

**IN THE INCOME TAX APPELLATE TRIBUNAL, 'E' BENCH  
MUMBAI**

**BEFORE: SHRI AMIT SHUKLA, JUDICIAL MEMBER  
&  
SHRI ARUN KHODPIA, ACCOUNTANT MEMBER**

**ITA No.3552/Mum/2025  
(Assessment Year :2017-18)**

Khimani Watch Company Pvt. Ltd., 104, Chikhhal Apartment, L.T. Road Borivali West S.O. Mumbai – 400 092	Vs.	Dy. Commissioner of Income Tax, Circle 4(3)(1), Mumbai
<b>PAN/GIR No.AAECK0144Q</b>		
<b>(Appellant)</b>	..	<b>(Respondent)</b>

**ITA No.3809/Mum/2025  
(Assessment Year :2017-18)**

Asst. Commissioner of Income Tax, Circle 4(3)(1), Mumbai	Vs.	Khimani Watch Company Pvt. Ltd., 104, Chikhhal Apartment, L.T. Road Borivali West S.O. Mumbai – 400 092
<b>PAN/GIR No.AAECK0144Q</b>		
<b>(Appellant)</b>	..	<b>(Respondent)</b>

Assessee by	Ms. Simran Dhawan
Revenue by	Shri Hemanshu Joshi, Sr. DR
<b>Date of Hearing</b>	<b>13/08/2025</b>
<b>Date of Pronouncement</b>	<b>27/10/2025</b>

**आदेश / O R D E R****PER AMIT SHUKLA (J.M):**

These cross appeals, one by the assessee and the other by the Revenue, are directed against the order dated 26.03.2025 passed by the National Faceless Appeal Centre, Delhi, relating to the assessment year 2017-18 in the context of reassessment framed under section 147 of the Income-tax Act, 1961.

2. The assessee has, in its appeal, challenged the validity of the reassessment under sections 147 and 148, and on merits has assailed the sustenance of an addition of ₹19,93,430/- out of the total addition of ₹5,10,64,500/- made by the Assessing Officer under section 69A. The Assessing Officer had applied an estimate of 20% gross profit on alleged cash sales of ₹99,67,150/- made to 13 parties. The Revenue, on the other hand, has preferred its appeal against the deletion of the balance addition, contending that once there was a Tax Evasion Petition complaining of misuse of third-party PANs and denial of transactions by certain parties in response to notices under section 133(6), the addition of the entire cash deposits ought to have been sustained.

3. The relevant facts are that the assessee company is engaged in the business of purchase and sale of branded watches. It filed its return of income for the year on 27.10.2017 declaring total income of ₹51,07,430/-. Thereafter, on the basis of a TEP filed on behalf of a lady complaining that an invoice of ₹16,88,000/- dated

02.11.2016 had been issued on her PAN without her knowledge, enquiries were initiated. In the course of these enquiries, it was noted that the assessee had deposited in its YES Bank account cash aggregating to ₹5,10,64,500/- in old currency notes during the demonetisation period between 09.11.2016 and 31.12.2016.

4. The Assessing Officer issued notices under section 133(6) to 48 persons in whose names the assessee claimed to have effected cash sales. Out of these, 13 responded, most of them either denying the transactions or asserting that their PAN had been wrongly mentioned. Some requested for more time. The remaining largely did not reply. The Assessing Officer noted that out of total sales of ₹12,08,74,378/- made up to 04.11.2016, the assessee had reported cash sales of ₹62,58,729/- during the subsequent five months. He nevertheless concluded that the cash sales register and supporting documents appeared fabricated to justify deposits during demonetisation. Without rejecting the books of account under section 145, he held that he was not satisfied with their correctness and treated the entire sum of ₹5,10,64,500/- as unexplained under section 69A.

5. The assessee's reply was that all sales had been duly disclosed in its books and offered to tax. Copies of the purchase register, cash sales register, VAT returns, invoices, and the audit report were filed. It was emphasised that most buyers had not declined transactions, only 12 out of 48 had done so, and in some cases persons had merely sought more time. It was contended that the AO had found no defect in

purchases, that TCS was duly collected, and that it was not feasible for the assessee to verify PAN cards of every buyer at the time of cash sales. It was further pointed out that in festive and marriage seasons, watches were commonly purchased in cash, and the ratio of cash to total sales in the relevant year was not abnormal.

*“i) The above cash deposits were made out of the cash balance available on 08.11.2016.*

*ii) Copy of sales register, cash book, invoices, VAT returns, Audit Report, etc. were produced before the AO to substantiate its claim of cash sales made prior to demonetization but the AO made the above addition without rejecting books of account u/s 145.*

*iii) Once the books of account are not rejected by the AO then it would be presumed that the transactions mentioned in the books of account are genuine.*

*iv) The AO failed to find any defect in the purchases made by the Appellant.*

*v) TCS was duly collected on all the above sales as mandated by law.*

*vi) There was no cash sales of law at that point of time of not making cash sales.*

*vii) The Appellant was not in a position to verify the PAN Cards submitted by the buyers at the time of cash sales*

*viii) Out of 48 buyers, only 12 buyers have declined the transactions and one buyer sought more time without declining, meaning that 36 buyers have accepted the transactions*

*ix) Buyers might have declined the transactions to save themselves from the income tax inquiries.*

*x) As per the Comparative Chart of three years, which was filed during scrutiny assessment, it is evident that the total cash*

sales in the year of demonetisation for Sep-Nov was in lines with cash sales in earlier years. In the festive months where there is higher Sales are May-June and Sep-Nov where there is marriage season and festivals including Navratri and Diwali and the purchase of watches during these occasion in cash is not an abnormality. The above chart is reproduced below for the sake of convenience-

MONTH	F.Y.2014-15			F.Y.2015-16			F.Y.2016-17		
	CASH SALES	CREDIT SALES	TOTAL SALES	CASH SALES	CREDIT SALES	TOTAL SALES	CASH SALES	CREDIT SALES	TOTAL SALES
SEPTEMBER	2,18,02,965	1,02,42,484	3,20,45,449	3,03,23,475	1,20,61,500	4,23,84,975	22,20,328	3,17,23,909	3,39,44,237
OCTOBER	3,81,30,721	1,81,47,770	5,62,78,491	2,11,79,892	1,03,63,451	3,15,43,343	2,83,82,465	4,75,00,732	7,58,83,197
NOVEMBER	4,00,80,331	1,19,49,336	5,20,29,667	3,59,81,133	1,63,89,951	5,23,71,084	2,29,73,500	1,88,40,737	4,18,14,237
	-	-	-	-	-	-	2,80,671	2,40,66,062	2,43,46,733
	10,00,14,017	4,03,39,590	14,03,53,607	8,74,84,500	3,88,14,902	12,62,99,402	5,38,56,964	12,21,31,440	17,59,88,404

xi) That the ratio of cash sales to total sales was not abnormal during the year of demonetisation. It was 71.22% in AY 2015-16, and 71.08% in AY 2016-17

xii) The above sales transactions were duly recorded in the books of account hence the section 69A could not be invoked. The Assessing Officer failed to bring an iota of evidence to prove that such amount credited is from undisclosed source.

xiii) Section 115BBE of the Act is a machinery provision to levy tax on income and it should not enlarge the ambit of section 69A of the Act to create a deeming fiction to tax any sum already credited/offered to tax as income. Such recourse is unwarranted keeping in mind the objective to introduce section 115BBE of the Act was only to curb the practice of laundering

of unaccounted money by taking advantage of the basic exemption limit.”

6. The assessee also filed comparative charts of cash and total sales for earlier years to demonstrate that the ratio of cash sales was consistent.

ANNEXURE

MONTH	2014-15			2015-16			2016-17		
	CASH	CREDIT	TOTAL	CASH	CREDIT	TOTAL	CASH	CREDIT	TOTAL
APRIL	2,51,18,493	1,12,28,467	3,63,46,960	2,68,35,759	1,32,65,629	4,01,01,388	1,51,03,402	1,59,05,685	3,10,09,087
MAY	2,69,77,840	82,33,680	3,52,11,520	1,43,98,884	83,99,922	2,27,98,806	4,31,58,955	1,55,77,950	5,87,36,905
JUNE	2,39,53,470	63,92,243	3,03,45,713	3,12,46,615	39,05,035	3,51,51,650	31,84,378	2,19,77,231	2,51,61,609
JULY	1,41,76,830	1,47,77,233	2,89,54,063	1,91,92,674	1,31,68,179	3,23,60,853	26,11,334	2,80,21,401	3,06,32,735
AUGUST	2,59,28,600	81,02,400	3,40,31,000	2,67,62,652	1,45,47,004	4,13,09,656	32,04,321	4,49,27,923	4,81,32,244
SEPTEMBER	2,18,02,965	1,02,42,484	3,20,45,449	3,03,23,475	1,20,61,500	4,23,84,975	22,20,328	3,17,23,909	3,39,44,237
OCTOBER	3,81,30,721	1,81,47,770	5,62,78,491	2,11,79,892	1,03,63,451	3,15,43,343	2,83,82,465	4,75,00,732	7,58,83,197
NOVEMBER-1 to 8	4,00,80,331	1,19,49,336	5,20,29,667	3,59,81,133	1,63,89,951	5,23,71,084	2,29,73,500	1,88,40,737	4,18,14,237
NOVEMBER-9 to 30	-	-	-	-	-	-	2,80,671	2,40,66,062	2,43,46,733
DECEMBER	4,09,48,800	1,72,15,982	5,81,64,782	8,64,48,970	1,61,24,019	10,25,72,989	18,31,550	2,26,54,325	2,44,85,875
JANUARY	3,34,41,698	1,09,68,267	4,44,09,965	82,55,289	53,93,412	1,36,48,701	20,12,945	3,05,92,241	3,26,05,186
FEBRUARY	3,42,91,212	1,39,11,753	4,82,02,965	72,86,479	1,38,13,672	2,11,00,151	9,15,484	3,98,40,481	4,07,55,965
MARCH	3,18,76,364	1,29,48,946	4,48,25,310	3,43,84,085	1,18,33,054	4,62,17,139	12,53,774	4,11,27,752	4,23,81,526
TOTAL	35,67,27,324	14,41,18,561	50,08,45,885	34,22,95,907	13,92,64,828	48,15,60,735	12,71,33,107	38,27,56,429	50,98,89,536

It was urged that since the sales were duly recorded in the books, section 69A could not be invoked, and that section 115BBE, being a machinery provision, could not enlarge the ambit of section 69A to create a deeming fiction for sums already recorded and offered to tax.

7. The learned CIT(A) rejected the jurisdictional challenge to reopening but gave substantial relief on merits. He observed that the Assessing Officer had not explained how the figure of ₹5.10 crore was derived from the list of 48 persons. He also recorded that all purchases were through banking channels and duly incorporated in stock registers, that ratio of cash to total sales was similar to earlier years, and that cash deposits were reflected in VAT returns and audited accounts. He nevertheless drew an adverse inference against the 13 buyers who had denied purchases, and sustained

addition of ₹19,93,430/- by applying a gross profit rate of 20% on alleged sales of ₹99,67,150/-.

8. We have heard the rival submissions at length, perused the material placed before us, and carefully examined the reasoning given by the Assessing Officer as well as by the learned first appellate authority. The entire controversy revolves around the deposits of ₹5,10,64,500/- made in cash during the period of demonetisation, and the Revenue's suspicion that such deposits did not emanate from genuine sales but from unaccounted sources. It is therefore necessary to evaluate whether such suspicion finds corroboration in evidence, or whether the assessee's explanation stands on firmer footing.

9. At the outset, it must be noted that the assessee has historically carried on its trade in branded watches with a substantial proportion of cash sales. The figures of earlier years, which are duly audited and accepted by the Revenue, clearly reveal that cash sales consistently constituted more than seventy per cent of the turnover. In contrast, in the impugned year, the percentage of cash sales has actually declined, with only ₹12.71 crores out of total sales of ₹50.90 crores being in cash. This factual backdrop is of great significance, for it demolishes the allegation that the assessee suddenly invented cash sales during demonetisation merely to justify bank deposits. The very trend of earlier years establishes cash sales as an ingrained feature of the assessee's line of business.

10. The Assessing Officer, while alleging fabrication, has not pointed out a single specific discrepancy in the assessee's books. Purchases are through verifiable banking channels, duly supported by invoices, VAT returns, and stock registers. Sales are recorded in the cash book, reflected in the VAT returns, and tallied with the audited accounts. Unless and until the books of account are rejected under section 145 by recording cogent reasons as to their incorrectness or incompleteness, the accounts cannot be brushed aside. Here, the AO did not reject the books, but still chose to discard the entries by merely observing that they "appear to be fabricated." Such a bald and unsubstantiated remark is not a legally sustainable foundation for an addition.

11. The reliance placed on the denial by 13 parties who responded to notices under section 133(6) also does not advance the Revenue's case materially. In commercial reality, it is not uncommon for buyers, when faced with official notices, to disown transactions in order to shield themselves from further scrutiny. Indeed, many of the notices elicited requests for time rather than outright denials. More importantly, the AO did not confront the assessee with such denials to allow cross-verification, nor did he conduct any independent inquiry to prove that the sales were fictitious. The law does not permit third-party denials alone to override duly maintained and audited books of account. Suspicion, however strong, cannot supplant proof.

12. The other plank of the AO's reasoning is that since the deposits were made in Specified Bank Notes during

demonetisation, they must necessarily be from unaccounted sources. This line of reasoning is fallacious. Once it is demonstrated that the deposits represent recorded cash sales, already subjected to VAT and incorporated into the audited financials, the mere fact of their being in SBNs does not ipso facto render them unexplained. The cash book maintained by the assessee, duly audited, evidences that the cash balance as on 08.11.2016 was sufficient to cover the deposits made thereafter. The reconciliation of cash balance including SBN and non-SBN notes was placed on record and remains un rebutted.

13. The learned CIT(A) has, in principle, accepted the genuineness of sales and purchases, but sustained an addition of ₹19,93,430/- by estimating a gross profit of 20% on cash sales of ₹99,67,150/- relatable to the 13 parties who denied transactions. This approach is equally untenable. Once the turnover stands accepted as genuine and included in the declared accounts, and once the assessee has already offered profit thereon, there is no scope to graft an artificial rate of gross profit over and above the declared results. The law does not permit double addition: the same turnover cannot be taxed once as sales and again by imputing a further notional profit merely because certain buyers later disowned the purchases.

14. It is also not in dispute that tax has already been collected at source on these sales, as required by law. The Revenue has not disproved the collection of TCS nor demonstrated that the statutory filings made by the assessee

are false. This further corroborates the assessee's stand that the sales were real and duly subjected to the tax machinery.

15. In sum, the addition of ₹5.10 crores under section 69A rests solely on suspicion, conjecture, and third-party denials. The factual evidence the consistent history of cash sales, the reconciliation of cash balances, the banking channel purchases, the VAT returns, the audited accounts all point the other way. The sustenance of addition by the learned CIT(A) by applying an artificial gross profit rate is also bereft of justification. Once profit is embedded in turnover already taxed, there is no warrant for a further layer of addition.

16. We, therefore, hold that neither the Assessing Officer nor the learned CIT(A) was justified in making or sustaining any addition. The deposits in the bank account are nothing but proceeds of genuine sales already disclosed in the books. To hold otherwise would be to countenance double taxation and to penalise an assessee merely on the basis of suspicion. The entire addition stands deleted.

**17. In the result, the appeal of the assessee is allowed in full, and the appeal of the Revenue is dismissed.**

Order pronounced on 27<sup>th</sup> October, 2025.

**Sd/-**  
**(ARUN KHODPIA)**  
**ACCOUNTANT MEMBER**

**Sd/-**  
**(AMIT SHUKLA)**  
**JUDICIAL MEMBER**

Mumbai; Dated 27/10/2025  
KARUNA, sr.ps

**Copy of the Order forwarded to :**

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER,

(Asstt. Registrar)  
**ITAT, Mumbai**