

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "C" MUMBAI**

**BEFORE SHRI OM PRAKASH KANT (ACCOUNTANT MEMBER)
AND
SHRI ANIKESH BANERJEE (JUDICIAL MEMBER)**

**ITA No. 6524, 6522 & 6523/MUM/2024
Assessment Year: 2014-15, 2015-16 & 2016-17**

Priyanka Sandeep Runwal,
Plot No. 757, Marine Mansion,
B J Road, Bandstand,
Bandra West,
Mumbai-400050.

**PAN NO. ABRPR 1052 M
Appellant**

Vs. The Dy. CIT Central Circle-4(1),
Room No. 418, 4th floor,
Kautilya Bhavan, C-41 to C-43,
G Block, Bandra Kurla
Complex, Bandra (East),
Mumbai-400051.

Respondent

Assessee by : Mr. Vaibhav Mehta
Revenue by : Mr. Virabhadra Mahajan, Sr. DR
(Virtually Present)

Date of Hearing : 15/10/2025
Date of pronouncement : 23/12/2025

ORDER

PER OM PRAKASH KANT, AM

The captioned appeals are directed against a common order dated 14/10/2024 passed by the Ld. Commissioner of Income-tax (Appeals) – 52, Mumbai [in short ‘the Ld. CIT(A)’] for assessment years 2014-15, 2015-16 and 2016-17 respectively.



2. A common issue in dispute is involved in these appeals and therefore, the same were heard together and disposed off by way of this common order for the sake of convenience and avoiding repetition of facts.

3. Firstly, we take up the appeal for assessment year 2014-15 in ITA No. 6524/Mum/2024. The parties agreed to take this Appeal as the lead and decision of the same might be applied *mutatis mutandis*. The grounds raised in appeal are reproduced as under:

1. In the facts and circumstances of the case and the law, the Hon'ble Commissioner of Income Tax (Appeal) 52 erred in holding that the notice u/s 148 of the Income-tax Act, 1961 was issued in accordance with the provisions of the Act and that the Learned Deputy Commissioner of Income Tax, Central Circle - 4(1) had "reason to believe" to issue the notice u/s 148 of the Income-tax Act, 12 1961. The appellant prays that the order of the Hon'ble CIT(A)-52 is dismissed and notice u/s 148 of the Income-tax Act, 1961 is held to be bad in law and is liable to be quashed.

2. In the facts and circumstances of the case and the law, the Hon'ble Commissioner of Income Tax (Appeal) - 52 has erred in confirming the action of the Learned Deputy Commissioner of Income Tax, Central Circle - 4(1) implicating the payment of 'On-money' on purchase of jewellery of Rs. 56,00,000 as Unexplained Expenditure. The confirming action was made without appreciating the fact that no 'evidence' was 'provided' to the Appellant during the re-assessment and based on third party statements recorded in the search action on a third party and that no show-cause notice was given to the Appellant. The appellant prays that the said action of Hon'ble CIT(A)-52 is dismissed and the addition is deleted.

3. In the facts and circumstances of the case and the law, the Hon'ble Commissioner of Income Tax (Appeal) - 52 has erred in holding that the absence of cross-examination of third party deponents, not providing the Appellant with copies of third party statements and evidences relied on does not violate the principles of natural justice. The appellant prays that the order of the Hon'ble



CIT(A)-52 is dismissed, held to be bad in law and liable to be quashed.

4. Briefly stated the facts of the case are that the assessee filed her return of income for the assessment year under consideration on 31/07/2014 declaring total income of ₹29,05,430/-. The return of Income was processed under section 143(1) of the Income-tax Act, 1961 (“*the Act*”).

4.1 Subsequently, information was received from the Deputy Director of Income-tax, Unit-3(4), Mumbai, that a search under section 132 of the Act had been conducted in the case of Nirav Modi / Firestar Group which disclosed practices of accepting ‘*On-Money*’ (Cash) from their customers against the sale of diamond / gold jewellery. The information revealed that the Assessee had purchased various items from the Firestar group including but not limited to (i) Bangle worth ₹14,00,000, (ii) Ring worth ₹33,00,000/- and (iii) Earrings worth ₹9,00,000 aggregating to a total of ₹56,00,000 incurred through cash. The AO appraised the material on record, and came to believe that the Assessee *prima facie* had not shown the source of cash payment incurred and all other material facts necessary for determination of the income of the Assessee. Accordingly, the AO recorded reasons to believe that income escaped assessment and he issued notice under section 148 of the Act on 11/02/2019.



4.4 In response to the notice u/s 148 of the Act, the Assessee filed the return of income declaring total income at ₹29,05,430. The Assessing Officer issued requisite statutory notices to which the Assessee complied with from time to time. Reassessment was completed and Order u/s 147 r/w 143(3) was passed on 10/12/2019 determining the total income at ₹85,05,430.

4.5 Aggrieved, the Assessee filed Appeal before the Ld. CIT(A) and objected to the additions made by the Assessing Officer. The Ld. CIT(A) passed an order on 14/10/2024 dismissing the appeal of the Assessee on all grounds.

4.6 Aggrieved by the Order of the Ld. CIT(A), the Assessee filed Appeal before the Income-tax Appellate Tribunal (in short the Tribunal) by way of raising grounds as reproduced above.

4.7 Ground No. 1 challenging the validity of the notice u/s 148 of the Act was not pressed by the Assessee and therefore the same is dismissed as infructuous.

Ground Nos. 2 & 3 – Addition of ₹56,00,000/- on account of alleged cash purchase of jewellery (“on-money”)

4.8 In Ground Nos. 2 and 3, the assessee has assailed the addition of ₹56,00,000/- made by the Assessing Officer as unexplained expenditure, allegedly incurred towards cash purchase of jewellery from entities of the Nirav Modi / Firestar group. The



principal grievance of the assessee is that the addition is founded exclusively on third-party digital material and statements recorded during search and survey operations in the case of a third party, without furnishing such material to the assessee and without granting an opportunity of cross-examination, despite specific requests made during the assessment proceedings.

4.9 A search and survey action was carried out by the Investigation Wing in the case of the Nirav Modi group, including Firestar Diamond Pvt. Ltd., Kala Ghoda, Mumbai. During the course of such action, it was allegedly noticed that the group was engaged in making cash sales of jewellery without recording the same in the regular books of account. During the course of the search, certain digital records were found which, according to the Revenue, reflected such sales made outside the books. It was further alleged that the stock corresponding to such cash sales was adjusted through branch transfers and that the cash component was not disclosed in the books of account. Statements of certain employees and sales personnel of the group were recorded under section 131 of the Act, wherein a general modus operandi of accepting cash, partly or wholly, against jewellery sales was stated. The name of the assessee was stated to appear in such digital records for three assessment years, namely A.Y. 2014-15 (₹56,00,000/-), A.Y. 2015-16 (₹10,00,000/-) and A.Y. 2016-17 (₹36,50,000/-), aggregating to ₹1,02,50,000/-. On the basis of such information the Assessing



Officer inferred that for the year under consideration, the assessee had purchased jewellery in cash amounting to ₹56,00,000/-, details of which were tabulated as under:

S.No.	Date	Collection-wise	Sales person	FS Style	Product	Selling value	CASH
1	16.05.2013	Embrace	Aparna Chudasama	ES-BG346PP	Bangle	INR 14,00,000	INR 14,00,000
2	11.11.2013	Celestial Solitaire Program	Aparna Chudasama	SO-RG330	Ring	INR 33,00,000	INR 33,00,000
3	27.11.2013	Fluire Collection	Aparna Chudasama	FL-ER578	Earrings	INR 9,00,000	INR 9,00,000
					TOTAL	INR 56,00,000	

4.10 The Assessing Officer called upon the assessee to explain the source of investment in the aforesaid jewellery. The assessee categorically denied having purchased any jewellery from Shri Nirav Modi or Firestar Diamonds during the relevant year. It was contended that the information received from the Investigation Wing, allegedly comprising loose sheets or digital data bearing the assessee's name, as well as the statements of third-party employees, were never furnished to the assessee. It was further submitted that no evidence had been brought on record by the Assessing Officer to demonstrate that any actual cash had exchanged hands between the assessee and the alleged seller. The assessee also contended that the Assessing Officer failed to establish either the source of the alleged cash or its deployment by the seller through any cogent evidence.



4.11 It was further submitted that neither the statements relied upon were supplied to the assessee nor was the assessee confronted with the same. The assessee specifically sought cross-examination of the concerned employees of Firestar Diamonds, which was denied. Reliance was placed on the judgment of the Hon'ble Supreme Court in *Andaman Timber Industries v. CCE* (Civil Appeal No. 4228 of 2006, dated 02.09.2015) to contend that statements of third parties cannot be used against an assessee without affording an opportunity of cross-examination.

4.12 The assessee also raised a legal objection to the application of the presumption under section 292C of the Act, contending that such presumption is available only against the person from whose possession the documents are found and cannot be mechanically extended to a third party..

4.13 The Assessing Officer, however, noted that the Nirav Modi group had adopted a systematic modus operandi of under-invoicing jewellery or diamonds by accepting part or whole consideration in cash without recording such cash sales in the books of account. According to him, the corresponding stock was removed from the books and later adjusted as branch transfers. The Assessing Officer relied upon the digital evidence in the form of charts of cash transactions, maintained sales-person-wise in parallel records of the group.



4.14 The Assessing Officer further relied upon the statement of Ms. Aparna Chudasama, sales executive of the Nirav Modi group, recorded on 16.01.2017 wherein she stated that they often sold jewellery to customers in complete or part cash. The Assessing Officer has reproduced the relevant part of her statement dated 16.01.2017. In her statement, she stated that she was working as Vice President with M/s Firestar Diamond Pvt. Ltd. at the Nirav Modi boutique at ITTS House, Kala Ghoda, Fort, Mumbai, since 12.01.2015 and was looking after high jewellery sales. She explained that overall management of the said premise is looked after by Mr. Danesh N. Mistry. She provided details of the other three sales executive namely Hemali Mehta, M.s Reshma Verma and Ms. Kitty Bhansali who used to report to her. She explained that she used to approach potential customers through social connections and references and then these customers visit the boutique for purchase of items. She explained the mode of the sales receipt as by way of RTGS/Cheque/credit card/cash with the necessary details of PAN. Regarding the modus operandi of accepting the cash against the sale of item in the boutique she explained that some customers want to pay whole amount in cash or partly in cash and want the bills to be adjusted accordingly. The customers want to pay part cash, want bills in the amount paid by them in cheque/RTGS/credit card and customers paying wholly in cash did not want the bills. She said that she did not have any any



authority to finalize the cash components. She put the request of the customers with the management to Mr. Saourabh Shah or directly for the cash component to be accepted from the customers. She also explained that her entire team members get 1% commission on the sale price (including cash component).

4.15 The Assessing Officer also referred to the statement of Ms. Reshma Verma, Sales Executive, Firestar Diamonds, recorded on 16.01.2017 under section 131 of the Act, wherein she broadly endorsed the modus operandi described by Ms. Aparna Chudasama.

4.16 Further reliance was placed on the statement of Shri Saurabh Jitendra Shah, recorded on 15.01.2017 under section 131 of the Act at the Kala Ghoda showroom. He stated that he was responsible for maintaining the regular books of account and admitted receipt of cash against jewellery sales, though he stated that such cash transactions were accounted for as per the instructions of Shri Nirav Modi.

4.17 On the basis of the aforesaid statements and digital records, the Assessing Officer concluded that Firestar Diamonds had made cash sales without recording them in the books of account and rejected the assessee's contention that she had not purchased any jewellery, primarily on the ground that her name appeared in the digital data relating to cash sales.



4.18 The Assessing Officer observed that the decoded digital evidence showed amounts reflected in the “cash” column representing sales made outside the books, which were subsequently adjusted through branch transfers. The digital records allegedly contained the assessee’s name in respect of purchases aggregating to ₹56,00,000/- during the year under consideration.

4.19 The Assessing Officer rejected the assessee’s request for cross-examination of the concerned witnesses.

4.20 Placing reliance on section 132(4A) and section 292C of the Act, the Assessing Officer held that the contents of the seized digital data were presumed to be correct unless rebutted. According to him, the burden lay upon the assessee to prove that the seized documents did not pertain to her. He further held that the onus was on the assessee to rebut the statement of Ms. Aparna Chudasama recorded under section 131 on 16.01.2017.

4.21 In the above factual and legal background, the Assessing Officer treated the alleged cash purchase of jewellery amounting to ₹56,00,000/- as unexplained expenditure and made the impugned addition.

5. On further appeal, the Ld. CIT(A), while adjudicating the issue on merits, principally rejected the assessee’s contention regarding



denial of the right to cross-examination. The Ld. CIT(A) upheld the action of the Assessing Officer by placing reliance on the statements of employees of the Nirav Modi / Firestar group and various judicial precedents. The substance of the findings recorded by the Ld. CIT(A) may be summarised as under:

5.1 The Ld. CIT(A) observed that the Assessing Officer had reproduced relevant portions of the statement of Ms. Aparna Chudasama, Sales Executive of the Nirav Modi group, recorded on 16.01.2017, wherein she confirmed the existence of a cash component in jewellery sales and explained the manner in which such transactions were effected. It was noted that she had stated that requests from customers for acceptance of cash were routed to the management, including Shri Saurabh Shah. Reliance was also placed on the statement of Shri Saurabh Shah, Executive of Firestar Diamond International Ltd., recorded on 15.01.2017, wherein he confirmed receipt of cash and stated that such cash transactions were accounted for as per the instructions of Shri Nirav Modi. The Ld. CIT(A) further noted that the statement of Ms. Reshma Verma, Senior Manager, recorded on 16.01.2017, also supported the said modus operandi.

5.2 The Ld. CIT(A) then referred to the decision of the Hon'ble Supreme Court in *Vadivelu Thevar & Anr. v. State of Madras* (AIR 1957 SC 614) to hold that even the testimony of a single credible



witness is sufficient and does not necessarily require corroboration. According to the Ld. CIT(A), the present case was supported not merely by one statement but by multiple statements and digital records containing specific dates, description of jewellery items, styles and amounts of cash transactions, which, in his view, constituted adequate material to sustain the addition.

5.3 The Ld. CIT(A) further relied upon the judgment of the Hon'ble Supreme Court in *Chairman, Mining Board v. Ramjee* (AIR 1977 SC 965) to emphasise that the principles of natural justice are flexible and context-dependent, and that procedural fairness must be judged on the totality of circumstances. It was observed that an assessee cannot rely on technical objections while failing to discharge the onus cast upon him under the Act.

5.4 Reliance was also placed on the decision of the Hon'ble ITAT in *Hersh W. Chadha v. DDIT* (43 SOT 544), wherein it was held that in income-tax proceedings, the assessee is required to furnish reasonable and plausible explanations to discharge the burden of proof, and that where explanations are incomplete or contradictory, the Assessing Officer is justified in drawing reasonable inferences. The Ld. CIT(A) further noted that income-tax proceedings are not governed by the strict rules of evidence under the Indian Evidence Act and that the Assessing Officer is entitled to act on material which may not be admissible in a court of law.



5.6 The Ld. CIT(A) also referred to the decisions of the Hon'ble Delhi High Court in *Addl. CIT v. Jay Engg. Works Ltd.* (113 ITR 389) and the Hon'ble Punjab & Haryana High Court in *CIT v. Metal Products of India* (150 ITR 714) to hold that the Assessing Officer may collect information in any manner and utilise the same for framing the assessment, provided there exists material on record to support the addition. Reference was further made to the decision of the Hon'ble Bombay High Court in *ITC Classic Finance Ltd. v. DCIT* (264 ITR 154) to hold that where a transaction does not appear to be genuine or above board, the addition deserves to be sustained.

5.7 With regard to the plea of denial of cross-examination, the Ld. CIT(A) held that the right to cross-examination is not absolute. Reliance was placed on several judicial pronouncements, including *State of J&K v. Bakshi Gulam Mohd.*, *Nath International Sales v. Union of India*, *Kanungo & Co. v. Collector of Customs*, *Surjeet Singh Chhabra v. Union of India* and *Telestar Travels Pvt. Ltd. v. Special Director of Enforcement*, to conclude that the requirement of cross-examination depends upon the facts of each case and that denial thereof does not ipso facto amount to violation of the principles of natural justice, unless prejudice is demonstrated.

5.8 On the basis of the above reasoning, the Ld. CIT(A) concluded that sufficient material existed to sustain the findings of the Assessing Officer and that no violation of the principles of natural



justice had occurred. Accordingly, the addition of ₹56,00,000/- made for Assessment Year 2014-15 was confirmed and Ground Nos. 2, 3, 4 and 5 raised by the assessee were dismissed.

6. As regards the grounds relating to the merits of the addition, the Ld. counsel for the assessee submitted that the impugned addition rests solely on two alleged pieces of material, namely: (i) digital data in the form of charts reflecting purported cash sales found during search operations in the case of the Nirav Modi group; and (ii) statements of certain employees of the said group, recorded during the course of the search. It was contended that neither the complete digital material nor the statements of the said employees were ever furnished to the assessee at any stage of the reassessment proceedings.

6.1 The Ld. counsel submitted that the statement of Ms. Aparna Chudasama, heavily relied upon by the Assessing Officer, does not name the assessee nor does it attribute any specific cash transaction to her. At best, the statement refers to a general business practice allegedly followed by the Nirav Modi group of accepting cash, partly or wholly, against jewellery sales. It was emphasised that no credible or independent corroborative evidence has been brought on record to establish that the assessee, in fact, purchased any jewellery or made any cash payment. The assessee has consistently denied the alleged transaction.



6.2 It was further submitted that despite a specific and formal request made during the reassessment proceedings vide letter dated 06.12.2019, the assessee was not afforded any opportunity to cross-examine the employees of the Nirav Modi group whose statements were relied upon. Reliance was placed on the judgment of the Hon'ble Supreme Court in *Andaman Timber Industries v. CCE* (supra) to contend that statements of third parties cannot be used against an assessee without affording an opportunity of cross-examination.

6.3 The Ld. counsel further drew attention to a material inconsistency in the evidence relied upon by the Assessing Officer. In her statement recorded on 16.01.2017, Ms. Aparna Chudasama categorically stated that she had joined the Nirav Modi group on 12.01.2015. However, in the tabulation reproduced in paragraph 5.1 of the assessment order, her name appears as the sales person for transactions purportedly undertaken in the year 2013. It was submitted that this glaring inconsistency strikes at the very root of the credibility and reliability of the digital records relied upon by the Assessing Officer.

6.4 In response to the contention of the Ld. Departmental Representative that the relevant material had been duly provided, the assessee filed a clarification note pointing out that the only documents supplied comprised: (i) an information letter received by



the Assessing Officer from the Investigation Wing; and (ii) a statement of Ms. Aparna Chudasama recorded under section 131 of the Act on 19.04.2018 along with an annexure. It was submitted that even this information did not contain any documentary evidence linking the alleged cash amounts to the assessee, nor did it provide any details or description of the jewellery allegedly purchased.

6.5 With regard to the statement of Ms. Aparna Chudasama recorded on 19.04.2018, it was pointed out that the assessee was never furnished with the earlier statement recorded on 16.01.2017, which formed the primary basis of the addition. A perusal of the later statement clearly shows that Ms. Chudasama was merely shown a list of names and asked to identify whether they were clients or potential clients of the Nirav Modi group. She categorically stated that she did not remember the mode of payment in respect of the transactions mentioned and did not confirm any cash payment by the assessee. The annexure accompanying the statement merely mentions the name of the assessee, without any description of jewellery or confirmation of cash payment.

6.6 It was thus contended that at no point did Ms. Aparna Chudasama admit that the assessee had purchased jewellery in cash from the Nirav Modi group. The reliance placed on such statements, without corroboration and without affording an



opportunity of cross-examination, was submitted to be legally untenable.

6.7 Reliance was further placed on the decision of the coordinate bench of the Hon'ble Mumbai ITAT in *Shri Avinash Nivrutti Bhosale v. DCIT, Central Circle-2(3)* (ITA Nos. 529 & 530/Mum/2021, order dated 2023), wherein, on similar facts involving alleged cash purchases from the Nirav Modi group, the Tribunal held that additions based solely on third-party statements and material, without furnishing the same to the assessee and without granting an opportunity of cross-examination, are unsustainable in law. It was submitted that the ratio of the said decision squarely applies to the facts of the present case and warrants deletion of the impugned addition.

7. We have heard the rival submissions and carefully perused the material placed on record. It is an undisputed position that a search and survey action was carried out in the case of the Nirav Modi group, including the showroom of Firestar Diamond Pvt. Ltd. at Kala Ghoda, Fort, Mumbai. During such action, certain digital records were found and statements of sales personnel were recorded, wherein a general practice of accepting cash, wholly or partly, against jewellery sales was stated. It was also alleged that the stock corresponding to such cash sales was adjusted through



branch transfers and the cash component was not reflected in the regular books of account.

7.1 The Assessing Officer has primarily rested the impugned addition on two pieces of material, namely: (i) digital data allegedly reflecting cash sales, recovered during search operations in the case of the Nirav Modi / Firestar group; and (ii) statements recorded under section 131 of employees and sales personnel of the said group, particularly the statement of Ms. Aparna Chudasama. A tabulation of transactions aggregating to ₹56,00,000/- was reproduced in the assessment order. However, it is evident that the complete digital data and the full statements relied upon were neither furnished to the assessee nor formally confronted to her, despite specific requests. The assessee's request for cross-examination of the concerned third-party witnesses also remained unaddressed.

7.2 Even during the course of hearing before us, only partial sheets pertaining to three financial years were shown, wherein the names of customers (except assessee) were largely masked and no details of the jewellery allegedly sold to the assessee were forthcoming. The digital material, by itself, does not establish the alleged transaction and derives its entire evidentiary value from the statements of third-party employees. Likewise, the complete statements of the concerned employees were never made available



to the assessee beyond selective extracts reproduced in the assessment order. The assessee was thus deprived of a fair and effective opportunity to rebut the material relied upon by the Assessing Officer.

7.3 It is well settled that where an addition is founded substantially or exclusively on third-party statements and untested material, denial of an opportunity to cross-examine such witnesses results in a serious procedural infirmity. In such circumstances, reliance on third-party statements, without affording the assessee a reasonable opportunity to test their veracity, cannot be accepted as conclusive proof of the alleged transaction. Any addition made on such a foundation is liable to be struck down as being violative of the principles of natural justice.

7.4 We also find force in the contention of the assessee that the statements relied upon merely describe a general modus operandi allegedly followed by the Nirav Modi group. None of the statements specifically attribute any cash payment to the assessee. On the contrary, there are apparent inconsistencies in the material relied upon, including the fact that Ms. Aparna Chudasama, who stated that she joined the group only in January 2015, is shown as the sales person for transactions allegedly undertaken in the year 2013. Ms Chudsama is saying that cash transaction were not recorded whereas. We note that there is a contradiction in the statement of



the employees Ms. Aparna Chudasma and statement of Shri Sourabh Jitendra Shah. Ms. Aparna Chudasma said that cash sales were not recorded in books whereas, Shri Sourabh Jitendra Shah is saying all such cash transactions were duly accounted in the books of accounts. Such discrepancies materially undermine the credibility of the evidence relied upon by the Assessing Officer.

7.5 The Assessing Officer has also not brought on record any independent corroborative material to establish that the assessee, in fact, purchased jewellery in cash. There is no evidence of delivery of jewellery, no trail of funds, no recovery from the assessee. The Assessing Officer has nowhere referred to any finding from the assessments in the case of Nirav Modi that all such cash sales were not entered into the books of accounts of their group and stock was reduced by way of branch transfer, to support his contentions. The Assessing Officer has only relied on the statement of the employees of Nirav Modi group. The addition thus rests solely on uncorroborated third-party statements.

7.6 It is trite law that while income-tax proceedings are not governed by the strict rules of the Indian Evidence Act, the basic requirements of fairness and natural justice cannot be dispensed with. Furnishing of material relied upon and affording an opportunity to effectively rebut and test such material, including by way of cross-examination where facts are disputed, are not empty



formalities but constitute fundamental facets of fair procedure and are integral to the principles of Natural Justice embedded in the scheme of the Act.

7.9 In the absence of any corroborative material directly connecting the assessee with the alleged cash payment, and in the absence of cross-examination of the person whose statement is relied upon, the addition rests on suspicion and presumption rather than proof.

7.10 Even mere furnishing of copies of statements or documents does not, by itself, satisfy the requirement of natural justice, where such material is sought to be used adversely against an assessee and the assessee specifically disputes its correctness. This approach conflates disclosure of material with testing of material, which are legally distinct concepts. The alleged financial year wise list of customers along with amount and the linkage of the assessee to such entries emanate entirely from statement of Ms Chudsama. The digital material does not speak for itself. Consequently, the statement is not collateral or incidental evidence but the very foundation of the addition. Much emphasis has been placed by the lower authorities on the proposition that income-tax proceedings are not governed by the strict provisions of the Indian Evidence Act. There can be no quarrel with this settled proposition. However, it is equally settled that relaxation of evidentiary rules does not imply



abrogation of natural justice. Even material which is otherwise admissible must still satisfy the minimum requirement of fairness when used against an assessee. The Hon'ble Supreme Court in *Kishinchand Chellaram v. CIT* (125 ITR 713) has unequivocally held that any material collected behind the back of the assessee, if proposed to be used against him, must be subjected to an opportunity of rebuttal in a meaningful manner, which necessarily includes cross-examination where facts are disputed.

7.11 It is trite law that an admission by one party cannot be used as conclusive evidence against another, unless the latter is afforded an opportunity to test and rebut such admission. The assessee is not estopped from disputing the correctness or applicability of such admission to his case, particularly when the alleged payment is denied and no independent corroboration exists.

7.12 We are also unable to concur with the approach adopted by the Ld. CIT(A). The Ld. CIT(A) proceeded on the premise that reproduction of selective portions of the statements of Ms. Aparna Chudasama, Shri Saurabh Shah and Ms. Reshma Verma in the assessment order was sufficient compliance with the requirements of natural justice. In our considered view, mere reproduction of selective portions of third-party statements in the assessment order does not amount to furnishing the material to the assessee. The assessee was entitled to complete and authenticated copies of the



statements relied upon, so as to effectively understand, rebut and test the material forming the basis of the addition. Admittedly, such statements were never supplied in full to the assessee.

7.13 The reliance placed by the Ld. CIT(A) on the statements of the aforesaid employees to uphold the addition is also misplaced. A careful reading of the statements reveals that they merely describe a general modus operandi allegedly followed by the Nirav Modi group in accepting cash against jewellery sales. None of the statements specifically name the assessee or unequivocally assert that the assessee made any cash payment towards purchase of jewellery. Generalised statements regarding business practices of a third party, without direct attribution to the assessee, cannot constitute substantive evidence to fasten tax liability upon her.

7.14 The Ld. CIT(A) further erred in invoking the ratio of the judgment of the Hon'ble Supreme Court in *Vadivelu Thevar & Anr. v. State of Madras* (supra). The said decision arose in the context of criminal jurisprudence and deals with the sufficiency of evidence for sustaining a conviction. The issue in the present case is not the numerical sufficiency of witnesses, but the denial of an opportunity to test the veracity of third-party statements relied upon by the Revenue. The principle laid down in *Vadivelu Thevar* is, therefore, inapplicable to the facts of the present case.



7.15 Similarly, reliance on the decision in *Chairman, Mining Board v. Ramjee (supra)* is misconceived. While it is true that the principles of natural justice are flexible, such flexibility cannot be stretched to legitimise denial of a fundamental procedural safeguard where the addition is founded substantially on third-party material. The right to confront and cross-examine adverse witnesses, where their statements form the sole or primary basis of an addition, is not a mere technicality but an integral component of fair procedure.

7.16 The observations of the Ld. CIT(A) based on the decision in *Hersh W. Chadha v. DDIT(supra)* regarding the burden of proof and preponderance of probabilities also do not advance the case of the Revenue. In the present case, the assessee has consistently denied the alleged transaction and has specifically sought the material relied upon as well as an opportunity to cross-examine the witnesses. In the absence of any independent corroborative evidence such as cash receipt signed by assessee, delivery of jewellery, flow of funds or recovery from the assessee, the burden could not be said to have shifted merely on the basis of untested third-party statements.

7.17 The proposition that income-tax authorities are not bound by the strict rules of the Indian Evidence Act, as relied upon by the Ld. CIT(A) with reference to *Jay Engg. Works Ltd.* and *Metal Products of*



India (supra), is well settled. However, this principle does not dispense with the obligation to follow the principles of natural justice. Material collected behind the back of the assessee may be used only after affording the assessee a fair and effective opportunity to rebut the same. That essential requirement has not been satisfied in the present case.

7.18 The reliance placed on *ITC Classic Finance Ltd. v. DCIT(supra)* to sustain the addition on the ground that the transaction did not appear to be genuine is also misplaced. Suspicion, howsoever strong, cannot take the place of proof. In the absence of any cogent material directly linking the assessee with the alleged cash purchase of jewellery, the addition cannot be sustained merely on conjectures drawn from the conduct of a third party.

7.19 With respect to the finding that the right of cross-examination is not absolute, there can be no quarrel with the proposition in abstract. However, the judicial authorities relied upon by the Ld. CIT(A), including *Kanungo & Co.(supra)*, *Surjeet Singh Chhabra(supra)* and *Telearstar Travels Pvt. Ltd.(supra)*, arose in materially different statutory contexts. The Hon'ble Supreme Court in *Andaman Timber Industries v. CCE (supra)* has clearly held that where statements of third parties are relied upon and such statements are not subjected to cross-examination despite a specific request, the resulting order stands vitiated. In the present case,



prejudice to the assessee is writ large, as the impugned addition rests almost entirely on such untested statements.

7.20 The Ld. CIT(A) also failed to address the legal infirmity in applying the presumption under sections 132(4A) and 292C of the Act against the assessee. The presumption under the said provisions operates primarily against the person from whose possession the material is seized and cannot be automatically extended to a third party without independent corroboration.

7.21 In view of the above, we hold that the Ld. CIT(A) erred in upholding the addition by overlooking the fundamental defects in the assessment proceedings. The addition is based on third-party statements and digital material which were neither furnished to the assessee nor tested by way of cross-examination, and are unsupported by independent corroborative evidence. The impugned order, therefore, cannot be sustained in law.

7.22 In view of the foregoing discussion, we hold that the addition of ₹56,00,000/- sustained by the Ld. CIT(A) is vitiated by a clear breach of the principles of natural justice and is unsupported by reliable and corroborative evidence. The impugned addition, therefore, cannot be sustained in law.



7.23 Accordingly, the addition made by the Assessing Officer and confirmed by the Ld. CIT(A) is deleted. The grounds raised by the assessee on merits are allowed.

8. The remaining two years from assessment year 2015-16 and 2016-17 having identical facts and circumstances, the respective grounds raised in those appeals are decided mutatis mutandis.

9. In the result, all the three appeals of the assessee are partly allowed.

Order pronounced in the open Court on 23/12/2025.

**Sd/-
(ANIKESH BANERJEE)
JUDICIAL MEMBER**

**Sd/-
(OM PRAKASH KANT)
ACCOUNTANT MEMBER**

Mumbai;
Dated: 23/12/2025
Dragon Legal/Rahul Sharma, Sr. P.S.

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,
(Assistant Registrar)
ITAT, Mumbai