आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL
'C' 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

आयकर अपील सं./**ITA Nos.: 1253, 1264 & 1271/Chny/2025**
निर्धारण वर्ष / **Assessment Year: 2017-18**

DCIT, Central Circle -2(3), Chennai.	vs.	**Jagathrakshakan Srinisha,** 1st Main Road, Adyar, Besant Nagar, Chennai – 600 020. Tamil Nadu.
(अपीलार्थी/Appellant)		**[PAN: ABFPS-1422-E]** (प्रत्यर्थी/Respondent)

निर्धारिती की ओर से/Assessee by	:	Shri. B. Ramakrishnan, FCA & Shri. Shrenik Chordia, CA.
राजस्व की ओर से /Revenue by	:	Shri. C.N. Bipin, C.I.T.
सुनवाई की तारीख/Date of Hearing	:	07.11.2025
घोषणा की तारीख/Date of Pronouncement	:	18.11.2025

आदेश /O R D E R

PER S.R.RAGHUNATHA, AM:

The present appeal is preferred by the Revenue against the order dated 06.02.2025 passed by the Commissioner of Income Tax (Appeals)-19 (hereinafter referred to as Ld.CIT(A), Chennai, in respect of the assessment order dated 01.03.2019 passed by the Deputy Commissioner of Income Tax, Central Circle -2(3) (hereinafter referred to as AO) for the assessment year 2017-18 (hereinafter referred to as the impugned assessment year) u/s.143(3) of the Income Tax Act, 1961 (hereinafter referred to as the Act).

2. Apart from the above appeal on the quantum assessment, the Revenue is also aggrieved on the appellate orders in respect of the penalty order passed u/s.270A of the Act and the rectification order passed u/s.154 of the Act. We are dealing with them one by one.

2.1 At the outset, we note that the revenue's appeal in ITA No.1271/Chny/2025 has been filed with a delay of 01 day. After considering the explanation provided, we are of the considered view that the revenue was prevented by sufficient cause from filing the appeal within the prescribed time limit. Accordingly, we condone the delay and the appeal is admitted for adjudication on merits.

Appeal in respect of the assessment order dated 01.03.2019 in ITA No.:1271/Chny/2025:

- The brief facts of the case are as follows:

3. The assessee is an individual and is the daughter of Shri. S.Jagathrakshakan. A search was conducted u/s.132 of the Act, in the premises of Shri.Jagathrakshakan and group on 13.07.2016. During the course of search proceedings, gold / diamond jewellery and silver articles to the tune of Rs.10,29,10,676/- (29,121.350 Grams of gold jewellery and 684.79 carats of diamond jewellery) and that of Rs.5,23,15,699/- (12,910.400 grams of gold jewellery, 321.15 carats of Daimond jewellery and 797 grams of silver articles) were found by the Revenue at the residence of Mr.S.Jagathrakshakan and that of Mr.Selvakumar respectively. Based on the statements recorded u/s.131 of the Act, the AO rejected the submissions of the assessee and made an addition of Rs.14,60,33,144/- (Rs.9,37,17,445/- which is out of Rs.10,29,10,676/- seized in the premises of Mr.S.Jagathrakshakan plus

Rs.5,23,15,699/- seized in the premises of Mr.Selvakumar) as 'unexplained investment' in gold / diamond jewellery by passing an order u/s.143(3) of the Act dated 01.03.2019.

4. Aggrieved by the order of the AO, the assessee preferred an appeal before the Ld.CIT(A), who partly allowed the assessee's appeal by holding that, out of the addition made to the tune of Rs.14,60,33,144/- under the head 'unexplained investment', an estimated sum of Rs.72,45,018/- alone is taxable, however, under the head 'unaccounted business income'. The Ld.CIT(A) decided the issue in favour of the assessee as follows:

- Out of Rs.14,60,33,144/-, added by the AO, jewellery worth a sum of Rs.6,92,80,886/- belongs to the assessee's parents and brother & sister-in-law. The Ld.CIT(A) called for valuation report from the AO, who gave the break-up of jewellery belonging to the assessee's parents and brother & sister-in-law. Based on the valuation report, Rs.6,92,80,886/- was deleted from the addition made.
- Thereafter, jewellery worth a sum of Rs.52,50,000/- was deleted for the reason that value of 1,875 grams of jewellery was already offered under VDIS and the same cannot be added one more time during the impugned assessment. The Ld.CIT(A) also held that the identity of the jewellery disclosed under the VDIS scheme and the identity of the jewellery found during the search need not be the same, since the jewellery would undergo multiple changes based on the fashion trend that prevails.

- Thereafter, the jewellery worth a sum of Rs.2,42,57,240/- was deleted on the grounds that these jewellery were gifted to the assessee's daughters by assessee's mother. The Ld.CIT(A) relied upon the letters given by the assessee's brother, who confirmed this fact.
- After making the above deletions (i.e.,Rs.6,92,80,886/- plus Rs.52,50,000/- plus Rs.2,42,57,240/-) from Rs.14,60,33,144/-, balance sum of Rs.4,72,45,018/- was considered and out of this sum of Rs.4,72,45,018/-, a sum of Rs.72,45,018/- alone was estimated as assessee's 'unaccounted business income'. The sum of Rs.4,00,00,000/- was deleted on the ground that the assessee had sufficient source to purchase jewellery worth this sum of Rs.4,00,00,000/-. The Ld.CIT(A) referred to the income offered by the assessee for various years since A.Y.2011-12 to A.Y.2016-17, through the various businesses, in which the assessee is involved. The assessee had declared a sum of Rs.16,29,91,155/- as income, for the above mentioned assessment years and the assessee had also shown drawings to the tune of Rs.4,52,07,120/- for the above-mentioned assessment years. The Ld.CIT(A) concluded that the drawings are sufficient for the purchase of jewellery worth Rs.4,00,00,000/- and a sum of Rs.72,45,018/- alone needs to be added under the head 'unaccounted business income'. The Ld.CIT(A) further concluded that the AO never brought anything on record to show that the jewellery was purchased only during the financial year relevant to the impugned assessment year and that it is likely that the jewellery must have been purchased over a period of time, considering the income pattern since A.Y.2011-12.

5. Aggrieved by the order of the Ld.CIT(A), the Revenue is in appeal before us. The grounds of appeal are as follows:

1. *The Order of the learned Commissioner of Income Tax (Appeals) is erroneous on facts and in law.*

2. *The Ld.CIT(A) failed to appreciate that the material having been found from the premises of the assessee is erroneous as Section 132(4A) r.w.s 292C of IT Act provides for a presumption that (i)that such books of account, other documents, money, bullion, jewellery or other valuable article or thing belong or belongs to such person & the onus is on the assessee to furnish evidence or explanations to rebut the same.*

3. *The Ld.CIT(A) failed to appreciate that the onus is on the assessee to prove the claim that the jewellery in contention and the one declared under VDIS are one and the same for giving relief on that account.*

4. *The Ld.CIT(A) failed to appreciate that the contention of jewellery of 8,663.30 grams claimed to have been gifted by the mother of assessee, the assessee has not been able to produce any evidence to support the claim of such gift deed along with the details regarding the manner in which the gift was received before giving relief.*

5. *The Ld.CIT(A) failed to appreciate that in respect of the investment made in jewellery out of drawings, it is stated that neither any bills/vouchers nor other material evidence had been furnished by assessee despite several opportunities given to assessee to substantiate the claim but despite the same, CIT(A) has granted relief on that count.*

6. *For these grounds and any other ground including amendment of grounds that may be raised during the course of appeal proceedings, the Order of the Ld.CIT(Appeals) may be set aside and that of the Assessing Officer may be restored.*

6. The Ld.DR relied on the grounds of appeal and argued that the order of the Ld.CIT(A) warrants interference and prayed that the appeal be allowed by restoring the order of the AO. Furthermore, the ld.DR filed a written submission as detailed below:

"4. Submissions made on behalf of the Revenue:

4.1. In this regard it would be pertinent to note that, during the course of search and post search proceedings, all-along the 'A' claimed the jewellery found at her parents' residence and Mr. Selvakumar's residence of 42,031.75 gms of gold jewellery, 1,005.94 carats of diamond jewellery and 797 gms of silver articles valued on the date of search at Rs. 14,60,33,144/-, to be her own and that the same has been earned out of unaccounted business income of the 'A'.

4.2 However, before the Ld AO the 'A' took a stand that only 1,274.39 gms @ Rs. 2,280/- per gram amounting to Rs. 29,05,610/- of jewellery is not being explained in the books of accounts. Out of the total jewellery found during search, the 'A' submitted that only 9,142.8 gms of gold jewellery 199.38 carats of diamonds found at her parents residence to have belonged to her, in support of the same 'A' filed copy of the panchnama taken during the course of search. And out of 12,141.8 gms of gold found at Shri. Selvakumar premises 'A' arrived at 11,667.40 gms of jewellery as net of diamond weight and also out of 9,142.8 gms of jewellery found at her parents' residence the 'A' arrived at 7,641.5 gms to be the gold jewellery net of diamond weight and furnished explanation on the sources for the same as follows:

S. No.	*Particulars*	*Gold in gms As per certificate of the valuer during search*	*Gold in gms- Net of Diamond weight (as per 'A')*	*Diamond in carats*
1.	*Found at the residence of Srinisha (Net diamond weight as per valuation report)*	*9,142.8*	*7,641.500*	*199.38*
2.	*Found at the residence of V. Selvakumar (Net diamond weight as per valuation report)*	*12,141.8*	*11,667.40*	*319.51*
	Total	***21,284.6***	***19,308.9***	***518.89***

4.3. And offered an amount of Rs.29,05,610/- being the value of 1,274.39 gms of jewellery to be unaccounted. 'A' before AO failed to explain how the above quantum of Gold jewellery net of diamond is arrived at, while during the search proceedings, the valuer has arrived at the Jewellery weight after considering all aspects.

4.4. However, before the Ld CIT(A) the 'A' changed her stand and submitted that the entire jewellery found during the search and admitted by the 'A' to be out of unexplained income as that stands explained.

5. With regards to the jewellery claimed to have been offered under VDIS to an extent of 1,878.45 gms of gold jewellery:

5.1. As brought out by Ld AO, that none of the jewellery under the VDIS have been found part of the jewellery found and seized during the course of search in the premises of Shri. S. Jagathrakshakan and Shri V. Selvakumar. The 'A' before the Ld CIT(A) submitted that the gold has been remade since it is the general practice as per the Hindu traditions and that the VDIS declaration was made in the year 1994 and during the period of 20 years the jewellery has gone through many changes including remake and remodelling etc.

5.2. In this regard it is submitted that neither during the course of search, nor during the post search 'A' made such a claim and during the assessment for the first time when the claim is made, it is only an afterthought. 'A' all along and until the present proceedings has failed to file even a single proof for the conversion to remaking or remodelling the jewellery. Hence, without any evidences just based on a mere statement the action of the Ld CIT(A) in allowing relief to the 'A' on account of jewellery earlier declared under VDIS

is erroneous and is not borne out of facts available on records. Hence the order of the Ld CIT(A) on the above issue needs to be set- aside thus by upholding the additions made by the Ld AO.

6. With regard to the jewellery claimed by the 'A' to have been gifted by her mother:

6.1. It is to be noted that before Ld AO the 'A' failed to file any evidences in support of her contentions regarding gift of jewellery by mother. Before Ld CIT(A) for the first time 'A' filed evidences in- form of audited accounts of the 'A's mother and a letter from 'A's brother as a proof for jewellery gifted by her mother, without submitting any evidences proving the purchase of jewellery by the mother in the form of purchase receipts.

1. *In this regard, it is submitted that serious differences are found in respect of jewellery purchases by 'A' mother in respect of jewellery claimed to have been gifted to her grandchildren.*
2. *As on 31.03.2014, the affidavit filed by Shri. Jagathrakshakan the father of the 'A' during the Lok Sabha election mentions quantum of jewellery owned by the 'A' mother to be at 300 gms, while the balance sheet of the 'A' mother as on 31.03.2014, available on record shows the jewellery owned by 'A' mother to be at 2,800 gms.*
3. *Peculiarly subsequent to search the 'A' mother started buying jewellery by using the funds borrowed from her own proprietary concern viz., M/s. Premier Leather Corporation. While as per the balance Sheet 2014-15, the 'A' mother owned only 300/2,800 gms, the 'A' mother during the 3 years post search alone accumulated 20,773 gms of jewellery, 688 carats od diamond jewellery and 5kgs of silver.*
4. *While the 'A' mother has shown drawings from M/s. Premier Leather Corporation as her source for the jewellery investment for the FY 2014-15, it is relevant to note that amongst all the years available accounts, only in these years' drawings have been made from M/s. Premier Leather Corporation.*
5. *As seen in the bank statements the entire drawings have been withdrawn from the bank account.*
6. *No single payment through bank is towards jewellery purchase in any of these years, even if jewellery is purchased out of cash no single receipts for purchase of jewellery is found during the course of search, neither produced during post search/ scrutiny proceedings.*
7. *The appellant vide written submissions filed before the Hon'ble ITAT dt 08.09.2025, relied on the order of assessments in case of appellant's mother to prove the fact of gift of jewellery made by her to the appellant.*
    - *In this regard it is submitted that various false figures were submitted before AO explaining the quantum of jewellery purchased and gifted*
    - *Vide page no.2 of the assessment order for AY 2015-16 in case of appellant mother, the yearwise quantum of investment in jewellery was sought to be explained as follows;*
    - *12125 gms of jewellery for Rs 2,73,06,070 and 125 carats of diamond jewellery for Rs 37,50,000 was purchased by the assessee during the AY 2015-16*
    - *The yearwise movable assets detail furnished by the appellant mother before the AO is as follows*

Assets	*AY 2014-15*	*AY 2015-16*	*AY 2016-17*
Jewellery	*13,64,528 (2800 gms)*	*14,04,778 (3262 gms)*	*14,04,778 (3262 gms)*
Diamond	*-*	*37,50,000*	*37,50,000*

		125 carats	*125 carats*
Gold Jewellery	*-*	*2,02,65,820 (8999 gms)*	*2,02,65,820 (8999 gms)*
Silver 5 kg	*5,12,200*	*5,12,200*	*5,12,200*

- *AO gave a finding that the above is an afterthought*
- *As is noted above while appellant mother owned only 300 gms of jewellery as on 31.03.2014, 2500 gms of jewellery out of the above was never available.*
- *Out of the above movable assets furnished, the gift made by the appellant mother to the appellant is not considered*
- *There is variance between the jewellery figures declared by the appellant mother at various instances before AO in the balance sheet prepared etc, and there is no reconciliation available for the each of the figures*
- *Without prejudice even if the figures reported are considered, there is no proof for the jewellery purchases made.*
- *Even if we go by the balance sheet of the appellants mother the same remain unreconciled.*
- *For the above reason the claim of so called gift of jewellery by appellants mother to the appellant has no basis. *

8. The 'A's mother had considered all the cash drawings from the concerns and against the same the gold purchase is brought in at the asset side of the balance sheet.

Sl No	*AY*	*Cash Drawings In Rupees*	*Increase in Jewellery Gold in grams*	*Increase in Diamond in carats*	*Increase in Silver in kg*
1	*2015-16*	*3,90,47,288*	*3600*	*200*	*5*
2	*2016-17*	*5,88,08,603*	*7,600*	*288*	
3	*2017-18*	*5,16,05,371*	*9,173*	___	___

8.1 It is more than clear that the same is an after thought as during the search the huge amount of jewellery was seized and the 'A' Srinisha clearly stated that this was bought from the unaccounted income. It is to be noted from the bank statements that even the cash drawings just few weeks before the search is considered for the purpose by the assessee and surprisingly nobody knew that the huge amount of the gold was purchased in cash very recently during the search without any single piece of receipts. Also there is no need of withdrawing the cash and purchase the gold under any circumstances as the money in the bank account can be transferred to the Jewellers for purchase. There are no receipts available for the said cash purchases and no submission as to from which Jeweller such huge amount of Jewellery has been purchased. In the absence of the above documents evidencing purchase of jewellery, it is evident that the cash withdrawals have been used for some other purpose and not for jewellery purchase as claimed by the appellant's mother and hence the jewellery claimed to have been gifted by appellants mother is not at all available with her. Considering the facts and circumstances the huge increase in jewellery as shown in the balance sheet of the 'A's mother and part of which claimed it to be gifted to the 'A' and also part of it claimed to be belonging to the 'A' mother is not acceptable and the same may be discarded as an afterthought.

9. The price at which the Jewellery purchases are accounted are also exorbitantly high compared to the prevailing market rates viz.,

Sl. No.	AY	Cash Drawings In Rupees	Increase in Jewellery Gold in grams	Increase in Diamond in carats	Increase in Silver in kg	Per gram value of jewellery purchased	Market value(peak rate) in Rs.
1	2015-16	3,90,47,288	3600	200	5	Rs 8069/gm	2800/gm
2	2016-17	5,88,08,603	7,600	288		Rs 6422/gm	3049/gm
3	2017-18	5,16,05,371	9,173	___	___	Rs.5626/ gm	2976/gm

10. Without prejudice while before Ld CIT(A) the 'A' submitted the value of gold jewellery gifted by 'A's mother to her grandchildren (minor daughters of the 'A') to be at Rs. 2,05,16,000/- the value of the same as per the fixed assets statement of the 'A' as on 31.03.2017 stands at only Rs. 1,03,08,000/- ***(refer pg no. 266 of the paper book filed by the 'A' dated 14.08.2025).***

6.2. The Ld CIT(A) while taking fresh evidences and allowing relief to the 'A' failed to consider the above discrepancies. For the above reason it is submitted that the order of the Ld CIT(A) is fraught with factual errors and hence, the order of the Ld CIT(A) is not tenable.

7. With regard to the jewellery claimed by the 'A' to have been purchased/ received as gift by her:

7.1. With respect to the above issue, the 'A' filing the value of addition to jewellery assessment year wise from AY's 2011-12 to 2016-17 as available in pg no.6 para 3 above, sought to explain part of the unexplained jewellery to an extent of Rs. 4,52,07,120/-. In this regard the following submissions are being made:

1. *It is submitted that in respect of the claim of 'A' regarding her own purchases the 'A' failed to file any document evidencing the purchase of jewellery by her. It is also to be noted that the purchase of jewellery explained by the 'A' before the Ld CIT(A) is in total variance from the jewellery admitted as assets in her balance sheet.*
2. *While before the Ld AO, the 'A' sought to explain the jewellery seized in terms of quantum of gold jewellery and diamond jewellery purchased in various years, before the Ld CIT(A) the 'A' furnished the reconciliation in terms of value of gold jewellery.*

Assessment Year	Before the Ld CIT(A) (in Rs)	Before the Ld AO (Quantum of jewellery in grams)	Before the Ld AO (Quantum of diamond in carats)
AY 2011-12	80,93,480	668.41	40.00
AY 2012-13	1,97,54,261	--------	-------
AY 2013-14	16,06,290	553.28	100.00
AY 2014-15	43,86,555	65.81	125.00
AY 2015-16	68,16,158	2,284.12	100.00

AY 2016-17	45,50,376	2,130.53	78.04
Total	4,52,07,376	5,702.15	443.00

From the above it is evident that the fact of how the 'A', before the ld CIT(A) arrived at the value of jewellery from the quantum of jewellery figures produced before the Ld AO is not explained. Peculiarly while before the Ld CIT(A) the 'A' has shown an addition of value of jewellery in the AY 2012-13, before the Ld AO, no such addition is shown. Also, before the Ld AO while explaining the quantum of jewellery seized as brought out below:

Assessment Year	Particulars	Gold	Diamond
1995-96	VDIS declaration	1,878.450	----
2009-10	Purchase	222.35	20.00
2010-11	Purchase	226.53	10.00
2011-12	Purchase	668.41	40.00
2013-14	Purchase	553.28	100.00
2014-15	Purchase	65.81	125.00
2015-16	Purchase	2,284.12	100.00
2015-16	Gift from mother	2,664.30	----
2016-17	Purchase	2,130.53	78.04
2016-17	Gift from mother	2,799.00	---
2017-18	Purchase	1,341.73	---
2017-18	Gift from mother	3,200.00	---
	Total	**18,034.51**	**518.89**

the 'A' has included purchases made during AY 2009-10 and 2010-11 and 2017-18 as well. While before the Ld CIT(A) gave explanation on jewellery purchase between the AY's 2011-12 and 2016-17 only.

3. *No Wealth tax has been filed by the 'A' in any of the years.*
4. *Peculiarly subsequent to search the 'A' is shown as buying huge amount of jewellery, compared to that purchase prior to the year of search.*
5. *No single payment through bank evidencing purchase of jewellery during these years is produced by the 'A' before the Ld AO and Ld CIT(A).*
6. *Even if jewellery is purchased out of cash no single receipts for purchase of jewellery is found during the course of search, neither produced during post search/ scrutiny proceedings.*
7. *While the Ld CIT(A) in Para 7.2.23 hold that the 'A' has produced evidences the income and status of the family it is not clear as to basis what evidences the Ld CIT(A) concluded that considering the status social norms and practises in India gave allowance to an extent of Rs. 4,00,00,000/- as the reasonable amount for explaining the sources for purchase of jewellery.*

8. The status of the 'A' may be an indicator for the huge amount of Jewellery owned by the 'A', but that does not explain the sources for said investment in Jewellery.

9. While as extracted above the 'A' claimed the year wise drawings and addition to jewellery, that available as per the balance sheet of the 'A' is in total variance from the figures provided by the 'A' before the Ld CIT(A).

10. The Principle of argument as detailed in Paragraph 8.1 of this Written Submission is applicable in the case of the 'A' as well.

Assessment Year	*Drawings and additions to the Jewellery claimed by 'A' before the Ld CIT(A). (In Rs)*	*Value of jewellery added during the year as per the Balance Sheet of the 'A' as on the year ending. (In RS)*
AY 2011-12	*80,93,480*	*20,93,480(1,145 gms)*
AY 2012-13	*1,97,54,261*	____
AY 2013-14	*16,06,290*	*41,84,410 (1,605 gms)*
AY 2014-15	*43,86,555*	*37, 69,343 (1,446 gms)*
AY 2015-16	*68,16,158*	*79,73,302 (3,060 gms)*
AY 2016-17	*45,50,376*	*39,13,497 (1,350 gms)*
Total	*4,52,07,376*	*2,18,80,032*

*11. Without prejudice while before Ld CIT(A) the 'A' submitted the value of gold jewellery purchased by 'A' between the AY's: 2011-12 to 2016-17 to be at Rs. 4,52,07,120/- wherein the value of the same as per the fixed assets statement of the 'A' as on 31.03.2017 stands only at Rs. 2,52,97,245.29/- (**refer pg no. 266 of the paper book filed by the 'A' dated 14.08.2025).**"*

7. Per contra, the Ld.AR supported the order of the Ld.CIT(A) and argued that the order is a well-reasoned one and needs no interference and prayed that the appeal may be dismissed. The Ld.AR also filed a paper book and took us through the various pages of it, while supporting the order of the Ld.CIT(A). The Ld.AR also provided written submissions, which are extracted as follows,

"2. At the outset, it is submitted that the Respondent is the daughter of Mr.S.Jagathrakshakan, a businessman and politician, presently Member of Parliament in Lok Sabha from the Arakkonam constituency of Tamil Nadu. The Respondent's family owns and operates several highly profitable business entities. She is married to Mr. Narayanasamy Elamaran, who also manages a thriving business and comes from a well-established family. Following her marriage into this esteemed family, the Respondent had received substantial streedhan and numerous gifts on various occasions from her parents and parents-in-law. The jewellery in the Respondent's possession primarily consists of items received as gifts from family members, on the occasion of her marriage as well as pieces purchased by the Respondent herself using her own financial resources which were properly disclosed in the Income tax returns filed by her across the AYs.

3. The Learned Assessing Officer had, prima-facie, relied upon the Respondent's sworn statements recorded during the search proceedings and had not rightly considered the facts laid out in the Valuation Reports subsequently obtained during the

assessment proceedings that provided the bifurcation on the jewellery found family-member wise of the Respondent based on the Panchanama recorded identifying the jewellery with the respective family members owning the same, whereby the jewellery belonging to the Respondent's parents, her brother & his wife were assessed in her hands as well (please refer page nos. 47 & 48 of the Paperbook filed by the Respondent).

*4. It is submitted that the jewellery found during the search included that belonging to her parents Shri Jagathrakshagan & Smt. J. Anusuya, her brother Sundeep Anand & his wife Smt Swetha as was evident from the Panchanamas recorded during the search in their names separately. The jewellery so recorded had been independently assessed in their individual assessments as well (please refer page nos. 52-64; 134-145 & 194-204 of the Paperbook filed by the Respondent). The CIT(A) had called for the Valuation Report from the Assessing Officer in this regard and on perusal of the same, it was evident that **Rs.5,92,65,927/-** worth of jewellery found belonged to the Respondent's parents while **Rs.1,00,14,959/-** worth of jewellery found belonged to her brother & his wife.*

*5. The Respondent had disclosed about 1,878.45 grams of jewellery under the Voluntary Disclosure of Income Scheme ("VDIS"), 1997 and had submitted that the said jewellery had formed part of that found during the search (please refer page nos.84 & 85 of the Paperbook filed by the Respondent). However, the Learned Assessing Officer had rejected the same on the grounds that the jewellery identified during the search was distinct from that disclosed under VDIS. Against such contention, the Respondent had submitted before the CIT(A) that the said jewellery had undergone multiple changes over the period of time to suit her needs as per change in fashion and relied upon the decision of the Hon'ble ITAT Delhi Bench in the case of **Sunita Gupta vs DCIT vide ITA No. 5295/Del/2013 dated 17.03.2016**, observing that the said explanation is plausible in a similar scenario. The Learned CIT(A), observing that "When the appellant is in possession such huge volumes of precious jewellery, it would be ideal to view the same on the basis of quantity rather than item-wise.", had allowed a sum of **Rs.52,50,000/-** towards the 1,875 grams of jewellery disclosed under VDIS in that found during search, computed at Rs.2,800/- per gram being the market rate of gold per gram as at 31.03.2017.*

*6. The Respondent had submitted that about 8,663.300 grams of jewellery gifted by her mother Smt J.Anusuya to her daughters formed part of the jewellery found during the search. The Learned CIT(A), on perusal of the Assessment Orders passed in Smt.Anusuya's case wherefrom it was evident that she had gifted such 8,663.300 grams of jewellery to her grand-daughters (please refer page nos.52 - 64 of the Paperbook filed by the Respondent), then relying on the letter dated 07.01.2025 issued by the Respondent's brother Shri Sundeep Anand asserting that the jewellery weighing 8,663.300 grams of gold was gifted by their mother to the daughters of the Respondent (please refer page no.86 of the Paperbook filed by the Respondent), had allowed a sum of **Rs.2,42,57,240/-** towards such gift of 8,663.300 grams computed at Rs.2,800/- per gram being the market rate of gold per gram as at 31.03.2017.*

7. Further, the Respondent had declared income of about Rs.16,29,91,155/- across the AYs 2011-12 to 2016-17 and had disclosed drawings of about Rs.4,52,07,120/- in those AYs (please refer page nos. 210 – 266 of the Paperbook filed by the Respondent). Hence, the Respondent had submitted during the assessment proceedings that she had sufficient source for purchase of jewellery across such years, also given her family background and gifts received on various occasions in line with the social norms and practices in India as stated above. The CIT, on consideration of the

fact that there were drawings to the tune of Rs.4,52,07,120/- that can be given the telescoping benefit towards purchase of jewellery across the years, had allowed a sum of ***Rs.4,00,00,000/-*** *towards investment in jewellery.*

The CIT(A) had placed reliance on the decision of the ***Hon'ble ITAT Delhi Bench in the case of Kirti Singh Vs ACIT Central Circle-2, Noida in ITA No. 977 & 1067/DEL/2023 dated 07.12.2023****, referring to the observation of the Hon'ble Delhi High Court in the case of Ashok Chaddha vs. ITO (2011) 14 taxmann.com 57 (Del) wherein collecting jewellery above the limit prescribed in the instruction, in a married life of 25 to 30 years, was not treated as abnormal. The normal custom of Indian society and realities of life were considered by the Hon'ble High Court, besides the decisions of the Co-ordinate Bench in Monisha R. Jaising vs. DCIT, (2019) 101 taxmann.com 519 Trib.) and Vibhu Aggarwal vs. DCIT. (2018) 93 taxmann.com 275 Trib.) wherein it has been held that keeping in mind the high income reported by the respective assessee and having regard to wealthy family status where gifting of jewellery is customary, the explanation offered by the assessee towards holding gold and ornaments in excess of CBDT instruction was treated as explained.*

The CIT(A) had also observed that during the course of the search, no evidence(s) had been unearthed to prove that the Respondent had purchased the jewellery in dispute during the FY 2016-17 relevant to AY 2017-18.

8. The Learned Assessing Officer had not established that the Respondent had any source(s) of income other than business income. Considering the same, the CIT(A) had ***sustained*** *the addition towards 'unexplained investment in jewellery' to the tune of* ***Rs.72,45,018/- as 'unaccounted business income'*** *of the Respondent for the subject AY 2017-18.*

9. The above mentioned contentions of the Respondent as upheld by the CIT(A) against the addition of Rs.14,60,33,144/- made towards 'unexplained investment' in jewellery are summarized in the form of a table below :

S.No.	***Description***	***Amount in INR***
1	*Jewellery belonging to the Respondent's parents assessed in her hands*	*5,92,65,927*
2	*Jewellery belonging to the Respondent's brother & his wife assessed in her hands*	*1,00,14,959*
3	*Jewellery disclosed under VDIS by the Respondent*	*52,50,000*
4	*Gift of jewellery from mother Smt J.Anusuya to the Respondent's daughters*	*2,42,57,240*
5	*Investment in jewellery through drawings across the years*	*4,00,00,000*
6	*Jewellery sourced from unaccounted business income of the Respondent – sustained as addition towards 'unaccounted business income'*	*72,45,018*
TOTAL		***14,60,33,144***

Considering the above, it is most respectfully and humbly prayed that Your Authority may be pleased to uphold the decision of CIT(A) in deleting the addition made in the assessment and dismiss the Grounds of Appeal raised by the AO and/or provide such other relief as the case deems fit, for which act of justice, the Respondent shall ever be grateful."

