

आयकर अपीलीय अधिकरण न्याय पीठ मुंबई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
“D” BENCH, MUMBAI

BEFORE SHRI AMIT SHUKLA, JM &
SHRI ARUN KHODPIA, AM

I.T.A. No.3962/Mum/2025
(Assessment Year: 2018-19)

Dev Bullion, 86/90, Nandlal Jani Road, Dana Bunder above Gaumukh Hotel, Masjid, Mumbai-4000509 PAN: AAJFD9042Q	Vs.	DCIT, Circle-23(1), 113, 1 st Floor, Matru Mandir, Tardeo Road, Mumbai-400007.
Assessee-अपीलार्थी / Appellant	:	Revenue- प्रत्यर्थी / Respondent

Assessee by : Mr. Poojan Mehta, AR.

Revenue by : Shri Annavaram Kosuri, Sr. DR

Date of Hearing : 11.12.2025

Date of Pronouncement : 30.01.2026

ORDER

Per Arun Khodpia, AM:

The captioned appeal is filed by the assessee challenging the order of Commissioner of Income Tax (Appeals)/National Faceless Appeal Centre, Delhi (for short “ld. CIT(A)”) dated 18.03.2025 for Assessment Year (AY) 2018-19, which in turn arises from the assessment order passed under section 143(3) r.w.s. 143(3A) & 143(3B) of the Income Tax Act, 1961 (the Act) dated

23.02.2021 by the Deputy Commissioner of Income Tax, Circle-23(1), Mumbai (in short 'ld. AO'). The grounds of appeal assailed by the assessee are as under:

“The following grounds of appeal are independent of, and without prejudice to, one another:

The National e-Assessment Center, Delhi (hereinafter referred to as the Assessing Officer) erred in making addition de hors the reasons for which notice under section 143(2) is issued.

The appellants contend that on the facts and in the circumstances of the case and in law, the Assessing Officer has not followed the guidelines laid down before making the impugned addition, accordingly, the impugned addition ought to be deleted.

2 The National Faceless Appeal Centre, New Delhi (hereinafter referred to as the CIT(A)) erred in framing the order ex parte.

The appellants contend that on the facts and in the circumstances of the case and in law, the last notice issued by the CIT(A) informing the date of hearing was never received by the appellants and as such, the action of the CIT(A) in dismissing the appeal is erroneous.

3. The CIT(A) erred in not disposing off the grounds of appeal filed per Form No.35.

4 The CIT(A) erred in upholding the action of the Assessing Officer in making addition under section 69C of Rs 63,52,500, being the stock in trade introduced by the partner during the year under reference in the partnership firm.

The appellants contend that on the facts and in the circumstances of the case and in law, the CIT(A) ought not to have upheld the action of the Assessing Officer in making the impugned addition inasmuch as, the addition made is not in accordance with-the prescription of the provisions of section 69C of the Act.”

2. Brief facts of the case are that the assessee is a partnership firm had filed its return of income on 30.03.2019, declaring total income at Rs. 1,48,175/-. Subsequently the case was selected for scrutiny under CASS for the issue “ICDS Compliance and Adjustment and verification of transactions”. Notice under section 143(3) and 142(1) are issued in due course, however no response by the assessee. During the course of assessment proceedings, the Assessing Officer (AO) observed that the assessee has shown stock brought by partner to the tune of Rs.63,52,500/-, however the assessee did not furnish any explanation regarding the stock sold introduced by the partner in the Firm. The Id. AO taken an inference that in absence of any explanation or supporting evidence, it is presumed that Rs. 62,52,500/- is nothing but unexplained expenditure claimed by the assessee in order to arrive at lower gross profit. The Id. AO also analysed the comparative financials of the assessee for AY 2016-17, 2017-18 and 2018-19 according to which the profit margin of the assessee substantially reduced from 0.15%, 0.11% to 0.02% in the year under consideration, therefore it was considered that the stock produced by the partner in the Firm was just to reduce the real profit of the Firm. With such observations in absence of any explanation or supporting details, the amount of Rs. 63,52,500/- debited in trading account is being considered as unexplained expenditure within the meaning of section 69C of the Act and added back to the total income of the assessee.

3. Aggrieved with the aforesaid findings by ld. AO, assessee preferred an appeal before the ld. CIT(A), however since the assessee was unable to represent its case before the ld. CIT(A). The appeal of assessee has been dismissed *in limine* on ex-parte basis. Assessee, being aggrieved again with the decision of ld. CIT(A) that file the instant appeal before us.

4. At the outset, the ld. AR representing the assessee submitted that the amount of Rs. 63,52,500/- was stock of gold brought in by the partner in the partnership Firm, as contribution to partner's capital, therefore any explanation if required would have been called from the partner and not from the Firm, the addition under section 69C of the Act was, thus, wrongly made in the hands of Firm. It is also submitted that no explanation was called from the partner Shri Raj Kumar Gupta (HUF) to substantiate such factual aspect. The ld. AR drew our attention to page no. 4 of its paper book, showing partner's capital account in the Balance-Sheet of the Firm, wherein the share of Shri Raj Kumar Gupta (HUF) was shown at Rs. 19,29,913/-, which further substantiated through Partner's Capital Account at page no. 6 of the Paper Book (PB) wherein, the gold stock has been credited as brought by the partner Shri Raj Kumar Gupta (HUF) for Rs. 63,52,500/- and the final balance of the partnership capital has been calculated at Rs. 19,29,913/-. Based on aforesaid submissions, it is the prayed by ld. AR that any addition in the hands of partnership firm cannot made

for unexplained capital brought in by the partner/firm. The ld. AR placed his reliance on the following judgments:

1. *Narayandas Kedarnath* 22 ITR 18 (Bom - HC)
2. *India Rice Mills* 85 Taxmann 227 (All-HC)
3. *Shivam Developers* ITA No. 226/Ahd/2020
4. *Arham Star* ITA No 2427/Mum/2025
5. *Mohammed Haji Adam & Co.* 103 Taxmann.com 459 (Bom-HC)

5. Alternatively, Ld. AR, without prejudice to the aforesaid contentions, submitted that, even if the stock brought by the partner is considered to be unexplained on the part of assessee, which though was never queried to or enquired from the partner of the assessee firm, would at the most attract addition of gross profit on the difference of Gross Profit on normal sale of the assessee as against the sale related to such alleged unexplained cost of stock introduced by the partner. To provide the rate of GP, Ld. AR referred to page 3 of assessment order, wherein the Ld. AO had expressed the view that the GP margin of 0.08% is expected from the business of the assessee for the year under consideration, which was worked out considering the addition proposed by him on account of unexplained expenditure u/s 69C of the Act. It is submitted that the ratio of law emerging from the judgment in the case of *Mohammed Haji Adam & Co.(supra)* can be applied to arrive at the reasonable

estimation of profit on such disputed portion of cost of sales claimed by the assessee.

6. Per contra, ld. Sr. DR representing the revenue submitted that the contention of ld. AR cannot be accepted as the document furnished by the ld. AR before the revenue are unsigned and if these are audited financial of the assessee, the same should be signed by the partner of the Firm as well as by the Auditor and Chartered Account (CA), whose name is reflecting below the balance-sheet and partner's capital account. Ld. AR in response have submitted the copies of signed final accounts. Ld. DR argued that, the assessee squarely failed in substantiating the factual aspect about the stock brought in by the partner and claimed as direct expense in the trading account of the assessee, thus remain unexplained without corroborative evidences. Ld. DR urged to sustain the orders of revenue authorities accordingly.

7. We have considered the rival submissions, perused the material available on record and the case laws relied upon by the parties. Admittedly in present case the partner of assessee firm had introduced the stock of Gold, this fact is duly reflecting in the final accounts of the firms and workings by the ld. AO in assessment order, thus, undisputedly the partner had brought the subjected stock of Gold into the Firm. Further, since the profit of assessee has reduced substantially during the year under consideration, therefore certain explanation *qua* the reduction of profit was show caused from the assessee. The ld. AO had

time and again requested for explanation or supporting details regarding introduction of stock by the partner from the Firm, but independent enquiry was initiated from the concerned partner. In this regard Id. AR has placed his reliance on the decision of **Narayandas Kedarnath vs. CIT (supra)**, wherein the Hon'ble Mumbai High Court had held that during the relevant accounting years partner's in the assessee firm brought in certain amount by means of bank draft, and the assessee firm has discharged burden which was upon it to explain credit entries by satisfying the Department that those entries represented genuine remittance and it was not for firm which was being assessed, to satisfy the revenue that money which it received from partner were moneys, which partners obtained by honest means, if there were no material on which the Department could have come to conclusion that those credits represents undisclosed profit of firm.

8. Before us, the Id. AR of the assessee submitted audited financial statement of the relevant year of the assessee and also Tax Audit Report (TAR) showing quantitative details of the stock of Gold Bar & Silver. On a perusal of the final accounts of the assessee, it is observed that Raj Kumar B. Gupta (HUF), the partner of the assessee firm has brought in gold stock amounting to Rs. 63,52,500, the same is debited to Trading A/c of the assessee firm along with opening stock purchased and stock taken on loan. Quantitative details available in the Tax Audit Report of the assessee shows opening balance +

purchases and sales, no separate column for any addition on account of stock brought in by the partner was available in the prescribed format of Form 3CD. It is submitted by the ld. AR that the purchases are inclusive of the quantity of stock brought in the form of capital by the partner. According to jurisprudence relied upon there should be some primary evidenced furnished by the assessee before the ld. AO to verify the genuineness and explanation *qua* the quantity of stock added by the partner and its genuine availability in his hands. From the facts and records available before us there was no evidence like confirmation of the quantity brought in by the partner or the source of quantity in the hands of partner, credibility of the partner to contribute with such stock of gold etc., nothing was furnished by the assessee before the revenue authorities, although such transactions are recorded in the books of assessee. Since no primary explanation or evidence as sought by the Ld. AO could be furnished by the assessee, the case laws relied are of no help in the present matter. So, the first contention of the Ld. AR to treat the stock brought in by the partner as from explained sources, cannot be acceded to in totality, but we are in part agreement with such contentions that the explanations should have been called for from the concerned partner and if any addition was to be made, the same should be added in the hands of partner, if found to be from undisclosed sources, not in the hand of assessee firm. We find that the Ld. AO was failed in performing of his legitimate duties in totality.

9. Coming to the next contention of the assessee, that if the explanation *qua* the stock brought in by the partner are not considered satisfactory, since the sales, purchase or other elements of cost of goods sold are not disbelieved or disputed by the revenue, the ratio emerging from judgment of Hon'ble Bombay High Court in the case of *Mohammed Haji Adam & Co.(supra)* would be applicable in present case at the most. We find substance in such submissions of the Ld. AR, which would be a suitable and justified resolution in the interest of justice, while dealing with the challenge to the addition u/s 69C made by the Ld. AO. It is observed that, Ld. AO himself had noted that the GP rate of 0.08% which is comparable with the GP Rate of assessee in earlier years, while there was no adverse remark by the AO *qua* the audited financials of the assessee for relevant year or about the audited quantitative details as the Tax Audit Report in form 3CD, thus impliedly have accepted the same by accepting the returned income of the assessee emanating from such audited financial statements. We, thus, respectfully following the decision of Hon'ble Bombay High Court in the case of *Mohammed Haji Adam & Co. (Supra)*, find it apposite, in the facts of present case to apply the GP Rate of 0.08% reduced by the GP Margin of 0.02%, already declared by the assessee and to restrict the addition u/s 69C @ 0.06% of the alleged stock brought in by the partner of the assessee firm, which in turn claimed as cost of goods sold in trading account. We, thus, direct the Ld. AO to reduce the addition made to 0.06% of the disputed amount of stock

brought in by the partner and added u/s 69C of the Act. The addition accordingly has been sustained for Rs. 3811/- (0.06% of Rs. 63,52,500/-).

10. In result, the appeal of assessee is **partly allowed**, in terms of our aforesaid observations.

Order pronounced in the open court on 30-01-2026.

Sd/-
(AMIT SHUKLA)
Judicial Member

Mumbai, Dated: 30-01-2026

**SK, Sr. PS*

Sd/-
(ARUN KHODPIA)
Accountant Member

Copy of the Order forwarded to :

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

BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai