is observed that, after considering the remand report, the Ld. CIT(A) also accepted that the squaring off entries made at the end of each month in the 'Vatav' account towards the difference arising between the receipt side and issue side and vice-versa, was to be deleted. The Ld. CIT(A) also held that, there are both cash receipts (credit



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entries) and cash payments (debit entries) on a continuous basis which are arising out of the same 'Vatav' ledger and therefore only the net amount was to be considered. Hence, the corrected Vatav income as quantified by the Ld. CIT(A) on the basis of the AO's remand report, is noted as under:-

AY	Vatav computed by AO(inRs.)	Vatav computed by Ld. CIT(A) (in Rs.)
2017-18	7,68,38,850	2,12,06,805
2018-19	8,80,42,489	4,23,91,890
2019-20	7,04,04,429	1,42,38,299
2020-21	8,62,761	2,31,21,285
2021-22	1,45,54,166	1,45,54,166
TOTAL	25,07,02,695	11,55,12,445

**9.6** After quantification of the corrected 'byaj' and 'vatav' income, the assessee is found to have contended before the Ld. CIT(A) that, the above revised figures of 'byaj' and 'vatav' pertained to Shri Mohanlal Khatri and that he had already offered the same to tax in his returns of income filed u/s 153A of the Act for AYs 2017-18 to 2021-22 and therefore the assessee prayed that these amounts should not be added in the hands of the assessee, as it would result in taxation of the same amount twice. It is noted that, the Ld. CIT(A) rejected the assessee's plea by observing that the disclosure given by the Director, Shri Mohanlal Khatri did not have any break-up. Aggrieved by the order of the Ld. CIT(A), the assessee is in appeal before us.



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**9.7** Assailing the action of the Ld. CIT(A), the Ld. AR vehemently contended that, the impugned income which is sought to be taxed in the hands of the assessee was inter alia included in the additional income declared by the assessee's director, Shri Mohanlal Khatri in his returns of income filed under section 153A of the Act for AYs 2017-18 to 2021-22 and therefore urged us to delete the impugned sums as it would amount to taxation of the same amount twice. For this, the Ld. AR took us through the relevant details of additional income offered by Shri Mohanlal Khatri across AYs 2017-18 to 2021-22 along with his returns of income and computation of income, copies of which were placed in Paper-book, Volume-II, IV & V. He thus claimed that, since these amount(s) had already been offered to tax by Shri Mohanlal Khatri, the same additions made in the hands of the assessee was unsustainable and therefore ought to be deleted.

**9.8** Per contra, the Ld. CIT, DR opposed the plea of the assessee and relied on the findings rendered by the Ld. CIT(A) for rejecting the benefit of telescoping the income offered by Shri Mohanlal Khatri against the impugned sums taxed in the hands of the assessee.

**9.9** Heard both the parties. It is noted that, the AO had originally quantified the 'byaj' income & 'vatav' income at Rs.38,75,22,617/- &



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Rs.25,07,02,695/- respectively across all the AYs in question. The assessee had pointed out infirmities in the calculations of these two items of income, which the AO acceded to in his remand report(s) and the Ld. CIT(A) is accordingly found to have reduced the aggregate figures of the 'byaj' income & 'vatav' income to Rs.31,05,19,624/- & Rs.11,55,12,445/- respectively. We find that, the Ld. CIT(A)'s quantification of these two items of income have not been disputed by either party before us and therefore we find the quantification of 'byaj' & 'vatav' to have attained finality. The limited issue raised by the assessee in their appeal(s) is that, whether the impugned addition(s) in their hands was justified, when these very sum(s) had already been offered and taxed in the hands of Shri Mohanlal Khatri.

**9.10** In this context, the Ld. AR first invited our attention to the notice(s) issued under u/s 153A of the Act on Shri Mohanlal Khatri and the computation of income returned u/s 153A of the Act for AYs 2017-18 to 2021-22, details of which is found placed at Pages 16 to 48 of Volume V of the Paper Book. It is seen that, Shri Khatri had declared the following income to tax in AYs 2017-18 to 2021-22.

AY	Income declared u/s 139	Income declared u/s 153A
2017-18	12,25,27,950	22,08,89,150
2018-19	10,51,56,860	42,21,12,240
2019-20	10,47,49,160	26,47,49,160
2020-21	11,58,63,680	27,58,63,680
2021-22	NA	35,35,96,800



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**9.11** We have also perused the computations of income filed by Shri Mohanlal Khatri for AYs 2017-18 & 2021-22 and note that, he had separately identified and added the following aggregate additional income to his regular total income.

AY	Additional Income offered by MLK
2017-18	9,83,61,200
2018-19	31,69,55,380
2019-20	16,00,00,000
2020-21	16,00,00,000
2021-22	22,88,85,490
Total	96,42,02,070

**9.12** The Ld. AR showed us that, the AO had issued notice(s) u/s 143(2) of the Act upon Shri Mohanlal Khatri for all these years, and in response Shri Khatri had filed his consolidated reply dated 24.03.2022, which is found placed at Pages 5-62 of Volume 2 Paper Book. Having perused the same, we note that, in this reply, Shri Khatri had inter alia explained the details of the additional income declared in the returns of income filed u/s 153A of the Act. It is seen that, Shri Khatri had furnished his submission qua the same amounts of Rs.38,75,22,617/- and Rs.25,07,02,695/- quantified from the same 'Byaj' & 'Vatav' Ledgers of the J-Pack software. We note that, Shri Mohanlal Khatri had acted upon his son's offer recorded in his statement u/s 132(4) in the course of search and offered these two items of income to tax in his personal hands. We observe that, Shri Mohanlal Khatri had furnished his own calculation of the 'Byaj' &



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'Vatav' income, computed from the entries in the J-Pack Software and quantified same at Paras 8 & 9 of his reply, which is noted to be as follows :-

"8. Issues Found During Search relating to "Byaj" :-

8.1. During the course of search, the search team had found the Byaj ledger in J Pack software wherein the assessee used to account income with respect to business. Your kind authority in the above stated notice have quantified the amount in the byaj ledger as below :-

Assessment Year	Cash
2017-18	10,39,72,469
2018-19	4,21,42,645
2019-20	6,20,95,814
2020-21	10,12,38,909
2021-22	7,80,72,778
	38,75,22,617

8.2. It is hereby stated that the above stated values collectively consists of Byaj in grams and in cash.

8.3. It is hereby stated that while maintaining the said ledger, your assessee used to close this ledger by putting a square off entry on a monthly basis. i.e., when the Receipt side is higher than the issue side, a balancing entry on the issue side of the difference between the two sides is done and vice versa. The amount specified in these entries is only the actual income of your assessee for the relevant period.

8.4. It is hereby stated that while arriving at the above stated figures, the search team had also added the transfer entries which were made at the end of each month for squaring off the ledger. This is because the grand total was considered by the search team which was inflated due to transfer entries.

8.5. Therefore, the actual income of the assessee for the period under consideration being the transfer entries are as below: -



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Assessment Year	Amount
2017-18	6,92,00,000
2018-19	2,52,00,000
2019-20	4,54,00,000
2020-21	9,14,00,000
2021-22	2,25,00,000
	25,37,00,000

8.6. Further, entries of one Shri Laxmi Pandy was added in the byaj ledger column on year on year basis. This entry was because the receivable of metal from Laxmi Pandy was due from very long time and hence the interest was added. However, it is hereby stated that the same were merely book entries but the same were never received as evident from JPACK. Hence the same also is to be reduced in arriving at the final figure.

8.7. Therefore, the correct figure after setting aside the transfer entries are as below:-

Assessment Year	Amount
2017-18	5,51,84,434
2018-19	2,14,05,138
2019-20	2,80,62,373
2020-21	6,19,56,043
2021-22	2,25,45,278
	18,91,53,266

The relevant documentary evidence for the same along with the above stated explanation has already been submitted before your kind authority in my submission which was submitted before your kind authority on 17.03.2022. It may be noted that the above stated values consists of Byaj in grams (Converted to Rupees) and in cash.

9. Issue Found During Search relating to "Vatav":-

9.1. During the course of search, the search team had found the VATAV ledger in 3 Pack software wherein the assessee Used to account income with respect to Business Your kind authority in the above stated notice have quantified the amount in the vatav ledger as below :-



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Assessment Year	Amount
2017-18	5,51,84,434
2018-19	2,14,05,138
2019-20	2,80,62,373
2020-21	6,19,56,043
2021-22	2,25,45,278
	18,91,53,266

9.2. It is hereby stated that while maintaining the said ledger, your assessee used to close this ledger by putting a square off entry on a monthly basis. i.e., when the Receipt side is higher than the issue side, a balancing entry on the issue side of the difference between the two sides is done and vice versa.

9.3. It is hereby stated that while arriving at the above stated figures, the search team had also added the transfer entries which were made at the end of each month for squaring off the ledger. This is because the grand total was considered by the search team which was inflated due to transfer entries. Therefore, the correct figure can be arrived only after setting aside the transfer entries. Hence, the correct Income with respect to Vatav is as below:-

Assessment Year	Amount
2017-18	2,21,06,805
2018-19	4,23,91,893
2019-20	1,42,32,299
2020-21	2,31,21,285
2021-22	
	10,09,52,282

The relevant documentary evidence for the same along with the above stated explanation has already been submitted before your kind authority in my submission which was submitted before your kind authority on 17.03.2022."

**9.13** We thus note that, Shri Mohanlal Khatri had specifically explained that the 'Byaj' Ledger & 'Vatav' Ledger found in J-Pack software pertained to him and accordingly he had offered the relevant entries therein to tax,



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on the basis of his own quantification. We note that, Shri Khatri at Para 13 of the same reply dated 24.03.2022, had furnished the manner of quantification of the additional income declared u/s 153A of the Act, which is noted to be as under:-

"13. Additional Business Income Offered with respect to Search Proceedings (Source):-

13.1 As briefly stated above, the precise unaccounted income of the business of your assessee cannot be derived with precision due to complexities of accounts maintained by the business of your assessee. Further, the only income which is identifiable out of all the issues during the course of search are "Byaj Income" and "Vatav Income".