8. We have heard the arguments of both the parties, perused the orders of the authorities below and the paperbook filed by the Ld.AR. Admittedly the panchanamas drawn during the search clearly record that jewellery was found at different premises and attributed to distinct family members. The Ld. CIT(A), after calling for and examining the valuation report from the AO, established that jewellery valued at Rs.5,92,65,927/- belonged to the assessee's parents and Rs.1,00,14,959/- belonged to her brother and sister-in-law. The Revenue has not brought any material to contradict these factual findings. Hence, the deletion of ₹6,92,80,886/- requires no interference. According, to the Revenue the presumption is that, the jewellery belongs to the person, in whose premises it was found at the time of search. It is pertinent to state that the jewellery was never found in the premises of the assessee. Rather, it was found at the premises of assessee's father and one Mr.Selvakumar. Therefore, the addition can never be sustained in the hands of the assessee and hence ground no.2 of the revenue is dismissed. While the presumption under section 132(4A) applies, it is rebuttable. The ld.CIT(A) has relied upon detailed evidence, including valuation reports, independent assessments of family members, and income records of the assessee. Thus, in the present case on hand, we are of the considered view that the presumption stood effectively rebutted.

9. Further, we find that the ld.CIT(A) called for a valuation report from the Assessing Officer himself and on the basis of the same, verified that jewellery worth

Rs.5,92,65,927/- belonged to the assessee's parents and Rs.1,00,14,959/- belonged to her brother and sister-in-law. Since these items were separately assessed in their respective hands, the ld.CIT(A) rightly deleted the addition in the assessee's hands. The Revenue has not disputed these independent assessments or produced any material to show that the jewellery in question belonged to the assessee. Therefore, we do not find any infirmity in the decision of the ld.CIT(A).

10. The Revenue's contention that the assessee must prove that the jewellery found at the time of search and the jewellery declared during VDIS scheme are one and the same, seems to be misconstrued. The Ld.CIT(A) had given a well-reasoned order in holding that the identity of the jewellery need not be the same, since it could have undergone changes, owing to the changes in the trends of fashion. We are inclined to accept the rationale given by the Ld.CIT(A) that women tend to re-model their existing jewellery to suit their preferences. Therefore, a one-to-one matching of the identity is not possible, nor required, if the quantity found is matched.

11. The assessee had disclosed 1,875 grams of gold under VDIS, 1997. The ld.CIT(A), following the coordinate bench decision in *Sunita Gupta vs DCIT* (ITA No.5295/Del/2013, dated 17.03.2016), accepted the assessee's explanation that the form or design of the jewellery might have changed over time but the quantity was consistent. Therefore, we find no infirmity in this finding. Once income has been voluntarily disclosed and taxed, the same cannot be taxed again merely for change in form.

12. The Revenue further contends that there are no gift deeds or the details of receipt of gift, with respect to the gifts made by the assessee's mother to assessee's

daughters and therefore the plea of receipt of gift should not be accepted. It is to be borne in mind that in Indian tradition, when grand mother give gifts to grand daughters, especially jewellery, there will not be any gift deeds being made between the parties. Among close family members, such gift deeds are generally not made and that can never be a reason to disallow the claim of gift. The Ld.CIT(A) had reasoned out that the assessee's brother had given a letter stating the fact of the gift and that stands as an evidence to show that gifts are indeed made. In our view, this is acceptable. At any rate, we find that the AO never brought out any material to disprove the receipt of gift by the assessee. Furthermore, it is noted that the assessee's mother has been assessed to tax and declared the jewellery in her statement of affairs.

13. We find that the ld.CIT(A) verified the assessment order of the assessee's mother, Smt.J.Anusuya, where it was recorded that 8,663.30 grams of jewellery had been gifted to the assessee's daughters. This finding was further corroborated by the letter of the assessee's brother. In the absence of any contrary evidence brought by the AO, the deletion of Rs.2,42,57,240/- on this count is justified.

14. The Revenue contends that the assessee did not prove the purchase of jewellery through bills/vouchers and hence the claim that jewellery was purchased from drawings should not be accepted. We note that the ld.CIT(A) found that the assessee had declared income of Rs.16.29 crores from AY 2011-12 to AY 2016-17, with drawings of Rs.4.52 crores. After allowing reasonable telescoping benefit, the ld.CIT(A) accepted that Rs.4.00 crores worth of jewellery could have been purchased from such drawings. This finding is factual and well-reasoned. The Revenue has not disproved the existence of such drawings. In our view, production of bills / vouchers is not a crucial

factor in determining whether drawings are available for the purchase of jewellery. The jewellery were purchased over a period of time and hence it is not possible to preserve the bills / vouchers for the purchase of jewellery. The AO never disputed the drawings nor disputed that jewellery was purchased from drawings. The only contention seems to be that the assessee did not produce bills / vouchers.

15. Further, it is important to note that the Ld.CIT(A) rightly observes that the AO never brought anything on record to show that the entire jewellery was purchased in the financial year relevant to the impugned assessment year and the same needs to be added in the impugned assessment year only. Further, enough drawings were available for each year to effect the purchase of jewellery. At this juncture, it is important to note that the deeming provisions of 'unexplained investment' are to be construed strictly, and the burden of proof is on the Revenue to assert that an addition is to be made under the head 'unexplained investment', with respect to any 'unexplained investment' made during a financial year. The year of addition is a crucial factor and in the present case, the AO has not brought out any document to show that the addition is to be made only in the impugned assessment year. It is seen that neither the proof that jewellery was purchased during the financial year relevant to the impugned assessment year, nor the proof for making an addition under the head 'unexplained investment' was placed on record by the AO.

16. Therefore, in the present facts and circumstances of the case and relying on our above observations, we are of the considered view that the order of the Ld.CIT(A) needs no interference and hence we are inclined to dismiss all the grounds of appeal raised by the Revenue.

17. In the result, the appeal filed by the Revenue is dismissed.

Appeal in respect of the rectification order dated 18.01.2021 passed u/s.154 of the Act.

18. The Revenue is in appeal against the order dated 20.02.2025 passed by the Ld.CIT(A), in respect of the rectification order dated 18.01.2021 passed by the AO u/s.154 of the Act. The said rectification order u/s.154 of the Act emanates from the assessment order dated 01.03.2019, which was discussed above in ITA No.1271 of 2025.

19. The AO, in the rectification order u/s.154 of the Act dated 18.01.2021, had invoked the provisions of section 115BBE of the Act and held that while passing the assessment order u/s.143(3) of the Act dated 01.03.2019, even though addition was made as 'unexplained investment', yet, the provisions of section 115BBE of the Act was not invoked, which constitutes a mistake apparent on record. Accordingly, in terms of section 115BBE of the Act, the tax was recomputed at 60% and surcharge was levied at 25% and the demand was increased to Rs.14,10,28,744/-

20. Aggrieved by the order of the AO, the assessee preferred an appeal before the Ld.CIT(A), who allowed the appeal on the ground that he had modified the assessment order and only a sum od Rs.72,45,018/- was estimated by him, and that too under the head 'unaccounted business income'. The Ld.CIT(A) concluded that since the addition made in the assessment order is modified from 'unexplained investment' to 'unaccounted business income', the provisions of section 115BBE of

the Act would not be applicable and that such addition is to be taxed at normal provisions of the Act and not u/s.115BBE of the Act.

21. Aggrieved by the order of the Ld.CIT(A), the Revenue is in appeal before us on the following grounds of appeal.

1. *The Order of the learned Commissioner of Income Tax (Appeals) is erroneous on facts and in law.*
2. *The Ld.CIT(A) erred in not noting that the AO categorically added Rs.14,10,28,744/- under unexplained investment in jewellery which attracted the provisions of section 115BBE but was failed to be done thereby rendering the original assessment order bearing an error apparent from record which attracted provisions of section 154 of the Act.*
3. *The Ld.CIT(A) erred in observing that the AO failed to classify the additions u/s 115BBE of the Act in the original assessment order, which compounded the error in applying section 154 of the Act for tax without appreciating that provisions of section 154 is in the statute to rectify such apparent errors.*
4. *For these grounds and any other ground including amendment of grounds that may be raised during the course of appeal proceedings, the Order of the Ld.CIT(Appeals) may be set aside and that of the Assessing Officer may be restored.*

22. The Ld.DR relied on the grounds of appeal and argued that the order of the Ld.CIT(A) warrants interference and prayed that the appeal be allowed.

23. Per contra, the Ld.AR supported the order of the Ld.CIT(A) and argued that the order is a well-reasoned one and needs no interference and prayed that the appeal may be dismissed. Further, the ld.AR filed a written submission as detailed below :

"Without prejudice to the outcome of the Quantum Appeal, we submit as under:

1. **<u>At the outset, it is submitted that the debatable issue in dispute in the Respondent's case in hand cannot be considered u/s 154 of the Income Tax Act, 1961 ("the Act").</u>**
2. In the present case, the Assessing Officer had passed the Order u/s 154 of the Act by adopting the tax rate u/s 115BBE of the Act at 60% as against the rate of 30% adopted

in the Assessment Order passed u/s 143(3) of the Act, construing it as a 'mistake apparent from record' to be rectified u/s 154 of the Act.

3. In this regard, it is submitted that the increase in tax rates to 60% from the then existing 30% was brought through the amended provisions of section 115BBE of the Act that was brought in force by the Taxation (Second Amendment) Act, 2016 on 15.12.2016 and hence, cannot be held to be applicable for the entire financial year 2016-17, which would amount to retroactive in operation. In other words, though the amendment brought on 15.12.2016 was mentioned as applicable for AY 2017-18 (FY 2016-17), since the amendment was made in the middle of a year, it cannot be made applicable for the entire financial year 2016-17 as held by Hon'ble Supreme Court in the case of **Karimtharuvi Tea Estate Ltd Vs. State of Kerala in [1966] 60 ITR 262 (SC)**.

4. As such, adopting the tax rate u/s 115BBE of the Act at 60% or 30% for the AY 2017-18 has been a debatable issue before various Judicial Forums time and again and accordingly, the said issue cannot be categorized as a "mistake apparent from the record" to be rectified through an Order passed u/s 154 of the Act.

5. In this regard, reliance is placed on the following decisions:

1.1. In the case of **T.S. Balaram, Income-tax Officer vs. Volkart Brothers [1971] 82 ITR 50 (SC)[05-08-1971], the Hon'ble Supreme Court** held that - Section 17(1) of 1922 Act can apply to a 'person'. The expression 'person' is defined in section 2(9) of 1922 Act to include a HUF and a local authority. Unless a firm can be considered as a 'person', section 17(1) of the 1922 Act cannot govern the assessment of the assessee-firm. In the 1961 Act the expression 'person' is defined differently. It is a matter for consideration whether the definition contained in section 2(31) of the 1961 Act is an amendment of the law or is merely declaratory of the law that was in force earlier. To pronounce upon this question, it may be necessary to examine various provisions in the Act as well as its scheme. Thus, the question whether section 17(1) was applicable to the case of the assessee-firm was not free from doubt. Therefore, the ITO was not justified in thinking that on that question there could be no two opinions. It was not open to the ITO to go into the true scope of the relevant provisions of the Act in a proceeding under section 154 of the 1961 Act. A mistake apparent on the record must be an obvious and patent mistake and not something which can be established by a long drawn process of reasoning on points on which there may conceivably be two opinions. Thus, the ITO was wholly wrong in holding that there was a mistake apparent from the record of the assessments of the assessee-firm. The revenue's appeal was accordingly dismissed. The case was decided in favour of assessee.

2. In the case of **Mepco Industries Ltd. vs. Commissioner of Income-tax [2009] 185 Taxman 409 (SC)/[2009] 319 ITR 208 (SC)/[2009] 227 CTR 313 (SC)[19-11-2009], the Hon'ble Supreme Court** held as under**:**

"The judgment of Sahney Steel & Press Works Ltd.'s case (supra) was based on a detailed examination of the Subsidy Scheme formulated by the Government of Andhra Pradesh. It stated that incentives would not be available unless and until production had commenced. In that case, the Court found that incentives were given by refund of sales tax and by subsidy on power consumed for production. In short, on the facts and circumstances of that case, the Court came to the conclusion that incentives were production incentives in the sense

that the assessee was entitled to incentives only after entering into production. It was also clarified that the scheme was not to make any payment directly or indirectly for setting up the industries. [Para 4]

The only ground on which rectification was sought to be made by the Commissioner was that power tariff subsidy given to the assessee was admissible only after commencement of production. Consequently, according to the Commissioner, power tariff subsidy constituted operational subsidies and not capital subsidies and, in the circumstances, he applied the ratio of Sahney Steel & Press Works Ltd. (supra) to rectify its earlier order. The instant case involved change of opinion. In this connection, it must be noted that the Government grants different types of subsidies to the entrepreneurs. The subsidy in Sahney Steel & Press Works Ltd.'s case (supra) was an incentive subsidy linked to production. In Sahney Steel & Press Works Ltd.'s case (supra) the Court had categorically stated that the scheme in hand was an incentive scheme and it was not a scheme for setting up the industries. In the said case, the salient features of the scheme were examined and it was noticed that the scheme formulated by the Government of Andhra Pradesh was admissible only after the commencement of production. [Para 5]

In income-tax matters, one has to examine the nature of the item in question, which would depend on the facts of each case. Therefore, in each case, one has to examine the nature of subsidy. The exercise cannot be undertaken under section 154. There was one more reason why section 154 was not invokable by the department in the instant case. Originally, the Commissioner, while passing orders under section 264, had taken the view that the subsidy in question was a capital receipt not taxable under the Act. After the judgment of the Supreme Court in Sahney Steel & Press Works Ltd.'s case (supra), the Commissioner had taken the view that the subsidy in question was a revenue receipt. Therefore, the instant case was a classic illustration of change of opinion. [Para 7]

The decision on debatable point of law cannot be treated as 'mistake apparent from record'. [Para 11]

Accordingly, the appeal was to be allowed." [emphasis supplied]

6. **Without prejudice to the above submissions,** reliance is placed on the following decision in the case of **S.M.I.L.E Microfinance Limited vs The Assistant Commissioner Of Income in W.P.(MD)No.2078 of 2020, the Hon'ble Jurisdictional Madras High Court** held as follows:

"17. In the aforesaid objects and reasons nowhere it is stated that due to "demonetization" the unaccounted money ought to be charged 60% rate of tax. It only states that step had been taken to curb black money by withdrawing Specified Bank Notes of denomination of Rs.500 and Rs.1000. And also states the people may find illegal ways of converting their black money into black again, hence as per experts advice heavy penalty ought to be levied. From the language of the object "that instead of allowing people to find illegal ways of converting their black money into black again", it is evident that the government is intended to impose the same for future transactions. Especially the use of word "again" in the object would clearly indicate it is for future transactions i.e. from 01.04.2017. ***Therefore this Court is of the considered opinion that the***

revenue is empowered to impose 60% rate of tax for the transactions from 01.04.2017 onwards and not prior to the said cut-off date. And for prior transaction the revenue is empowered to impose only 30% rate of tax.*"* [emphasis supplied].

The above mentioned case-law squarely covers the case of the Respondent based on identical facts.

7. Based on the above, it is respectfully submitted that the Learned Assessing Officer had erred in adopting the tax rate at 60% as against 30% u/s 115BBE of the Act through an Order passed u/s 154 of the Act for the subject AY 2017-18.

Considering the above, it is most respectfully and humbly prayed that Your Authority may be pleased to uphold the decision of CIT(A) and dismiss the Grounds of Appeal filed by the AO and/or provide such other relief as the case deems fit, for which act of justice, the Respondent shall ever be grateful."

24. We have heard the arguments of both the parties and perused the orders of the authorities below. Since the provisions of section 115BBE of the Act is applicable only if the addition is made u/ss.68 to 69D of the Act, in the present case, invocation of provisions of section 115BBE is not applicable, since the Ld.CIT(A) had made the estimation of addition from an explained source, being 'business income', even though it is 'unaccounted'. We have also dismissed the appeal of the Revenue pertaining to the assessment order. Accordingly, we hold that the order of the Ld.CIT(A) needs no interference and we are inclined to dismiss the grounds of appeal raised by the Revenue.

25. Before parting, we note that the assessee's reliance on the decision in the case of S.M.I.L.E Microfinance Limited vs The Assistant Commissioner Of Income in W.P.(MD)No.2078 of 2020, the Hon'ble Jurisdictional Madras High Court held that the provisions of Section 115BBE of the Act is applicable only from A.Y. 2018-19. In the present case, since the addition is made for the A.Y. 2017-18, the provision of section 115BBE of the Act is not applicable. Therefore, we do not find any infirmity in the order of the ld.CIT(A) and hence confirm the order of the ld.CIT(A).

26. In the result, the appeal of the Revenue is dismissed.

Appeal in respect of the penalty order dated 26.09.2019 passed u/s.270A of the Act.

27. The Revenue is in appeal against the order dated 20.02.2025 passed by the Ld.CIT(A), in respect of the penalty order dated 26.09.2019 passed by the AO u/s.270A of the Act. The said penalty order u/s.270A of the Act emanates from the assessment order dated 01.03.2019, which was discussed above in ITA No.1271 of 2025.

28. The AO, in the assessment order specifies that penalty is initiated u/s.271(1)(c) of the Act, u/s.270A of the Act and 271AAC of the Act. Finally, the order is passed by levying penalty of Rs.9,03,27,340/- u/s.270A of the Act by holding that there is underreporting in consequence of misreporting, being 200% of tax computed in the assessment order (200% of Rs.4,51,63,670/-).

29. Aggrieved by the order of penalty, the assessee preferred an appeal before the Ld.CIT(A), who, deleted the penalty by passing an order dated 20.02.2025 on the score that the assessment order was modified by him and only a sum od Rs.72,45,018/- was estimated by him as 'unaccounted business income'. It was also held that penalty is not leviable when an addition is made only on the basis of an estimation by holding as under:

> *"6.2.3 The undersigned is of the view that that the AO is not confident as to under what provisions of the Act the penalty proceedings are to be initiated in the case of the appellant for the AY 2017-18. Presently, the appellant has filed appeal u/s 246A of the Act agitating the addition made. It is significant to bring on record that the undersigned in a separate order passed u/s 250 of the Act vide DIN & Order No. ITBA/ APL/S/250/2024-25/1072971043(1) dated 06.02.2025 in the case of the appellant for*

the year under consideration has partly allowed the appeal by restricting the addition to the extent of Rs.72,45,018/- as un accounted business income for the AY 2017-18.

6.2.4 The undersigned while restricting the addition has made a clear findings upon the unaccounted investment of the appellant, the same is reproduced here as under:-

*"In the light of the delineations made above, the undersigned finds potency in the plea raised by the AR on behalf of the appellant. The undersigned, in order to bring equity and fairness. is of the view that out of the value of **Rs.4,72,45,018/-** the amount of withdrawals amounting **Rs.4,52,07,120/-** can be considered as a **yard stick** that can be telescoped with the amount invested in jewellery coupled with the income(s) earned over a period of time as evidenced in the return(s) of income amounting Rs. 16.29 Crores earned over a period of five years. No doubt, the quantity of jewellery found during the course of search could not have been acquired over a day or month, it must have been accumulated over a long period of time only. During the course of the search, no evidence(s) have been unearthed to prove that the appellant has purchased this jewellery during the FY 2016-17 relevant to AY 2017-18.*

*The undersigned is of the considered view that the appellant is capable of owning up the quantity of jewellery found during the course of the search. However, the element of unexplained investment cannot be ruled out entirely. As per the above computation, the total value of jewellery that remains to be explained is Rs. 4,72,45,018/-. The undersigned is of the view that out of the drawings of Rs. 4,52,07,120/-, an amount of **Rs.4,00,00,000/-** being a reasonable amount, can be considered for telescoping towards investment in gold jewellery.*

*Accordingly, out of the amount of Rs. 4,72,45,018/-, if the sum of Rs. 4,00,00,000/- is telescoped, the balance amount of **Rs. 72,45,018/-** can only be treated as unexplained investment made from unaccounted business income, on account of the fact that the AO has not established that the appellant has any source(s) of income other than business income. Therefore, out of the addition of Rs. 14.60,33,144/-, a sum of Rs. 72,45,018/- is required to be **sustained** as **unaccounted business income** of the appellant for AY 2017-18."*

6.2.5 While going through the above findings, it can be seen that the amount of Rs. 72,45,018/- is determined by telescoping the drawings and income returned from the earlier years. At the outset, the addition sustained is not on the basis of any clear findings by the AO. Rather it is only an estimation. The undersigned, in order to bring equity and fairness, has sustained a portion of the addition made as unaccounted business income rather than un explained investment as visualised in the assessment order by the AO

6.2.6 At this juncture, the undersigned prefers to draw reliance from the following decision(s) viz

*(i) **(CIT v. Jain Construction Co. (2012))**: The Hon'ble Delhi High Court observed that penalties us 270A of the Act cannot be levied on an addition made purely on an **estimation** basis. The Hon'ble court noted that when the addition sustained is made on an estimate, it is difficult to conclude that the taxpayer has deliberately underreported or misreported income.*

*(ii) **(CIT v. Anwar Ali (1970))**: In this case, the Hon'ble Apex Court emphasized that penalties should not be imposed if the addition is based on an estimate, especially when*

there is no evidence of concealment or fraudulent intent. This case affirmed that estimated additions do not necessarily equate to underreporting of income that would justify penalties.

6.2.7 The undersigned is of the view that the AO cannot levy a penalty u/s 270A on the basis of an addition which is a subject matter of appeal unless there is evidence that the addition was due to deliberate underreporting or misreporting of income. In the present case, only a portion of the addition made was sustained in the first appeal by telescoping the drawings of earlier years coupled with the income returned. Accordingly, the ground raised by the appellant upon the levy of penalty is hereby treated as ***allowed*** *and the AO is directed to* ***delete*** *the penalty levied amounting Rs 9,03,27,340/-."*

30. The Revenue is aggrieved by the order of the Ld.CIT(A) and is in appeal before us. The grounds of appeal are as follows:

1. *The Order of the learned Commissioner of Income Tax (Appeals) is erroneous on facts and in law.*

2. *The Ld.CIT(A) failed to appreciate that in the quantum appeal, the material having been found from the premises of the assessee is erroneous as Section 132(4A) r.w.s 292C of IT Act provides for a presumption that (i)that such books of account, other documents, money, bullion, jewellery or other valuable article or thing belong or belongs to such person & the onus is on the assessee to furnish evidence or explanations to rebut the same.*

3. *The Ld.CIT(A) failed to appreciate in the quantum appeal that the onus is on the assessee to prove the claim that the jewellery in contention and the one declared under VDIS are one and the same for giving relief on that account.*

4. *The Ld.CIT(A) failed to appreciate in the quantum appeal that the contention ofjewellery of 8663.30 grams claimed to have been gifted by the mother of assessee, the assessee has not been able to produce any evidence to support the claim of such gift deed along with the details regarding the manner in which the gift was received before giving relief.*

5. *The Ld.CIT(A) failed to appreciate in the quantum appeal that in respect of the investment made in jewellery out of drawings, it is stated that neither any bills/vouchers nor other material evidence had been furnished by assessee despite several opportunities given to assessee to substantiate the claim but despite the same, CIT(A) has granted relief on that count.*

6. *The Ld.CIT(A) failed to appreciate that sec.270A(8) clearly states, "Notwithstanding anything contained in sub-section (6) or sub-section (7), where under-reported income is in consequence of any misreporting thereof by any person, the penalty referred to in sub-section (1) shall be equal to two hundred percent of the amount of tax payable on under-reported income."*

7. *For these grounds and any other ground including amendment of grounds that may be raised during the course of appeal proceedings, the Order of the Ld CIT(Appeals) may be set aside and that of the Assessing Officer may be restored.*

31. The Ld.DR relied on the grounds of appeal and argued that the order of the Ld.CIT(A) warrants interference and prayed that the appeal be allowed.

32. Per contra, the Ld.AR supported the order of the Ld.CIT(A) and argued that the order is a well-reasoned one and needs no interference and prayed that the appeal may be dismissed. The Ld.AR also provided written submissions, which are extracted as follows:

> *"2. At the outset, it is submitted that the Assessing Officer had grossly erred in levying penalty u/s 270A of the Act for the AY 2017-18 in connection with the addition made towards 'unexplained investment', can be brought to tax u/s 69 of the Act, though not specifically mentioned on the face of the subject Assessment Order passed u/s 143(3) of the Act, for, Section 271AAC of the Act specifically covers levy of penalty for additions made under Sections 68, 69, 69A, 69B, 69C and 69D of the Act. In fact, sub-section (2) therein specifically excludes levy of penalty under Section 270A for additions made thereunder. The provisions of the applicable Section 271AAC of the Act is reproduced below for ease of reference :*
>
> *"271AAC. (1)* ***The Assessing Officer may, notwithstanding anything contained in this Act*** *other than the provisions of section 271AAB, direct that, in a case where the income determined includes any income referred to in section 68, section 69, section 69A, section 69B, section 69C or section 69D for any previous year, the assessee shall pay by way of penalty, in addition to tax payable under section 115BBE, a sum computed at the rate of ten per cent of the tax payable under clause (i) of sub-section (1) of section 115BBE:*
>
> *Provided that no penalty shall be levied in respect of income referred to in section 68, section 69, section 69A, section 69B, section 69C or section 69D to the extent such income has been included by the assessee in the return of income furnished under section 139 and the tax in accordance with the provisions of clause (i) of sub-section (1) of section 115BBE has been paid on or before the end of the relevant previous year.*
>
> ***(2) No penalty under the provisions of section 270A shall be imposed upon the assessee in respect of the income referred to in sub-section (1).***
>
> *(3) The provisions of sections 274 and 275 shall, as far as may be, apply in relation to the penalty referred to in this section." [emphasis supplied]*
>
> 3. *As such, the Learned Assessing Officer ought to have invoked the provisions of Section 271AAC of the Act to levy penalty relating to an addition made towards 'unexplained investments' that he had failed to do.*

4. *The kind attention of Your Authority is also drawn to Page 11 of the Assessment Order dated 01.03.2019 passed u/s 143(3) of the Act for the subject AY 2017-18, wherein under the para 'Reason for initiation of Penalty Proceedings', the Learned Assessing Officer had stated that she had initiated penalty proceedings 'u/s. 271(1)(c), 270A & 271AAC of I.T.Act 1961 for concealment of income **and** for furnishing inaccurate particulars of income, penalty for under reporting **and** misreporting of income & penalty in respect of certain income' (emphasis supplied). Further, show-cause notices dated 01.03.2019 for imposition of penalty u/s 270A, 271AAC and 271(1)(c) of the Act for concealment of income **and** for furnishing inaccurate particulars of income were issued to the Respondent for the subject AY 2017-18.*

5. *In this regard, it is submitted that the Learned Assessing Officer had failed to appreciate that Section 271AAC is the **only** section applicable for levy of penalty against an addition made towards unexplained investment and instead had invoked two other sections for the same addition (ie) Section 270A which is specifically excluded for this purpose vide Section 271AAC(2) as explained above and that of Section 271(1)(c) that ceased to be applicable from AY 2017-18 (being the subject AY) onwards, thus making it void-ab-initio. Thereafter, the Penalty Order in dispute too had been passed u/s 270A of the Act on 26.09.2019.*

6. *Accordingly, levy of Penalty u/s 270A of the Act is in violation of provisions of Section 271AAC of the Act and thus is liable to be deleted.*

7. *Further, having levied penalty u/s 270A of the Act, it is submitted that the present Penalty Order passed u/s 270A of the Act cannot be converted into a Penalty Order passed u/s 271AAC of the Act.*

8. *The Respondent also relies upon the CIT(A)'s decision in deleting the penalty levied based on an addition made on an estimate basis that was the subject matter of appeal, with no evidence being brought on record to prove that such addition was due to deliberate under reporting or misreporting of income.*

9. *Without prejudice to the above submissions, on the merits of the case, it is submitted that where the quantum appeal had been partly allowed by the Learned CIT(A) in the Respondent's favour, deleting the addition to the tune of Rs.13,87,88,126/- made towards 'unexplained investment' in jewellery while only Rs.72,45,018/- was sustained by telescoping the drawings of earlier years coupled with the income returned, makes it evident that penalty u/s 270A of the Act is not leviable in the Respondent's hands for the subject AY 2017-18.*

   Considering the above, it is most respectfully and humbly prayed that Your Authority may be pleased to uphold the decision of CIT(A) in deleting the penalty levied u/s 270A of the Act and dismiss the Grounds of Appeal filed by the AO and/or provide such other relief as the case deems fit, for which act of justice, the Respondent shall ever be grateful."

33. We have heard the arguments of both the parties and perused the orders of the authorities below. We find that AO had initiated penalty on all the three sections, namely, section 270A of the Act, section 271AAC of the Act and section 271(1)(c) of the Act, but finally, the penalty order is passed u/s.270A of the Act. We find that the penalty order does not describe how penalty u/s.270A for underreporting in consequence of misreporting is leviable in the present case; rather, the penalty was levied only because the assessment order is against the assessee.

34. Further, we find that the AO had made the addition in the assessment order under the head 'unexplained investment' under the head "income from other sources'. The provisions of section 271AAC are applicable, if the addition is made u/ss.68 to 69D of the Act. Since, the AO had made the addition as applicable u/s.69 of the Act being 'unexplained investment', the consequent penalty that could have been imposed is only u/s.271AAC of the Act and ought not to have made u/s.270A of the Act. As per the provisions of section 271AAC of the Act, there is an express bar for levy of penalty u/s.270A of the Act, if the addition is made u/s.68 to 69D of the Act. Accordingly, the order of penalty levied u/s.270A is bad in law. Further, we find that the Ld.CIT(A) had modified the assessment order by estimating a sum of Rs.72,45,018/- as 'unaccounted business income', which was also upheld by us. Since, it is only a case of estimation of income, penalty u/s.270A of the Act is not invocable. Accordingly, we are inclined to dismiss the grounds of appeal raised by the Revenue and hence, the appeal of the Revenue is dismissed.

35. In the result, the appeals filed by the Revenue in I.T.A. Nos. 1253, 1264 & 1271 /Chny/2025 are dismissed.

Order pronounced in the open court on 18th November, 2025 at Chennai.

Sd/-	**Sd/-**
(एबी टी वर्की)	(एस. आर. रघुनाथा)
(ABY T VARKEY)	**(S.R.RAGHUNATHA)**
न्यायिक सदस्य/Judicial Member	लेखा सदस्य/Accountant Member

चेन्नई/Chennai,

दिनांक/Dated, the 18th November, 2025

SP

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant

2. प्रत्यर्थी/Respondent

3.आयकर आयुक्त/CIT– Chennai/Coimbatore/Madurai/Salem

4. विभागीय प्रतिनिधि/DR

5. गार्ड फाईल/GF