13.2 Further, it is hereby stated that the unaccounted business income of your assessee is again utilized in the business of the assessee only and the same can be reflected as either excess stock or receivables in the J Pack Software. Further, as stated in point 12.11 above, the assets generated out of the unaccounted income as appearing in the Trial Balance of the J Pack Account are brought to tax as additional business income.

13.3 Furthermore, it is hereby stated that as elucidated in point 6 above, the unaccounted income generated through business transactions was entered in different names to have secrecy of business from the employees. Therefore, the peak credit theory is also utilized in arriving at the additional business income. Hence, the total income offered for the block period is as below:-

A.Y	Byaj and Vatav	Other Business Income	Income Offered to Income Tax
2015-16	-	4,21,54,799.00	4,21,54,799.00
2016-17	-	11,24,12,798.00	11,24,12,798.00
2017-18	7,63,00,000.00	2,20,61,198.00	9,83,61,198.00
2018-19	6,35,00,000.00	25,34,55,379.00	31,69,55,379.00
2019-20	4,22,00,000.00	11,78,00,000.00	16,00,00,000.00
2020-21	8,50,00,000.00	7,50,00,000.00	16,00,00,000.00
2021-22	2,28,00,000.00	20,60,85,490.00	22,88,85,490.00
TOTAL		82,89,69,644.00	



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**9.14** The Ld. AR pointed out that, after considering the above submissions of Shri Mohanlal Khatri, the same AO as that of the assessee had completed the income-tax assessments u/s 153A/143(3) for AYs 2017-18 to 2021-22 in which no further addition was made on these issue(s) in his hands. In support, he referred to the assessment orders passed by the same AO, which is found placed at Pages 79-82, 87-90, 95-98, 103-106 & 109-112 of Volume 2 of the Paper-book. According to the Ld. AR therefore, not only had the AO accepted the additional income offered on account of 'byaj' & 'vatav' by Shri Mohanlal Khatri but also agreed to the manner of quantification of the same. It is therefore the contention of the Ld. AR that, when both 'byaj' & 'vatav' receipts extracted from the same J-Pack software has already been offered to tax by Shri Mohanlal Khatri, then the same item could not again be added in the hands of the assessee company.

**9.15** Having gone through the computations of income, returns filed u/s 153A, replies furnished before the AO and the assessment orders passed u/s 153A of the Act in the matters of Shri Mohanlal Khatri, we find that, Shri Mohanlal Khatri had indeed offered additional income to tax in the returns of income filed u/s 153A of the Act for AYs 2017-18 to 2021-22 and that such additional income inter alia included 'byaj' & 'vatav' receipts quantified from the 'Byaj' and 'Vatav' ledgers of the J-Pack software found



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in the course of search. The details of the additional income offered on these two counts are noted to be as under:-

AY	Byaj	Vatav	Total
2017-18	5,51,84,434	2,12,06,805	7,63,91,239
2018-19	2,14,05,138	4,23,91,890	6,37,97,028
2019-20	2,80,62,373	1,42,38,299	4,23,00,672
2020-21	6,19,56,043	2,31,21,285	8,50,77,328
2021-22	2,25,45,278	-	2,25,45,278
Total	18,91,53,266	10,09,58,279	29,01,11,545

**9.16** In view of the above, we do not countenance the Ld. CIT(A)'s observations that, the additional income offered by Shri Mohanlal Khatri lacked break-up, for him to verify whether such additional income so offered had emanated from the entries found in J-Pack Software. Instead, we note that, Shri Mohanlal Khatri had made it explicitly clear in his submissions that, out of the total additional income of Rs.96.42 crores offered by him in AYs 2017-18 to 2021-22, the sum aggregating to Rs.29.01 crores had been disclosed towards 'byaj' and 'vatav' receipts earned by him, for which entries were made in J-Pack Software. It is seen that, the AO in the assessment orders passed u/s 153A/143(3) had not disputed the foregoing offer and the manner of break-up of income furnished by Shri Mohanlal Khatri and rather assessed the same to tax in his hands. In light of the foregoing, we have no hesitation in holding that, as the income on account of 'byaj' and 'vatav' had already been offered by Shri Mohanlal Khatri and also assessed to tax by the same AO in his hands, then the impugned addition to that extent made again by the AO



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in the hands of the assessee company amounted to taxation of the same sum twice, which is impermissible in law.

**9.17** The Ld. CIT, DR had brought to our notice that, Shri Mohanlal Khatri had offered the additional income to tax for AYs 2014-15 to 2017-18 before the Income-tax Settlement Commission ('ITSC'), pursuant to the previous search and therefore such additional income could not be attributed to 'byaj' & 'vatav' receipts of the J-Pack Software found in the course of the impugned search action. It is observed that, Shri Mohanlal Khatri, in his individual capacity, had admitted substantial unaccounted income before the ITSC. As noted by the lower authorities, he had made this offer on estimate basis without any reference to 'seized material' or 'unaccounted asset' and therefore no specific break-up of the details of such unaccounted income was placed before the ITSC. We thus note that, the income offered was in the nature of an 'intangible addition' which was not specifically attributed to any particular seized material. There is force in the Ld. AR's submission that, if the aforesaid offer of additional income was not attributable to any particular item, then Shri Mohanlal Khatri was legally within his right to attribute such additional income so offered inter alia towards the 'byaj' & 'vatav' receipts found later on in the course of present search dated 10.11.2020. It is not in dispute that, the disclosure before the ITSC was held to be true and fair. Even the Ld. CIT, DR was



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unable to show us that, the additional income so offered before ITSC was attributable to some other seized material or unaccounted asset due to which the same could not have been attributed to the 'byaj' & 'vatav' receipts impugned before us. Moreover, it is noted that, in the course of assessments being framed u/s 153A/143(3) of the Act for AYs 2017-18 consequent to the present search which was conducted on 10.11.2020, Shri Mohanlal Khatri had furnished the break-up of income as offered before ITSC. It is seen that the said break-up was stated to include the 'byaj' & 'vatav' receipts from the J-Pack Software. The AO in the assessment orders passed u/s 153A/143(3) for AYs 2017-18 has not disputed the aforesaid submission of Shri Mohanlal Khatri. In light of these facts, we reject the Ld. CIT, DR's plea that the additional income offered to tax for AYs 2017-18 cannot be said to include the impugned sums.

**9.18** It is further observed that, for denying the benefit of the additional income offered by Shri Mohanlal Khatri, the Ld. CIT(A) had acted on the mistaken understanding of fact that, the entries in J-Pack Software related to the assessee alone. From the discussions made in the earlier paragraphs, it is amply clear that, the J-Pack Software was being used by the assessee group as a whole and that the entries related to all the group entities including proprietorship concerns and other companies of



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the assessee group. It is observed that, the seized J-Pack data does not contain any explicit reference to the assessee as the owner of the unaccounted transactions in as much as there is no reference to any entity in these entries and therefore it is not clearly discernible as to whom they pertain to. The Ld. AR has also rightly pointed out that, there was also no other corroborative evidence was found in the course of search, which would link the impugned entries found in 'byaj' & 'vatav' ledger to the assessee company alone. The fact that the entries passed in J-Pack software does not relate to the assessee alone but pertained to the entire group is inter alia evident from the Ld. CIT(A)'s own findings rendered in the context of making charges or 'MC Khata' wherein he had accepted the fact that, this ledger not only contained entries relating to the assessee but also other group entities viz., M/s Mohanlal Jewellers Chennai Private Limited & M/s Mohanlal Jewellers (Prop : Shri Mohanlal Khatri). It is also noted that, Shri Suresh Khatri, son of Shri Mohanlal Khatri, while offering the income on account of 'byaj' and 'vatav' had not named or identified the person to whom it pertained to. Rather, he had simply averred that these receipts will be offered to tax. These facts considered cumulatively supports the assessee's case that, the entries in the J-Pack software pertained to the entire group and it was practically impossible to specifically identify the unaccounted entries to any specific



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entity or individual. In light of the foregoing therefore, we are of the view that, the Ld. CIT(A) was unjustified in assuming that, all entries in J-pack software related to the assessee alone, only to deny the benefit of set-off of the additional income to the extent offered by Shri Mohanlal Khatri with reference to the same entries in J-pack software.

**9.19** Further, there is also merit in the Ld. AR's submission, that ordinarily the unaccounted transactions are attributable to the individual controlling the group and not the flagship company which is an artificial juridical person. The Ld. AR pointed out that, 'byaj' was being received from customers for delayed payments and 'vatav' for miscellaneous services rendered, and thus going by the nature of these receipts, it is likely that this unaccounted income would have been pocketed by individual viz., the promoter-director i.e. Shri Mohanlal Khatri of the assessee group and it would not have been received by the assessee company. According to us, in the absence of clear nexus of the entries found in J-Pack software to any specific person or entity, the unaccounted income ordinarily should be attributed to the person who exercise control, holds the capital and manages the operations, all of which points to Shri Mohanlal Khatri. Therefore, when clear identification as to whom the entries in 'byaj' & 'vatav' ledger pertained to was evidently not possible, and given the fact that, the key person of the assessee group i.e. Shri



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Mohanlal Khatri had owned up these entries and offered the relevant entries to tax in his individual hands, then no further addition on the same issue could have been legally made again in the hands of the assessee company.

**9.20** The Ld. AR also pointed out that the applicable tax rates in the hands of Shri Mohanlal Khatri and the assessee was the same. Rather, the tax rate in the hands of company was comparatively lower than the individual in some years. Hence, we find that, it was also not a case that there was any Revenue leakage or any tax benefit being availed by the assessee group, by offering the impugned income to tax in the hands of key individual instead of the assessee company.

**9.21** So far as the reliance placed by the Ld. CIT(A) on the decision of the Hon'ble Supreme Court in the case of ITO v. Ch. Atchiaiah (218 ITR 239) is concerned, we find it to be factually distinguishable. In the said judgment, the legal principle laid down was that, the income is to be taxed in the hands of the 'right person'. Nowhere was it held that the same income is to be taxed in multiple hands, if the right person is not discernible. In light of the facts as discussed above, when the Revenue had already accepted the offer of income by Shri Mohanlal Khatri on account of the 'byaj' & 'vatav' receipts based on the same source



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documents i.e., the J-Pack entries, in our considered view, it is impermissible to bring the same amount to tax in the hands of the assessee again.

**9.22** Having held so above, we find that the Ld. CIT(A) had quantified the 'byaj' income & 'vatav' income from the J-Pack ledgers at Rs.31,05,19,624/- & Rs.11,55,12,445/- respectively for AYs 2017-18 to 2021-22. Corresponding thereto, the 'byaj' income & 'vatav' income offered by Shri Mohanlal Khatri in these years totaled to Rs.18,91,53,266/- & Rs.10,09,58,279/- respectively. The details thereof as noted by us is as follows:-

AY	Byaj			Vatav		
	As quantified by CIT(A)	Amount offered to tax by MLK	Remaining Difference	As quantified by CIT(A)	Amount offered to tax by MLK	Remaining Difference
2017-18	8,97,71,261	5,51,84,434	3,45,86,827	2,12,06,805	2,12,06,805	NIL
2018-19	3,84,86,690	2,14,05,138	1,70,81,552	4,23,91,890	4,23,91,890	NIL
2019-20	4,48,74,607	2,80,62,373	1,68,12,234	1,42,38,299	1,42,38,299	NIL
2020-21	6,92,09,435	6,19,56,043	72,53,392	2,31,21,285	2,31,21,285	NIL
2021-22	6,81,77,631	2,25,45,278	4,56,32,353	1,45,54,166	-	1,45,54,166
Total	31,05,19,624	18,91,53,266	12,13,66,358	11,55,12,445	10,09,58,279	1,45,54,166

**9.23** From the above, it is observed that, though Shri Mohanlal Khatri had offered 'byaj' & 'vatav' income to tax in his hands but the amount quantified by him and assessed to tax by the AO was comparatively lower than the amounts quantified by the Ld. CIT(A) in the matters of the assessee company. The Ld. AR had claimed that, once the entries in 'Byaj' ledger has been attributed to Shri Mohanlal Khatri and his quantification



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of the 'byaj' & 'vatav' income has been accepted by the AO in his personal income-tax assessments, then no further sum could be attributed to the assessee company qua the remaining unlinked entries. We however are unable to countenance this plea of the assessee. It is indeed true that, Shri Mohanlal Khatri had admitted to the 'byaj' & 'vatav' receipts found in the J-Pack Software and offered the same to tax in his hands, but as noted above, the values quantified by him does not match with the amounts quantified by the Ld. CIT(A) in the impugned order(s). Before us, the Ld. AR was unable to show any infirmity in the calculation of the 'byaj' & 'vatav' receipts by the Ld. CIT(A) and therefore we are of the view that, this quantification is indeed correct. As noted above, the entries in the J-Pack software pertained to the entire group and there was no specific identification or demarcation to attribute specific unaccounted entries to any specific entity or individual. We therefore are of the considered view that, when Shri Mohanlal Khatri had admitted to the 'byaj' & 'vatav' receipts to the extent of Rs.18,91,53,266/- & Rs.10,09,58,279/- respectively in his individual hands, then to that extent, the same amount cannot be brought to tax again in the hands of the assessee and the same is directed to be deleted. So far as the remaining 'byaj' & 'vatav' of Rs.12,13,66,358/- [31,05,19,624 - 18,91,53,266] and Rs.1,45,54,166/- [11,55,12,445 - 10,09,58,279] is



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concerned, as it is not clearly discernible from the entries as to whom it pertains to and even Shri Mohanlal Khatri had not admitted and offered these remaining entries to tax as his personal income.

**9.24** Hence, for the above reasons, and to meet the ends of justice and, in all fairness to the Revenue and with a view to protect their interests as well, we accordingly confirm the addition on account of 'byaj' & 'vatav' to the extent of Rs.12,13,66,358/- and Rs.1,45,54,166/- in the hands of the assessee across AYs 2017-18 to 2021-22. In light of the foregoing, and for the sake of clarity, the details of the amounts on account of 'byaj' & 'vatav' being deleted and confirmed by us, is as follows:-

AY	Byaj			Vatav		
	Addition confirmed by CIT(A)	Amount to be deleted	Remaining amount confirmed	Addition confirmed by CIT(A)	Amount to be deleted	Remaining amount confirmed
2017-18	8,97,71,261	5,51,84,434	3,45,86,827	2,12,06,805	2,12,06,805	NIL
2018-19	3,84,86,690	2,14,05,138	1,70,81,552	4,23,91,890	4,23,91,890	NIL
2019-20	4,48,74,607	2,80,62,373	1,68,12,234	1,42,38,299	1,42,38,299	NIL
2020-21	6,92,09,435	6,19,56,043	72,53,392	2,31,21,285	2,31,21,285	NIL
2021-22	6,81,77,631	2,25,45,278	4,56,32,353	1,45,54,166	-	1,45,54,166
Total	31,05,19,624	18,91,53,266	12,13,66,358	11,55,12,445	10,09,58,279	1,45,54,166

**9.25** In view of the above, these grounds of the assessee are partly allowed.

**10. Issue 3: Addition made on a/c of gross profit of unaccounted sales**

*Ground Nos. 5 & 6 of the Revenue's appeal for AYs 2017-18 to 2021-22*



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*Ground No. 6 of the Assessee's appeal for AYs 2017-18 to 2021-22*

**10.1** The facts relating to this issue are that, the AO had found a 'Cash' Ledger in the J-Pack Software, which according to him, contained entries of all their unaccounted cash transactions and required the assessee to explain the same. The assessee is found to have explained that, the AO had mistook the nature of 'Cash' ledger by assuming its meaning in colloquial sense. The assessee submitted that, the terms and language used in the J-Pack account was customized to the assessee's specifications. The assessee showed that, there was no ledger by the name 'Bank' in the software and that all the payments received and paid through banking channels were also entered in the 'Cash Ledger' as it represented the funds available with the assessee. Similarly, the assessee showed that the payments made to several parties through banking channels was also recorded in this 'Cash' Ledger. The assessee demonstrated the same with sample instances of sub-ledgers found in the 'Cash' ledger. The assessee further pointed out that, the 'Cash' Ledger also inter alia included entries relating to goods which were sent on approval basis to their customers, which were accompanied by proforma bills and since the J-Pack software was used to record the movement of goods, the amounts mentioned in proforma bills, when sent on approval basis, was correspondingly routed through 'Cash' Ledger. Later on, if and



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when the goods are returned without approval, the entry in 'Cash' Ledger would be reversed, or if there was sale of approved goods, then it would be automatically accounted for in the books of accounts. The case sought to be made by the assessee before the AO was that, it was a misnomer to assume that all the entries in this 'Cash Ledger' denoted unaccounted cash transactions. Rather, it was a complete record of the banking transactions, and notional entries in relation to goods sent on approval basis, or when it was returned back unapproved, and also the cash unaccounted transactions. The assessee further contended that, since consolidated entries were passed at the end of day in the 'Cash Ledger' which included cash sales, banking sales and the notional entries where goods were sent on approval, it was not possible to determine the exact value of cash sales due to the complexities involved in the manner of entries made in the J-Pack software. The AO however rejected the submissions of the assessee, because Shri. Rajendra Kothari, vide his sworn statement recorded u/s. 131 of the Act dated 24.11.2020 had stated that the 'Cash' ledger pertains to unaccounted cash transaction done by the assessee alone. The AO observed that, though Shri Suresh Khatri in his original statement u/s 132(4) dated 05.01.2021 had submitted that the 'Cash' Ledger which included both accounted and unaccounted transactions, but he had not submitted any bifurcation



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working with documentary evidences. However, after considering the submissions put forth by the assessee in the course of assessment, the AO is found to have excluded almost twenty sub-ledgers from the 'Cash Ledger' across AYs 2017-18 to 2021-22 and thereafter quantified the cash sales, which is reproduced hereunder:-

Rs.(in Crs.)

AY	Balance As per Cash ledger	Less : Sub-Ledgers excluded by AO	Unaccounted Sales estimated by AO
2017-18	3222.80	(1229.68)	1993.12
2018-19	5054.30	(2328.64)	2725.66
2019-20*	252.55	(115.66)	136.89
2020-21	1727.50	(672.32)	1055.17
2021-22	1005.94	(378.82)	627.11

*\*There was a one decimal mistake in the AO's calculation, which was later on rectified by Ld. CIT(A) and the assessee has not disputed the same.*

**10.2** Taking the above figures of unaccounted sales, the AO estimated the profit element embedded therein at 8% and accordingly made the addition(s) to the total income of the assessee. Aggrieved by the order of the AO, the assessee preferred appeal before the Ld. CIT(A).

**10.3** On appeal before the Ld. CIT(A), the assessee is found to have furnished a detailed reconciliation statement with workings to show that at most the unidentifiable sales for the AYs 2017-18 to 2021-22 would work out as follows:-



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AY	Unaccounted Sales estimated by AO	Unaccounted sales as per assessee
2017-18	1993.12	699.22
2018-19	2725.66	497.84
2019-20	136.89	767.52
2020-21	1055.17	540.76
2021-22	627.11	146.91

**10.4** For arriving at the above quantification, the assessee is noted to have pointed out calculation errors in quantification of certain ledgers, which had already been added or considered separately such as 'Byaj' or 'Vatav' etc. The assessee also furnished additional evidences tagging certain sub-ledgers and entries with the books of accounts. The assessee also identified contra entries, group transfers and sales contra etc., which according to them, was to be excluded as well. The Ld. CIT(A) after considering the remand report furnished by the AO and the submissions of the assessee is noted to have quantified the figure of unaccounted sales across all AYs as follows:-

AY	Unaccounted Sales estimated by AO	Unaccounted sales estimated by CIT(A)*
2017-18	1993.12	1527.03
2018-19	2725.66	1940.55
2019-20	136.89	767.52
2020-21	1055.17	540.76
2021-22	627.11	265.77

*\*The figures are noted from the Ld. CIT(A)'s order dated 24.02.2025 read with the corrigendum dated 05.03.2025*

**10.5** It is seen that there was a calculation mistake [one short decimal considered] made by the AO in the assessment order for AY 2019-20



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which was taken note of and rectified by the Ld. CIT(A), which resulted in enhancement of the quantum of unaccounted sales in that year. Having quantified the figure of unaccounted sales, the Ld. CIT(A), for the reasons set out in his appellate order, is noted to have adopted the gross profit rate at 2.5% instead of 8% estimated by the AO and, accordingly directed the AO to re-compute the profit on the above quantified value of unaccounted sales. Aggrieved by the order of the Ld. CIT(A), the assessee is in appeal before us assailing both the quantification of unaccounted sales and the estimation of gross profit rate. On the other hand, the Revenue in the grounds raised in their appeal(s) have only disputed the estimation of gross profit rate at 2.5% instead of 8%. It is observed by us that, the Revenue has not disputed the revised quantification of unaccounted sales made by the Ld. CIT(A).

**10.6** Assailing the action of the Ld. CIT(A), the Ld. AR for the assessee first objected to the quantification & estimation of the unaccounted sales. The Ld. AR pointed out that, the entries in the 'Cash Ledger' contained entries relating to goods sent on approval to customers, which did not materialize as sales and therefore according to him, such entries was to be excluded. He further submitted that, there were several untagged consolidated entries which could not be individually identified to the sales made across several concerns due to complexities in the manner of



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recording in the software. According to the Ld. AR, these entries were passed on consolidated basis by relying on the daily reports which contained details of all the group concerns and therefore it was humanely not possible for the assessee to bifurcate and tag the individual sales or transactions of each group entity to these consolidated entries. The Ld. AR argued that, the Revenue had also tacitly acknowledged that the assessee was making consolidated entries on the basis of daily reports in the J-Pack Software and that these daily reports were systematically weeded out at regular intervals and therefore in absence of the same, it is not possible to bifurcate and tag the remaining entries with the books of accounts. The Ld. AR thus urged us that, having regard to the overall facts of the case, the quantum of alleged unaccounted sales may be estimated on a reasonable basis.

**10.7** The next argument of the assessee was that the gross profit rate of 2.5% estimated by the Ld. CIT(A) was on the higher side. Taking us through the gross profit rates reported across several years, the Ld. AR showed us that, the average gross profit rate of the assessee for multiple years did not go beyond 1.5%. He further submitted that, in none of the years, had the Revenue rejected the book results. According to him therefore, the Ld. CIT(A) was unjustified in estimating the gross profit at 2.5%, and that it ought to further reduced to 1.5%. In this regard, the



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Ld. AR relied on the judgments of the Hon'ble jurisdictional Madras High Court in the case of PCIT vs Marg Ltd [2017] 396 ITR 580 and this Tribunal in the case of M/s New Saravana Stores Bramandamai vs DCIT (ITA No. 1611/Chny/2023).

**10.8** The third and last argument of the assessee was that, the key person of the assessee group and Director of the assessee company, Shri Mohanlal Khatri had already identified the entries of unaccounted sales in the 'Cash' Ledger of J-Pack Software which pertained to him and he had offered the gross profit on such entries to tax in his personal hands. The Ld. AR showed us that, Shri Mohanlal Khatri had already disclosed gross profit aggregating to Rs.65,37,97,54,716/- as his additional income in the returns of income filed u/s 153A of the Act, for AYs 2017-18 to 2021-22 and that such income had also been accepted and assessed by the same AO in the hands of Shri Mohanlal Khatri. The Ld. AR accordingly claimed that the gross profit value to the extent already taxed in the hands of Shri Mohanlal Khatri ought to be excluded from the quantification of gross profit on unaccounted sales assessable in the hands of the assessee.

**10.9** Per contra, the Ld. CIT, DR submitted that, the Ld. CIT(A) had fairly estimated the unaccounted sales turnover across all the years and does not want us to interfere with the same. On the issue of estimation of



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gross profit, the Ld. CIT, DR referred to the provisions of Section 44AD to justify the adoption of 8% by the AO. The Ld. CIT, DR also objected to the assessee's plea seeking benefit of telescoping the additional income offered to tax by Shri Mohanlal Khatri, as according to her, the additional income offered by Shri Khatri had no nexus with the impugned addition made in the hands of the assessee.

**10.10** We have heard both the parties and the material placed before us. We first take up the issue involving quantification of unaccounted sales across AYs 2017-18 to 2021-22. It is observed that, the AO in his remand report had objectively analyzed all the different sub-heads contained in the 'Cash' ledger and thereafter quantified the unidentifiable sales which was not found to be accounted in the books of the assessee. We find that, the Ld. CIT(A) also after undertaking an elaborate exercise had quantified the unaccounted sales for AYs 2017-18 to 2021-22. It is noted that, the Ld. CIT(A) had already excluded those sub-heads which were already considered separately while making other additions in the hands of the assessee and, those sub-heads which had been considered by the AO separately in the hands of Shri Suresh Khatri and, also those sub-heads which comprised of actual sales recorded in the books of accounts of the entities belonging to assessee group. The Ld. CIT(A) is also noted to have excluded the contra entries, sales contra &



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group transfers which were identified and pointed out by the assessee with supportings. Having gone through the remand report and the findings rendered by the Ld. CIT(A) in his appellate order(s), we are of the view that the Ld. CIT(A)'s quantification of unaccounted sales was reasonable.

**10.11** We find that there is force in the assessee's contention that, in their line of business, where goods are sent on approval basis to the customers, it cannot be regarded as sales. As noted earlier, the J-Pack Software was meant to provide inventory control and therefore there could be entries in 'Cash Ledger' which pertain to goods which were sent on approval basis. Further, as noted while adjudicating other issues in this appeal, the J-Pack Software was being used to record inventory movement of the goods of the entire assessee group and therefore daily consolidated entries would also be passed in this software. Since the daily reports were regularly destroyed by the assessee and even the Investigating authorities were able to recover daily reports of only the past three months, it could be possible that there are consolidated entries in the 'Cash' Ledger which cannot be bifurcated and individually tagged to specific entities. Though at first blush, these arguments of the assessee are found persuasive but we find that, apart from making these assertions, the assessee has not been able to bring on record any further



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documentary evidences or supportings to corroborate the same. We are of the considered view that, the onus is on the assessee to rebut the Revenue's case by bringing on record some material to show that, the remaining unidentifiable entries in the Cash ledger, which have been quantified as unaccounted sales by the Ld. CIT(A) inter alia included consolidated entries or entries relating to goods which were sent on approval. The assessee cannot get away by citing their inability to undertake this voluminous exercise or due to non-availability of daily reports, which have since been destroyed. For the aforesaid reasons, we thus reject the assessee's plea seeking further reduction in the quantification of unaccounted sales.

**10.12** We now come to the issue of estimation of profit on the unaccounted sales. It is observed that, the AO had applied a uniform rate of 8% to the unaccounted sales for working out the profit element embedded therein. We note that, the AO had not mentioned any cogent basis for arriving at this rate. Rather, the AO is noted to have simply averred that, profit margin on such type of unaccounted transactions is generally 8%. We are in agreement with the Ld. CIT(A) that, the AO's estimation exercise was unjustified as it lacked cogent rationale. The Ld. AR, on the other hand, took us through the details of the gross profit earned by the assessee across AYs 2017-18 to 2021-22 at of Volume - IV



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of the Paperbook. Having regard to the audited financials and Form 3CD of the assessee, we have tabulated the gross profit rates for the AYs 2017-18 to 2021-22, as disclosed by the assessee, which is as under:-

Particulars	2017-18	2018-19	2019-20	2020-21	2021-22
Gross Profit Rate	0.74%	0.80%	1.39%	1.43%	1.85%

**10.13** It is observed that, the lower authorities had not rejected the above book results of the assessee nor had invoked provisions of Section 145(3) of the Act. In our thoughtful consideration therefore, the average profits earned by the assessee itself in the comparable years is a reasonable barometer to estimate the gross profit derived by the assessee from the unaccounted sales, as the business activities of the assessee is identical. Our view is supported by the decision of the jurisdictional Tribunal in the case of New Saravana Stores Bramandamai vs DCIT (supra), wherein it was held that adopting the GP rate as adopted by the assessee on the accounted sales during the year, would be a realistic and reasonable approach. In this decision, it was also held that the GP rate offered on accounted sales can be adopted because there was no defect pointed out in the regular books of accounts. From the table above, it is observed that the average GP rate across the five (5) years works out to 1.5% and it ranges between 0.74% in AY 2017-18 to 1.85% in AY 2021-22. We further observe that, the Ld. CIT(A) had also



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examined the entries in the J-Pack Software and noted that, the Gross Profit recorded in the J-Pack Software ranged between 2-3% in majority of the transactions involving sale of gold jewellery. In light of the foregoing, we are unable to countenance the Revenue's plea to estimate gross profit at 8%, when the entries in J-Pack software itself does not reveal such high rate of gross profit. Rather, having regard to the accounted GP rate, the GP rate found in the J-Pack Software and taking into account the factor that, profit in unaccounted sales is usually higher than the accounted sales, we are in agreement with the Ld. CIT(A)'s action of estimating the profit from unaccounted sales at 2.5%. The relevant findings of the Ld. CIT(A) in this regard, are noted to be as under:-

"5.11.8. The above submissions of the appellant with regard to adopting uniform GP rate for all the AYs 2017-18 to 2021-22 is considered. It is observed that in the case of the appellant during the course of search, it was found that the appellant is systematically maintaining the transactions in J-Pack software on the basis of metal traded with its customers, which includes making charges or wastage recorded at the time of issue of gold ornaments ranging from average of 2-3% on average as excess metal either in the form of Making Charges or GP over a period of years for FY 2016-17 to 2020-21. It was also noted that in addition to 2-3%, the appellant is also charging making charges or GP more than the average percentage of 2-3% for the delicate, antique designs and models for making the ornaments which goes up to even 4-8%. Thus, it can also be verified from the parties ledgers maintained in J-Pack that the appellant is able to receive an average of 2-3% of GP in majority of transactions recorded in the J-Pack for all the years from FY 2016-17 to 2020-21 where the data is available in the seized J-Pack. On the basis of the above, I am of the opinion that the evidences seized from the course of search are to be relied to find out the more realistic



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GP than adopting of 8% of GP as general, which is not justified by the AO either in the assessment order or in the remand report. Further, it is also noted that rejection of books of accounts is not required in the case of appellant for the reason that the addition/estimation of income is to be made only on account of the transactions recorded outside the books of accounts. It is also verified beyond doubt during remand proceedings that the unaccounted sale transactions of Rs.1527,03,32,138/- is outside the books of accounts maintained in Tally and the rejection of books of the appellant may be detrimental to the appellant for the reason that the GP arrived in the regular books of accounts may also be altered without any findings of defects in the said books of accounts. Hence, I am of the opinion that on the facts and circumstances of the case of the appellant, adopting the GP% on the basis of the findings of the search and estimating the income at such GP rate on unaccounted sale transactions and making an addition to the total income already disclosed in the books of accounts will be more realistic approach to arrive at the total business income of the appellant for the year under consideration. I had also considered the average GP% offered by the appellant for the AY 2017-18 to 2021-22. The average rate of GP for these 5 years is worked out at 1.5% as per the GP% declared by the appellant in the ITRs filed and it ranges from 0.74% for AY 2017-18 to 2.58% for the AY 2020-21. Meaning thereby, the average GP for all the 5 years i.e. 1.5% is almost closer to the average GP recorded in the J-pack ledger i.e. 2-3% for the majority of transactions recorded in J-Pack. Further, it is also observed that when unaccounted sale transactions are made in gold ornaments, both the buyers and sellers are saving/evading the VAT/GST and duties payable on account of gold to certain level of percentage of the total value of transaction compared to the accounted transactions. In other words, the GP on unaccounted gold sales is always higher than the accounted sales on account of evasion of taxes and duties payable to the Government. Hence, the element of additional gross profit over and above the average GP on accounted sales cannot be ruled out in the case of the appellant. On the basis of the facts and circumstances as above, I am of the opinion that adopting the GP of 2.5% for estimating the unaccounted income of the appellant on the unaccounted sale transactions of gold ornaments recorded in J-Pack may be reasonable and the same can be adopted for all the AYs 2017-18 to 2021-22 which are under appeal for the reason that the appellant had followed the same approach for all these years as noted from the transactions in the J-Pack software. Therefore, the AO is directed to estimate the income of 2.5% on the unaccounted sale transaction..."



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**10.14** In view of the above therefore, the profit element on the overall unaccounted sales found in the 'Cash' Ledger of J-Pack Software is quantified as follows:-

A.Y.	Unaccounted sales estimated by CIT(A) [Rs. in crs]	GP @ 2.5% [in Rs.]
2017-18	1527.03	38,17,58,303
2018-19	1940.55	48,51,38,518
2019-20	767.52	19,18,80,408
2020-21	540.76	13,51,91,246
2021-22	265.77	6,64,43,676
TOTAL		1,26,04,12,151

**10.15** The last contention of the assessee which is to be adjudicated is, whether the above profit as quantified is to be brought to tax in their hands entirely or whether the quantum of profit(s) already offered to tax on this account by Shri Mohanlal Khatri is to be excluded. As noted earlier, the J-pack software is not an accounting software but rather a specialized inventory software, which was meant to provide proper inventory control for the assessee group as a whole. It is an admitted factual position that, for the reasons already discussed in preceding paragraphs that, the entries in the J-Pack software relates to all the entities across the assessee group. It is seen that consolidated entries are passed in this J-pack software for all the entities belonging to the assessee group. We observe that, this factual aspect also came to light while adjudicating the issue of making charges (already discussed earlier)



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wherein it was gathered that the 'MC Khata' Ledger of J-Pack Software included making charges credited to the accounts of the assessee, Mohanlal Jewellers Chennai private Limited & M/s Mohanlal Jewellers (Prop : Shri Mohanlal Khatri). These admitted facts thus clearly evidences that the entries in J-Pack Software did not relate to the assessee alone but it comprised of all the entries/transactions of the entire assessee group. It is also observed that, several entries in J-pack software lacked narration and therefore there was no specific demarcation or identification to any specific entity of the assessee group. We note that, the assessee was able to identify and correlate certain ledgers and entries in J-pack software which corresponded to the regular books of accounts of several entities of the assessee group and therefore the same has been appropriately considered in their respective hands. It is the remaining untagged entries, which we find that, the Revenue has summed up and inferred them to be pertaining to the assessee alone. According to us, such action of the Revenue could have been ordinarily justified considering the assessee was the flagship company of the group, but in the given facts, it cannot be countenanced, for the reason that another person (in this case, Shri Mohanlal Khatri) belonging to the assessee group has already accepted and admitted portion of the income attributable to these untagged or unidentifiable entries in 'Cash' Ledger



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and the Revenue has also assessed the same to tax in such person's hands.

**10.16** It was brought to our notice that, Shri Mohanlal Khatri in the return(s) of income filed u/s 153A of the Act had inter alia offered additional income on account of profit from unaccounted sales found in this same 'Cash' Ledger of J-Pack Software to tax in his hands. As noted earlier in Para 9.11 above, Shri Mohanlal Khatri had inter alia offered additional income of Rs.96,42,02,070/- to tax in his hands. It is observed that, Shri Mohanlal Khatri, in the course of assessment proceedings u/s 153A of the Act, had explained the contents of this 'Cash' Ledger maintained in J-pack software, which was confronted to the assessee in their notice u/s 142(1) of the Act. We note that, Shri Mohanlal Khatri in his reply dated 24.03.2022 had inter alia submitted that, he had offered the unaccounted income emanating from this 'Cash' ledger to tax including TTT accounts on peak-credit basis. He is noted to have averred that, it was not possible for him to trace and determine each and every entry and therefore by applying the peak credit theory, he had offered the following additional income on account of profit from unaccounted sales to tax, :-



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A.Y.	Additional Business Income (on a/c of profit from unaccounted sales) [in Rs.]
2017-18	2,20,61,198
2018-19	25,34,55,379
2019-20	11,78,00,000
2020-21	7,50,00,000
2021-22	20,60,85,490
TOTAL	67,44,02,067

**10.17** It is seen that, the AO had not disputed the above explanation furnished by Shri Mohanlal Khatri, while passing the order(s) u/s 153A/143(3) for AYs 2017-18 to 2021-22. Having gone through the computations of income, returns filed u/s 153A, reply furnished by him before the AO and the assessment orders passed u/s 153A/143(3) of the Act in the matters of Shri Mohanlal Khatri, we agree with the Ld. AR that, Shri Mohanlal Khatri had offered additional income to tax in the returns of income filed u/s 153A of the Act for AYs 2017-18 to 2021-22 and that such additional income inter alia included unaccounted profit from business aggregating to Rs.67,44,02,067/-, details of which have already been tabulated above.

**10.18** It is further observed that, the aggregate unaccounted sales quantified by the Ld. CIT(A) in the impugned order(s) and the profit estimated thereon is not exclusive of the profit offered to tax by Shri Mohanlal Khatri. It is seen from the remand report(s) and the Ld. CIT(A)'s order that, the Ld. CIT(A) had first considered the aggregate entries in



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the 'Cash' Ledger and thereafter excluded (a) the ledgers relating to 'Byaj, 'Vatav', 'MC Khata' etc. which had been separately taxed in the hands of the assessee, (b) those sub-ledgers which related to unaccounted transactions of Shri Suresh Khatri and had been taxed in his individual hands, (c) bank entries found in the regular books of accounts and (d) reversal/ group / contra entries; to arrive at the quantum of unaccounted sales. Having regard to the foregoing, we are in agreement with the Ld. AR of the assessee that, the profit on unaccounted sales already offered to tax by Shri Mohanlal Khatri had not been excluded by the Ld. CIT(A) but is subsumed in the aggregate unaccounted sales quantified by the Ld. CIT(A) in the impugned order(s) and the profit estimated thereon.

**10.19** In view of the above therefore, we hold that, the profit on unaccounted sales found in the 'Cash' ledger to the extent already taxed in the hands of Shri Mohanlal Khatri, is to be excluded from the profit on unaccounted sales estimated by Ld. CIT(A), to arrive at the correct value of addition which is to be added and taxed in the hands of the assessee. We concur with the Ld. AR that, if the additional income on account of profit from unaccounted business ['Cash' ledger of J-Pack Software] which has already been taxed in hands of Shri Mohanlal Khatri is not excluded, then it would result in impermissible double taxation of the same amount.



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**10.20** We note that the objections raised by the Ld. CIT, DR to this exercise is similar to that what was made while adjudicating the issue relating to addition(s) made on account of 'byaj' and 'vatav' and for the reasons already discussed at Paras 9.17 to 9.21 above, we reject the same.

**10.21** In light of the above, the profit on account of unaccounted sales assessable in the hands of the assessee is accordingly being quantified across AYs 2017-18 to 2021-22, whose manner of calculation is as follows:-

A.Y.	Profit on Unaccounted Sales [As per CIT(A)'s order] (in Rs.)	Less: Additional Business Income offered to tax by MLK (on a/c of profit from unaccounted sales) [in Rs.]	Net addition to be made in hands of the assessee
	(A)	(B)	(A) - (B)
2017-18	38,17,58,303	2,20,61,198	35,96,97,105
2018-19	48,51,38,518	25,34,55,379	23,16,83,139
2019-20	19,18,80,408	11,78,00,000	7,40,80,408
2020-21	13,51,91,246	7,50,00,000	6,01,91,246
2021-22	6,64,43,676	20,60,85,490	NIL (since negative)
TOTAL	1,26,04,12,151	67,44,02,067	72,56,51,898

**10.22** Overall therefore, out of the total profit of Rs.126,04,12,151/- estimated on the unaccounted sales found in 'Cash' ledger of J-pack software, we allow the benefit / credit for the additional income offered to tax by Shri Mohanlal Khatri on this account in his individual hands, and



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accordingly confirm addition(s) totaling to Rs.72,56,51,898/- across AYs 2017-18 to 2020-21 in the hands of the assessee, as tabulated above. As shall be seen from the above table, the addition confirmed by the Ld. CIT(A) in AY 2021-22 stands deleted in full. Hence, overall therefore, the grounds raised by the Revenue stands dismissed and the grounds of the assessee is partly allowed.

**11. Issue Nos. 6 to 10 : Additions made on a/c of unaccounted physical stock, unexplained cash & silver and unaccounted receivables**

*Ground Nos. 6 to 11 of the Assessee's appeal for AY 2021-22*

**11.1** These grounds raised by the assessee relate to the addition made by the AO on account of unexplained stock, unaccounted receivables, unexplained cash & silver etc. all of which aggregated to Rs.204,53,60,116/-. It is observed that, the Investigating authorities found a 'Party Balance Sheet' as on 10.11.2020 wherein gold stock of 814253.03 gms was found recorded in the receipt side against different party names. Upon being confronted with the same, Shri Suresh Khatri is noted to have submitted that some entries are reflected in books of accounts and some are unaccounted for. Later on, the assessee had filed a letter before the DDIT(Inv) wherein it was submitted that, out of



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814235.03 gms, 4454410.03 gms are duly reflected in the books of accounts and 56709.99 gms comprised of gold received from various customers for job-work. The assessee had therefore claimed that total of 502120.02 gms was accounted for and the balance of 312115.01 gms was unexplained. Later on, in the course of assessment, the assessee pointed out further infirmities in the calculation and showed that there were certain entries for goods sent from one entity to another entity or contra entries, which also to be removed, and accordingly the excess stock as per J-Pack software would only be 143659.38 gms. The AO however was not agreeable to the submission of the assessee and by relying on the statement given by Shri Suresh Khatri wherein he had stated that, out of 814235.03 gms, only 4454410.03 gms was reflected in the books of accounts, the AO considered the remaining balance of 368825 gms to be unaccounted stock. Applying gold rate of Rs.4881/gm, the AO is noted to have estimated the value of unaccounted stock at Rs.180,02,34,825/-.

**11.2** In addition to the above, the AO also found that, in the same 'Party Balance Sheet', there were receivables from various parties aggregating to Rs.51,62,29,969/-, which according to him was also unaccounted for, and therefore he added the same u/s 69 of the Act. Further, there was cash of Rs.14,29,460/- and unexplained silver of Rs.42,67,644/-



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physically found in the premises at the time of search, which was also added by way of unexplained asset to the total income. It is therefore observed that, the total unaccounted assets added by the AO in the hands of the assessee in AY 2021-22 comprised of the following:-

<b>Particulars</b>	<b>Amount (in Rs.)</b>
Excess Stock	152,34,33,363
Unaccounted cash receivables	51,62,29,629
Unaccounted cash	14,29,460
Unexplained silver	42,67,664
Total	204,53,60,116

**11.3** Aggrieved by the above addition(s), the assessee carried the matter in appeal before the Ld. CIT(A). It is noted that, the assessee furnished submissions objecting the above addition(s) and also its quantification & valuation. The assessee alternatively claimed that, if the above items are treated to be unexplained, then correspondingly the unaccounted income as taxed in AYs 2017-18 to 2021-22 ought to be telescoped against the same. The assessee is found to have contended that, the additions made on account of 'byaj', 'vatav' & 'profit on unaccounted sales' in their hands and in the hands of Shri Mohanlal Khatri, ought to be telescoped to these unexplained assets. The assessee accordingly submitted before the Ld. CIT(A) that, after allowing the benefit of telescoping, no further addition would be warranted in this regard.



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**11.4** It is observed that, the Ld. CIT(A) had rejected each of the assessee's objections to the merits and quantification of unexplained assets unearthed from the 'Party Balance Sheet' and which was physically found in the course of search, except on account of quantification of excess stock, which he partially agreed and reduced the quantum from 368825 gms to 312115 gms. The Ld. CIT(A) also denied the benefit of telescoping the 'intangible additions' on account of 'Byaj', 'vatav' and 'profit from unaccounted sales' made in the hands of Shri Mohanlal Khatri to be set-off against these unexplained assets. The Ld. CIT(A) however directed that, the addition(s) to the extent which is confirmed on account of 'Byaj', 'vatav' and 'profit from unaccounted sales' in the hands of the assessee is allowable to be telescoped and set off against these unexplained assets and directed the AO to do so. The relevant findings rendered by the Ld. CIT(A) in the context on the issue of excess stock [similar findings have been recorded for unaccounted receivables, unexplained cash & silver] are noted to be as follows:-

"..With regard to the claim of the appellant that the unaccounted income has already been offered in the hands of Mohanlal Khatri is not acceptable for the detailed reasons given in the appeal order passed in the appellant's own case for AY 2017-18 to 2020-21. Hence, I am of the opinion that the unaccounted income already offered in the hands of Shri Mohanlal Khatri is the source for unaccounted stock found in the case of appellant is not acceptable. However, it was held by me in the appeals of the appellant for AY 2017-18 to 2020-21 and also for the year under consideration that the appellant had earned unaccounted income from BYAJ, VATAV and unaccounted cash sales. The quantum of



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unaccounted income on these sustained additions in the appeals of the appellant for the AY 2017-18 to 2021-22 has to be considered as the source for unaccounted stock found during the course of search. The AO is also directed to work out the unaccounted income on the basis of the findings in the appeal orders for AY 2017-18 to 2020-21 and also for the same issues in the year under consideration and allow the value of unaccounted stock as application of income to the extent available for telescoping and tax only the balance as unaccounted excess stock, if any, as unaccounted business income in the year under consideration. Further, the AO is also directed to follow up further appeal filed by the appellant, if any, against the issue of BYAJ, VATAV or unaccounted sales for the AY 2017-18 to 2021-22 and on account of such appeal orders from higher authorities, if the unaccounted income of the appellant is subsequently reduced on account of such appeal orders, the AO has to modify the quantum of unaccounted excess stock after giving effect to the sustained unaccounted income and the balance is to be taxed as unexplained business income towards application in the form of unaccounted excess stock for the year under consideration..."

**11.5** Aggrieved by the above order of the Ld. CIT(A), the assessee is in appeal before us.

**11.6** At the time of hearing, the Ld. AR for the assessee, without prejudice to his objections to the merits of these addition(s), had submitted that, the Ld. CIT(A) was unjustified in valuing the excess gold stock as per the 'party balance sheet' and the silver found in the course of search with reference to the market rates prevailing as on 10.11.2020. According to the Ld. AR, this excess stock found appearing in the J-Pack software and also the silver was a cumulation of the excess stock generated over the years and therefore it ought to be appropriately apportioned amongst the respective years and be valued with reference to the market rates prevailing in those years. The Ld. AR has furnished a



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calculation sheet, in terms of which, the value of excess gold stock and silver, as per the assessee, works out to Rs.1,01,84,40,250/- and Rs.25,07,183/- respectively. The Ld. AR contended that, having regard to this corrected stock values and the value of other unexplained assets, as confirmed by the Ld. CIT(A), if the benefit of telescoping for the unaccounted income offered to tax by Shri Mohanlal Khatri, in addition to the unaccounted income assessed in the hands of the assessee, is also allowed, then the entire impugned addition shall stand deleted. Per contra, the Ld. CIT, DR vehemently supported the order of the Ld. CIT(A).

**11.7** We have heard both the parties and perused the material placed before us. Before advertng to the facts of the case, we first take note of the principle of telescoping which has since been judicially approved by the Hon'ble Supreme Court in the case of Anantharam Veerasinghaiah & Co. Vs CIT (123 ITR 457). In the decided case, it was held that where the assessee offers any income on ad hoc basis, then such income is commonly described as intangible addition; but it is very much a part of assessee's real income as disclosed in his account books and has the same concrete existence. The Hon'ble Court held that, the secret profits or undisclosed income of an assessee earned in the same or an earlier assessment year may constitute a secret fund, even though concealed, from which the assessee may draw subsequently for meeting expenditure



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or introducing amounts in his account books. The intangible additions were held to be available to the assessee as the regular book profits could be. The Apex Court thus held when the unexplained cash deficits and the cash credits can be reasonably attributed to a pre-existing fund of concealed profits or by reference to concealed income earned in that very year then no addition is warranted on account of such cash deficits or cash credits.

**11.8** Gainful reference in this regard may be made to the decision of the jurisdictional Hon'ble Madras High Court in the case of S K. Muralidhar Vs CIT (51 ITR 757). In the decided case the AO had initially made an addition by way of inflation of purchases in the hands of the assessee across AYs 1947-48 to 1950-51. Thereafter, the AO came in possession of information that the assessee had lent certain amounts in mortgage in the name of his brother and also made investment in name of his wife and daughter in an entity 'S', for which separate additions were made in AYs 1949-50 & 1950-51. On appeal, the AAC is noted to have held that there was no justification in making the subsequent addition as it stood justified out of the addition made on account inflated purchases in AYs 1947-48 to 1950-51. On further appeal, the Tribunal upheld the action of AO. On appeal by the assessee, the Hon'ble High Court is noted to have elaborately discussed the theory of telescoping of income against



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investment / expenditure and allowed the assessee's claim by holding as under:-

"The question in issue is quite simple and yet the Tribunal misdirected itself and went wrong. It is a hard fact that for the two years 1947-48 and 1948-49 a total addition of Rs. 52,230 was made by the department in computing the assessable income. This was, therefore, treated as the real income of the assessee for the years in question. There was nothing notional or fictional about it. However convenient it might be to describe the addition as "intangible" as has been done by the department and the Tribunal, the fact is that it was found to have accrued to the assessee and was not merely supposed to have been earned by him. Once the addition is made the department is fixed to the position that the assessee earned the amount in the relevant year. There can be no relaxation from that position and we have no doubt that the department cannot deviate from or wriggle out of it without departing from ordinary standards of justice and fair play. If in such a case the assessee points to that addition as the source from which he got a particular amount which he is called upon to explain, the department is bound to accept it as exceedingly likely and probable, consistent with its previous act in treating the addition as income, unless it be that it is possible to say that the source was not available to the assessee. The onus of proving this would be on the department. Otherwise, it would amount to the department saying, "heads I win, tails you lose".

The decision of the Andhra High Court in Lagadapati Subba Ramaiah v. Commissioner of Income-tax [1956] 30 ITR 593 is a case in point. In that case the assessee was a shareholder of a private limited company styled the Nellore Bus Transport Co. Ltd. According to the books of the company its profits for its entire period of existence, that is to say, for the years of account ending with 31st December, 1946, 31st December, 1947, 31st December, 1948, nth May, 1949, amounted in all to Rs. 34,352. The revenue declined to accept the books of the company and estimated its income at a higher sum on which tax to the tune of Rs. 62,000 was assessed and paid. The company purported to issue the dividend warrants to its shareholders aggregating to a sum of Rs. 1,16,280. The assessee stated that he got the dividends of Rs. 6,800 and Rs. 4,800 for the account years ending with 31st December, 1946, and 31st December, 1947, respectively, the dividends having been declared by the company on 2nd March, 1949. The assessee, however, claimed a refund on the basis of only one dividend warrant dated June 9, 1949, for Rs. 6,800. The department as well as the Tribunal rejected



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the claim of the assessee. The view taken was that after the payment of income- tax of Rs. 62,000 levied on the company there were no funds available with it out of which, dividends could have been declared and paid. The question before the High Court was whether the assessee was not entitled to a refund of tax in respect of the dividends in question. In dealing with the matter, Viswanatha Sastri J. observes thus at page 599:

"In the present case, it is somewhat difficult to say that there were no profits of the company out of which a dividend could have been paid. When the revenue authority levied a tax of Rs. 62,000 on the company, it proceeded on the basis that the books of the company which showed a total income of only Rs. 34,532 for all the four years of its existence were unreliable and that the bulk of the company's profits had been kept outside its books. Now those secret profits less the income-tax paid, therefore, would be available with the company for distribution as dividends. Once the secret profits had been assessed to tax, it would have been open to the company to bring those profits into the books and distribute them, or what remained after payment of tax, as dividends.... Having assessed the company on a large sum as its undisclosed income, it cannot, at the same breath, say that these profits did not in fact exist because they did not appear from the company's books and could not, therefore, have been available for the payment of dividends. Among common men, such an attitude would be regarded as blowing hot and cold or playing fast and loose."

The order of the Tribunal shows that it has missed the real point for decision. The only question that the Tribunal had to decide was whether the assessee could have derived the amount of Rs. 52,230 from the prior years which according to the department the assessee did earn. The Tribunal does not say, nor would the materials on record enable it to say, that the sum was not available to the assessee either to advance the mortgage loan in the name of Murugesu Mudaliar or for the other advances. If there had been any evidence to show that the assessee devoted that amount for other purposes it may well be that the mortgage loan and other advances were made from an unexplained or undisclosed source. But that is not so in the present case. The Tribunal's conception of "intangible additions" is somewhat queer and we confess our inability to appreciate it. The Tribunal observes in its order : "Intangible additions, as the name itself suggests, are purely matters of estimate which may err on the wrong side for the department. For want of proper evidence, additions on account of deficiency of gross profit or other defects may be made but this would not mean putting in possession of the assessee their equivalent in hard cash available for



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expenditure or investment. It may be said that having suffered a harsh assessment in a particular year, the assessee's case should be considered sympathetically in the subsequent year when an investment of the nature we are discussing is brought to light." Additions are no doubt made very often on estimate basis. But it can never be said, or at any rate the department cannot contend, that the amount of the addition is not the real income but something which the assessee may not have earned. It is wholly illogical for the department to contend that the addition was only for purposes of taxation and that it should never be taken as true income of the assessee. We must point out that the Tribunal is wrong in thinking that an assessee suffers a "harsh assessment" when his income is computed by making additions. Such an assessment is perfectly within the four corners of the Act and there is no reason to suppose that it is in any way inequitable or unjust. We are also unable to understand the real scope of a sympathetic treatment of the assessee in the matter of assessment to tax. The assessee is either liable to tax or not, and if he is really liable to tax he cannot get rid of it by pleading equity or by invoking the sympathy of the assessing authority. The faulty reasoning of the Tribunal was certainly not conducive to a correct conclusion in the matter. In our opinion, there are no materials for the addition of Rs. 40,000 and Rs. 12,230 in respect of the two assessment years 1949-50 and 1950-51 respectively, and that the order of the Tribunal cannot be sustained."

**11.9** The above view is noted to have been reiterated by Hon'ble jurisdictional Madras High Court in the case of CIT v. K. S. M Guruswamy Nadar and Sons, [1984] 149 ITR 127. In the decided case also, it was held that when there are two separate additions viz., one on account of suppression of profit and another on account of cash credit, then it is open to the assessee to explain that, the suppressed profits had been brought in as cash credits and has to be telescoped into the other.

**11.10** Gainful reference may also be made to the decision of the Hon'ble Bombay High Court in the case of CIT vs J.J. Gandhi (39 CTR



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127). In this judgment also, the Hon'ble High Court had approved the theory of telescoping and held that it could be applied in cases where additions in relation of unexplained money/investment are sought to be made in the hands of the assessee. The Hon'ble Court explained that if an addition towards undisclosed income was made and the AO also seeks to make certain addition in relation to unexplained investment then, it can be treated by the assessee that the unexplained investment is sourced out of the undisclosed income already taxed.

**11.11** The principle which emerges from the above is that, the same income should not be taxed twice i.e. once at the time of generation and thereafter at the time of application for making investment or any undisclosed asset. Having regard to this settled legal position, we now come back to the facts of the case. From the discussions set out above, we find that, the additions on account of 'byaj', 'vatav' & 'profit on unaccounted sales' as confirmed in the hands of the assessee is as follows:-(in Rs.)

AY	Byaj	Vatav	Profit on unaccounted sales	Total
2017-18	3,45,86,827	--	35,96,97,105	39,42,83,932
2018-19	1,70,81,552	--	23,16,83,139	24,87,64,691
2019-20	1,68,12,234	--	7,40,80,408	9,08,92,642
2020-21	72,53,392	--	6,01,91,246	6,74,44,638
2021-22	4,56,32,353	1,45,54,166	--	6,01,86,519
Total	12,13,66,358	1,45,54,166	72,56,51,898	86,15,72,422



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**11.12** As noted above, the Ld. CIT(A) had upheld the judicially approved principle of telescoping and had directed that the benefit of telescoping the unaccounted income being assessed in the hands of the assessee across AYs 2017-18 to 2021-22 be allowed against the value of these unaccounted assets. This finding of the Ld. CIT(A) has not been disputed by the Revenue before us. We are therefore of the considered view that, the assessee is undoubtedly entitled to the benefit of telescoping qua the unaccounted income assessed in their hands i.e. Rs.86,15,72,422/- against the value of the impugned unexplained asset(s).

**11.13** The next issue which arises for our consideration is, whether the unaccounted income aggregating to Rs.96,42,02,070/- so assessed in the hands of Shri Mohanlal Khatri, Director of the assessee could also be telescoped against the impugned unexplained assets found in the course of search. It is observed that, the reasons given by the Ld. CIT(A) for denying this benefit of telescoping against the income offered to tax by Shri Mohanlal Khatri was the same reasoning given by him for denying the benefit of set-off while quantifying the value of 'byaj' & 'vatav' assessable in the hands of the assessee. We have already discussed this aspect extensively while adjudicating Issues 3 to 5 above and rejected this line of reasoning given by the Ld. CIT(A). We are of the considered



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view that, the entries in the J-Pack software was not specifically identifiable to any specific entity of the assessee group. Rather, the facts placed on record showed that, they comprised of consolidated and complex mix of entries & transactions relating to all the entities of the assessee group. As a corollary therefore, even the unexplained asset(s) identified from this software was not individually identifiable to any specific entity of the assessee group. Instead, it represented the unaccounted assets of the entire assessee group as a whole. In that view of the matter, according to us, the aggregate unaccounted income offered to tax by the entities of the assessee group qua the entries found in this J-Pack software is to be allowed to be telescoped against the unexplained assets found from the same J-Pack software. As noted earlier, the additional income of Rs.96,42,02,070/- offered to tax by Shri Mohanlal Khatri, key person & Director of the assessee, was with reference to the same entries found in the same J-Pack software. It is observed that, there is a clear nexus between the additional income offered to tax by Shri Mohanlal Khatri apropos the impugned unexplained asset(s) identified in the course of search from the same J-Pack Software. The Revenue has also not been able to make out any case before us which shows that, the unaccounted income offered to tax by Shri Mohanlal Khatri had been set-off or telescoped against any other unaccounted assets found in the



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course of search and was therefore unavailable for being telescoped further. Instead, the Ld. AR brought to our notice that, Shri Mohanlal Khatri in his reply dated 24.03.2022 filed before the AO had inter alia claimed that, the additional income offered by him in his return(s) of income filed u/s 153A of the Act may be telescoped against these impugned unexplained asset(s) found in the course of search. It is seen that, the AO did not dispute this claim in the income-tax assessment completed u/s 143(3) in the matters of Shri Mohanlal Khatri for AY 2021-22. According to us therefore, the additional income offered to tax by Shri Mohanlal Khatri, Director of the assessee was available for being telescoped against the unexplained assets found in the course of search.

**11.14** For the reasons discussed in the foregoing, we thus hold that the additional income of Rs.96,42,02,070/- taxed in the hands of Shri Mohanlal Khatri represented an intangible addition or to say secret profit available with the assessee group, which applying the judicially approved principle of telescoping, was legally available for being set off against the impugned unexplained asset(s) found by the Revenue in this search action.

**11.15** In this regard, we may gainfully refer to the decision of the coordinate bench of this Tribunal at Pune in the case of DCIT v. Dhariya



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Construction Pvt Ltd (ITA No.1440/Pun/2015) dated 11.02.2020 wherein on somewhat similar facts and circumstances, the Tribunal had allowed the benefit of telescoping the unaccounted income assessed in the hands of the assessee company against the unexplained asset found in the name of the Director of the assessee company. The relevant findings are noted to be as follows:-

"7.5. If we look into the above said proposition of law laid down by the Hon'ble High Courts, it is clear that in the present case the assessee had agreed for the addition of undisclosed income for the earlier years of Rs.64,20,637/-, Rs.1,03,91,626/- and Rs.1,67,29,248/- ( for the assessment year under appeal) and has sought for telescoping for the amount of Rs.2,53,59,490/-. In our view, telescoping is permissible to be granted to the assessee as the flat was purchased in the name of the Director."

**11.16** We also gainfully refer to the decision of the ITAT, Mumbai in the case of ACIT Vs Konark Infrastructure (ITA Nos. 3021-3024/Mum/2023) dated 27.02.2024 wherein also the unaccounted income offered to tax by the individual JV partners was held to be eligible for telescoping against the unaccounted asset found in the hands of the assessee-JV in the same search. The findings of the Tribunal which are found to be relevant in the context of the present case, is as follows:-

"57. The principle which emerges from the above is that, the same income should not be taxed twice i.e. once at the time of generation and thereafter at the time of application for routing back into the business. The said principle would equally apply where the cash generated by business concerns are routed



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through partners/directors. Having regard to this settled legal position, we now come back to the facts of the case. It is not in dispute that the assessee had declared additional income of Rs.9,50,56,072/- before the ITSC, Mumbai in AY 2013-14. It is noted that the assessee had also filed a letter dated 28.10.2014 before the ITSC wherein it was specifically clarified that this income was utilized by way of investment in the on-going work of water pipeline project at Ulhasnagar. The details of utilization inter alia comprised of sum of Rs.4,50,56,072/- and Rs.5,00,00,000/- by KIL and Eagle Infra Limited, represented by Shri U.M. Rupchandani, respectively. It is therefore evident that the JV partners had disclosed income in the hands of the assessee JV before the ITSC, Mumbai and such additional income of Rs.9,50,56,072/- represented the intangible addition / secret profit, which applying the judicially approved principle of telescoping, could be set off against any unexplained money/investment found by the Revenue.

58. The Ld. CIT(A) is noted to have rightly observed that the AO had erred in considering the cash investment aggregating to Rs.8,00,00,000/- to have been made in AY 2017-18 only because these pages were dated 25.08.2016. The Ld. CIT(A) had rightly analyzed the contents of the seized pages and inferred that the entries therein do not suggest that these transactions were undertaken only in FY 2016-17. Instead, the noting's as well as the surrounding circumstances relating to the water pipeline project suggests that the said investment would have been made by the JV partners earlier viz., when the project was ongoing and most likely in 2015 when the major work was completed.

59. However, irrespective whether the investment was made in 2015 or in FY 2016-17, the admitted facts show that the assessee JV had disclosed income of Rs.9,50,56,072/- in AY 2013-14 and had specifically declared the same to be the sum available for investment by the JV partners towards the water pipeline project. Further, the assessee JV had also declared additional income aggregating to Rs. 3,36,55,357/- in AYs 2014-15 to 2016-17, which was also available to be set off against any unexplained money/ investment of Rs.8,00,00,000/- added by the AO in AY 2017-18. On these facts, we thus uphold the Ld. CIT(A)'s action



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of allowing the telescoping benefit and set-off of the amount of undisclosed income aggregating to Rs.12,87,11,429/- (Rs. 9,50,56,072 + Rs.3,36,55,357), towards the cash investment of Rs.8,00,00,000/- found mentioned on seized pages 20 & 21. Hence, having regard to the judicially approved principle of telescoping, according to us, since the additional income offered to tax in earlier years was sufficient to cover such cash investment alleged to have been made by JV partners, no separate protective addition was required to be made in the hands of assessee JV. Accordingly, the appeal of the Revenue is dismissed."

**11.17** Having regard to our above findings, the aggregate unaccounted income taxed in the hands of the assessee and Shri Mohanlal Khatri available for the benefit of telescoping is found to be Rs.182,57,74,492/- (Rs.86,15,72,422 + Rs.96,42,02,070) which is eligible to be set off against the impugned unexplained asset(s) found in the course of search.

**11.18** Having held so above, we now turn our attention to the quantification of the unexplained asset(s) unearthed by the Revenue in the course of search. It is noted that, one of the arguments raised by the assessee was against the valuation of the excess stock found in the 'Party Balance Sheet', as extracted from the J-Pack Software. The Ld. AR pointed out that, the excess stock mentioned therein was not the result of the FY 2020-21 alone but represents the cumulative sum of excess stock generated over the years from the unaccounted business conducted by the assessee group. We agree with the Ld. AR that, the impugned excess



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stock cannot be the product of a single year's undisclosed income, but represents the accumulation of unaccounted income earned over years. We thus find force in the Ld. AR's plea that, the impugned excess stock ought to then be attributed across the years in proportion to the unaccounted income assessed in those years and be valued at the prices prevailing in the respective years, as otherwise it would result in taxation of notional appreciation of the stock. The Ld. AR also brought to our notice that, similar 'gold' metal entries was found in the 'Byaj' Ledger of J-Pack software, which was originally valued by the AO at Rs.4881/gm being the rate prevailing as on 10.11.2020 and thereafter, on appeal the Ld. CIT(A) had held that, the same ought to be appropriately quantified across the years and be valued at the market rates prevailing in the respective years. It is observed that, this finding of the Ld. CIT(A) rendered in the context of 'byaj' income has not been disputed by the Revenue and the same has attained finality. According to us therefore, the same analogy should be applied to the excess stock found in the 'Party Balance Sheet' of the J-Pack Ledger.

**11.19** It is well-settled that, in cases where material is detected consequent to search action, the AO is required to determine the undisclosed income and that, in such cases the additions are generally based on estimates. It has been judicially held that, in matters of



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estimation some amount of latitude is required to be shown to the AO, when the relevant seized material is not forthcoming. However, at the same time, it does not mean that the AO can arrive at any notional figure by adopting an arbitrary basis. In the present case, it is observed that, the assessee has been generating income from unaccounted sale transactions, 'byaj' & 'vatav' receipts etc. over the years and therefore it is safe to presume that, the excess stock found in the course of search would have been gradually acquired over the years and it cannot be solely out of the unaccounted income derived in the year of search i.e. FY 2020-21. Applying the theory of human conduct and circumstantial evidences, we find merit in the Ld. AR's contention that, the excess stock found in J-Pack software should be appropriately apportioned across years and ought to be valued with reference to the market rates prevailing in those years. We thus do not countenance the action of the lower authorities in assuming that the impugned excess stock was purchased entirely during FY 2020-21 so as to be valued at the rate prevailing on the date of search i.e. 10.11.2020.

**11.20** In light of the above, we find it fit and reasonable to apportion the excess stock found in J-Pack software in the ratio of the unaccounted income taxed in the hands of the assessee and Shri Mohanlal Khatri with reference to the entries found in the same J-Pack Software and,



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accordingly revise the value the excess stock at the market rates prevailing in those years. Accordingly, the computation of the same, works out as follows:-

Asst Year	Income taxed in hands of MLK	Income taxed in hands of assessee	Total	Ratio	Excess Stock apportioned	Rate taken for valuing 'byaj'	Value
2017-18	9,83,61,198	39,42,83,932	49,26,45,130	26.98%	84217.37	2930	24,67,56,909
2018-19	31,69,55,379	24,87,64,691	56,57,20,070	30.99%	96709.49	2978	28,80,00,861
2019-20	16,00,00,000	9,08,92,642	25,08,92,642	13.74%	42889.94	3181	13,64,32,897
2020-21	16,00,00,000	6,74,44,638	22,74,44,638	12.46%	38881.52	3723	14,47,55,891
2021-22	22,88,85,490	6,01,86,519	28,90,72,009	15.83%	49416.68	4881	24,12,02,805
TOTAL	96,42,02,067	86,15,72,422	182,57,74,489		312115.01		105,71,49,363

**11.21** Having regard to the above revised value of excess stock of Rs.105,71,49,363/-, it is observed that the aggregate sum for application of income in the form of unexplained asset(s) works out to Rs.157,90,76,296/-, whose calculation is as under;-

Particulars	Amount (in Rs.)
Excess Stock	105,71,49,363
Unaccounted cash receivables	51,62,29,629
Unaccounted cash	14,29,460
Unexplained silver	42,67,664
Total	157,90,76,296

**11.22** It is noted that, the aggregate unaccounted income of Rs.182,57,74,492/- as quantified above, which has been taxed in the hands of the assessee and Shri Mohanlal Khatri is sufficient to be



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telescoped / set-off against the above aggregate value of unexplained assets of Rs.157,90,76,296/-. Hence, applying the principle of telescoping therefore, the separate addition(s) made by the AO on account of excess stock, unaccounted cash receivables, unexplained cash & silver is hereby directed to be deleted.

**11.23** In view of our above findings, all other objections raised by the assessee on the merits of the addition made on account of impugned unexplained asset(s) and also the quantification & valuation of other assets (apart from excess stock) have become academic and infructuous and is therefore not being separately adjudicated upon and is being left open. Overall therefore, these grounds of the assessee stands allowed.

**12.** In the result, all the appeals filed by the assessee is partly allowed and the appeals filed by the Revenue are dismissed.

Order pronounced on the 26<sup>th</sup> day of September, 2025, in Chennai.

**Sd/-**  
(एस.आर. रघुनथन)  
**(S.R.RAGHUNATHA)**  
लेखासदस्य/**ACCOUNTANT MEMBER**

**Sd/-**  
(एबी टी. वर्की)  
**(ABY T. VARKEY)**  
न्यायिकसदस्य/**JUDICIAL MEMBER**

चेन्नई/Chennai,  
दिनांक/Dated: 26<sup>th</sup> September, 2025.

**TLN**



ITA Nos.1178 to 1182/Chny/2025 &  
ITA Nos.1393 to 1397/Chny/2025  
(AYs: 2017-18 to 2021-22)  
M/s. Mohanlal Jewellers Pvt. Ltd

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आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT, Chennai / Madurai / Salem / Coimbatore.
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF