

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

**BEFORE: SHRI AMIT SHUKLA, JUDICIAL MEMBER
&
SHRI MAKARAND VASANT MAHADEOKAR,
ACCOUNTANT MEMBER**

**ITA No.5887/Mum/2025
(Assessment Year : 2017-18)**

DCIT 27(1), Mumbai	Vs.	Ashok Kumar Valchand Jain M/s. Prakash Jhunjhunwala And Co. LLP 5, Jolly Bhawan 2, Marine Lines Churchgate-400071
PAN/GIR No.AECPJ0956N		
(Appellant)	..	(Respondent)

**CO No.321/Mum/2025
(Arising out of ITA No.5887/Mum/2025)
(Assessment Year : 2017-18)**

Ashok Kumar Valchand Jain M/s. Prakash Jhunjhunwala And Co. LLP 5, Jolly Bhawan 2, Marine Lines Churchgate-400071	Vs.	DCIT 27(1), Mumbai
PAN/GIR No.AECPJ0956N		
(Appellant)	..	(Respondent)

Assessee by	Shri Prakash Jhunjhunwala & Shri Saiprasad Ghosh
Revenue by	Shri Surendra Mohan, Sr. DR
Date of Hearing	21/01/2026
Date of Pronouncement	29/01/2026

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

The present appeal has been filed by the Revenue and the Cross Objection has been filed by the assessee against the order dated 15.07.2025 passed by the learned Commissioner of Income-tax (Appeals), National Faceless Appeal Centre, Delhi, arising out of the assessment framed under section 143(3) of the Income-tax Act, 1961 for the Assessment Year 2017-18.

2. In the grounds of appeal, the Revenue has raised the following grounds:

1. *Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in law and on facts in deleting the addition of 9,86,202/- on account of difference in sales as per P&L a/c and sales as per Sales Register without appreciating the fact that the assessee had failed to submit reconciliation of sales during the assessment proceedings and the same was considered during appeal proceedings without giving an opportunity to the Assessing Officer to examine the additional evidence or to submit the rebuttal of the same in accordance with Rule 46A(3) of the IT Rules 1962 ?*

2. *Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in law and on facts in deleting the addition of 2,04,07,167/- u/s 68 of the Act on account of unexplained cash credits without appreciating the fact that the assessee had failed to submit details of cash receipts from sale of designed jewelry, money lending activity, withdrawal from banks, other income and advances received from 2 customers during the assessment proceedings and the same was considered during appeal proceedings without giving an*

opportunity to the Assessing Officer to examine the additional evidence or to submit the rebuttal of the same in accordance with Rule 46A(3) of the IT Rules 1962 ?

3. *Whether on the facts and circumstances of the case and in law, the Ld. CIT (A) has erred in law and on facts in holding that disallowance of Rs.20,94,071/- u/s 36(1)(iii) of the Act is to be deleted as the same was outside the scope of Limited Scrutiny in this case, whereas the case of the assessee was selected for "Complete Scrutiny"?*

4. *Whether on the facts and circumstances of the case and in law, the Ld. CIT (A) has erred in allowing the appeal of the assessee on the basis of documents which were not submitted during the assessment proceedings without recording any reasons in writing for admitting the additional evidence as required under Rule 46A(2) of the IT Rules, 1962?*

3. The brief facts are that the assessee is engaged in the business of manufacturing and trading in gold jewellery, ornaments, bullion and related goods. Apart from the said activity, the assessee is also engaged in money-lending activities. The assessee filed his return of income for the year under consideration on 12.10.2017 declaring a total income of ₹57,25,740/-. The case was selected for scrutiny and assessment was framed under section 143(3) of the Act.

4. The first issue pertains to an addition of ₹9,86,202/-. The Assessing Officer, while examining the cash deposits and the explanation furnished regarding the source of such cash from retail business and other activities, noted that the total aggregate sales as per the sales register amounted to ₹8,31,84,332/-, whereas the sales credited in the audited Profit and Loss Account stood at ₹8,21,98,130/-. Treating the

difference of ₹9,86,202/- as unexplained, the Assessing Officer added the said amount to the income of the assessee.

5. The second issue relates to addition of ₹2,04,07,167/- under section 68 of the Act. The Assessing Officer observed that the assessee had disclosed cash receipts aggregating to ₹3,85,92,006/-, whereas the cash sales disclosed were ₹1,81,84,839/-, thereby resulting, according to him, in a difference of ₹2,04,07,167/-. In this regard, the Assessing Officer recorded the following observations:

“The submission made by the assessee is considered but cannot be accepted. The assessee in response to notices u/s 142(1) has provided the details extracted from the audited books of accounts and the statements of month wise cash sales, and month wise cash in hand has been furnished. the assessee also furnished the sales register for F.Y. 2016-17 and on verification of sales register the cash sales are found to be duly reflected. However, the assessee in reply to the show cause notice has furnished an another sales register inserting an additional column of cash and has attempted to nullify the discrepancy of cash deposits amounting to Rs. 2,04,07,167/-. Moreover, the assessee has not furnished documentary proof in support of his contention and has failed to produce and explain the entries of cash receipts as claimed in the reply to the show cause notice. The assessee has not furnished the details with supporting proof for the other income receipts of Rs. 3,31,400/-. As regards money lending receipts of Rs. 25,81,643/-, the assessee has not furnished the money lending account along with prescriber registers in support of his claim. Further, the assessee also failed to furnish supporting proof with respect to advance receipts of Rs. 13,25,448/-Thus, in absence of satisfactory explanation supported with proof and also in absence of verification of the accounts the contention that the cash receipts are duly reflected in the books cannot be accepted. Therefore, the difference of cash receipt and cash sale amounting to Rs. 2,04,07,167/- has remained unexplained. Therefore, the amount of Rs. 2,04,07,167/-

credited in the books of account is added as income u/s 68 r.w.s. 115BBE of the IT Act, 1961 as unexplained cash credit. Penalty u/s 271AAC is initiated separately on the income of Rs. 2,04,07,167/-.”

6. The third issue concerns disallowance of interest under section 36(1)(iii) of the Act. The Assessing Officer noted that the assessee had received interest-bearing loans aggregating to ₹5,39,07,462/-, repaid loans amounting to ₹83,66,194/-, and thus received net interest-bearing loans of ₹4,55,41,268/- during the year. The assessee claimed interest expenditure of ₹76,47,180/- on unsecured loans. It was further observed that the assessee had advanced loans of ₹1,80,14,407/- and had shown interest income of ₹67,657/-. In absence of satisfactory explanation, the Assessing Officer presumed utilisation of interest-bearing borrowed funds for advancing interest-free loans and advances and accordingly made a net disallowance of ₹20,94,072/-.

7. In appeal, the learned CIT(A), while dealing with the addition of ₹9,86,202/-, recorded a clear finding that the variation between the sales recorded in the sales register and the sales disclosed in the audited Profit and Loss Account arose on account of VAT component. It was noted that the sales register reflected sales inclusive of VAT, whereas the Profit and Loss Account disclosed sales net of VAT, and that the VAT collected had been duly accounted for and paid. On this factual finding, the learned CIT(A) deleted the addition.

8. With regard to the addition of ₹2,04,07,167/- under section 68, the learned CIT(A) recorded that the Assessing Officer had failed to consider several streams of cash receipts duly recorded in the audited cash book. The assessee explained that the aggregated cash receipts recorded in the audited cash book comprised multiple components, including cash sales of readymade jewellery, sales consideration realised in cash from designed jewellery, receipts from money-lending activity, cash withdrawals from banks, other income and advances received from customers.

9. The table showing the break-up of aggregated cash receipts as per the audited cash book is reproduced hereunder:

5.4.2 During the present appellate proceedings, in his submission the appellant submitted that the aggregated cash receipts recorded in Audited Cash book comprises of the following cash receipts:-

a)	<i>Counter retail sales of readymade Jewellery</i>	<i>Rs 1,81,84,831</i>
b)	<i>Sales consideration realized of designed jewellery</i>	<i>Rs 1,47,49,684</i>
c).	<i>Cash received on Money lending activity (Gold loan)</i>	<i>Rs 25,81,643</i>
d)	<i>Cash withdrawal from banks</i>	<i>Rs 14,19,000</i>
e)	<i>Other Income</i>	<i>Rs 3,31,400</i>
0	<i>Advance received from customers</i>	<i>Rs 13,25,448</i>
<i>Total cash receipts</i>		<i>Rs 3,85,92,006</i>

10. The assessee had also filed detailed documentary evidence before the Assessing Officer as well as before the learned CIT(A) to reconcile the entire cash receipts. These included the audited cash book for the entire year, bifurcation of sales credited in the Profit and Loss Account, month-wise summaries of cash and non-cash sales, party-wise details of cash sales of readymade jewellery, party-wise details of sales of designed jewellery realised in cash and through banking channels, details of credit-card sales, party-wise details of receipts from money-lending activity along with licence, details of advances received from customers, date-wise cash withdrawals from banks and details of other income realised in cash.

11. After examining the aforesaid material, the learned CIT(A) recorded a categorical finding that apart from the business of jewellery, the assessee was also engaged in money-lending activities, and that the cash receipts had emanated from disclosed business activities and other explained sources. After verifying the books of account, it was recorded that the entire sales and various streams of income stood duly disclosed in the Profit and Loss Account. The relevant findings of the learned CIT(A) are reproduced hereunder:

5.6.1 With regards to the additional ground of appeal 1 that additions have been made on issues not covered in limited scrutiny, the appellant submitted that AO travelled beyond his jurisdiction and made the additions/ disallowances of other issues not covered under Limited scrutiny of (a) Disallowance

of interest u/s 36(l)(iii) of Rs.20,94,072/-, and (b) Addition u/s 68 of cash receipts reflected in audited cash book of Rs.2,04,07,167/-. Further, AO had not obtained the prior approval from Pr. CIT or higher authority to examine the other issues not covered under Limited scrutiny and therefore, the addition made of other issues not covered in Limited scrutiny are erroneous.

The appellant cited the following case laws in support of his contention:

1. *Su-Raj Diamonds Dealers Pvt Ltd v. PCIT* ,ITA-3098/MUM/2019 dated 25/11/2019.
2. *Ravi Khandelwal v. Dy CIT*, ITA-665/LKW/2017 dated 08/11/2019.
3. *CBS International Projects Pvt Ltd v. ACIT* , ITA 144/Del/2019 dated 28/02/2019.

5.6.2 I have carefully examined the submission of the appellant and perused the case laws cited by him. In this regards, the submission of the appellant and the case laws cited have been examined along with Instruction No. 20/2015 dated 29.12.2015 and Instruction No. 5/2016, dated 14-07-2016 of CBDT.

As per CBDT Instruction No. 20/2015 dated 29.12.2015, in a case selected for scrutiny assessment based on Computer Aided Scrutiny Selection (CASS), the scrutiny is limited to the specific reasons/issues for which the case was chosen. However, if there is a potential income escapement of over Rs.10,00,000 apart from CASS information, complete scrutiny can be done with approval from the administrative Principal Commissioner of Income Tax/Commissioner of Income Tax. The CBDT has clarified that expanding the scope of a case selected for limited scrutiny under CASS requires approval from the administrative Principal Commissioner of Income Tax/Commissioner of Income Tax.

5.6.3 In the present case, the appellant's case was selected for limited scrutiny under CASS for reasons relating to Share capital/ capital and Sales turnover/ receipt. It is not

established that the case was taken up for complete scrutiny with administrative approval. Given these facts, the assessment conducted by the AO under Sec. 143(3) on was limited to the reasons for which the case was selected for scrutiny and the AO did not have the authority to address issues beyond the scope of the limited purpose for scrutiny as per above mentioned Instruction no.20/2015 of CBDT.

5.6.4 Therefore, respectfully following the Instructions of the CBDT and decision of jurisdictional Tribunal in the case of Su-Raj Diamonds Dealers Pvt Ltd v. PCIT ,ITA-3098/MUM/2019 dated 25/11/2019, I am of the view that the issues of disallowance of interest u/s 36(l)(iii) of Rs.20,94,072/-, and addition u/s 68 of cash receipts of Rs.2,04,07,167/- are outside the purview of Limited scrutiny where the reasons were given as- issue of Share capital/ capital and Sales turnover/ receipt and the AO had not converted the Limited scrutiny to Complete scrutiny with the approval of PCIT.

5.6.5 In view of the facts as discussed above, and in view of the additional ground of appeal having being admitted, the disallowance of interest u/s 36(1)(iii) of Rs.20,94,072/- earlier allowed is now liable to be deleted as being outside the purview of Limited Scrutiny. The AO is hereby directed to delete it accordingly. As far as additions u/s 68 are concerned, as the additions have been deleted as discussed in the preceding paras, this part of ground of appeal whereby additions u/s 68 have been made has become infructuous and liable to be dismissed. In view of the above, additional ground of appeal 1 is partly allowed.

12. We have heard the rival submissions at length and perused the material placed on record, including the findings recorded by the learned CIT(A). The controversy in the Revenue's appeal essentially arises from three additions/disallowances made by the Assessing Officer, namely, (i) addition of ₹9,86,202/- on account of alleged difference in sales, (ii) addition of ₹2,04,07,167/- under section 68 on account of alleged unexplained cash receipts,

and (iii) disallowance of interest of ₹20,94,072/- under section 36(1)(iii). We proceed to examine each issue on its own factual footing, keeping in view the nature of the assessee's business, the accounting records, and the reconciliation placed before the authorities.

13. In so far as the addition of ₹9,86,202/- on account of alleged difference in sales is concerned, the addition is founded on a comparison of sales as per the sales register vis-à-vis the sales credited in the audited Profit and Loss Account. The record demonstrates that the gross sales as per the sales register stood at ₹8,31,36,332/-, which included VAT of ₹9,88,202/-, whereas the sales credited in the Profit and Loss Account were shown net of VAT at ₹8,21,98,130/-. The difference thus represents the statutory tax component and not any suppressed turnover. Once the VAT element is separately identifiable, duly accounted for and paid, the premise of suppression collapses. The learned CIT(A) was therefore correct in holding that the addition was factually unsustainable. The deletion of ₹9,86,202/- is confirmed.

14. Coming to the addition of ₹2,04,07,167/- under section 68, the Assessing Officer proceeded by juxtaposing aggregate cash receipts with only one component of cash sales. The assessee's business profile, however, reveals multiple streams of cash inflow. The assessee furnished a complete break-up of aggregated cash receipts as per the audited cash book, comprising counter retail sales of readymade jewellery, cash realised from sales of designed jewellery, receipts from money-

lending activity, cash withdrawals from bank, other income realised in cash, and advances received from customers. The table showing such break-up is reproduced hereunder.

Sr. no	Particulars	Amount (Rs)
1	Counter retail sales of ready made Jewellery	1,81,84,831
2	Sales consideration of Designer jewellery	1,47,49,684
3	Cash received from money lending activities (Gold loan)	25,81,643
3	Cash withdrawal from bank	14,19,000
	Other Income	3,31,400
4	Advance received from customers	13,25,448
	Total cash receipts	3,85,92,006

15. The assessee further substantiated the reconciliation with audited books and contemporaneous records, including month-wise summaries and party-wise details. Once the cash book is audited and the cash receipts are demonstrably traceable to disclosed streams of business receipts and explained inflows, an addition under section 68 merely on the basis of an incomplete comparison cannot be sustained. The learned CIT(A) has recorded a categorical finding, after verification of books, that the cash receipts stood duly disclosed and reconciled and were reflected in the Profit and Loss Account. We therefore hold that the assessee discharged the onus cast upon him and the deletion of ₹2,04,07,167/- calls for no interference.

16. As regards disallowance of interest under section 36(1)(iii) of ₹20,94,072/-, the disallowance rests on a presumption of diversion of borrowed funds. The material on

record shows that the assessee possessed sufficient own interest-free funds exceeding the interest-free loans and advances given. The chart evidencing the quantum of own funds and interest-free advances is reproduced hereunder.

Details of own funds and interest free loans and advances given

<u>Working of Owned Funds</u>	6,66,97,907
Balance in Capital account	
Less:- Utilized in Investments/Fixed assets	
Investments in shares, etc	18,24,391
Fixed assets	5,63,11,954
Secured loans against fixed assets	<u>-73,01,120</u>
	(5,08,35,225)
Balance self-earned fund	<u>1,58,62,682</u>
<u>Working of Interest Free Loans and advances given</u>	
Total Loans and advances given	1,16,62,764
Less:- Interest bearing loan	-5,63,808
Interest free loans and advances	<u>1,10,98,956</u> =====

In absence of any specific nexus established between borrowed funds and non-business advances, and in view of availability of sufficient interest-free funds, the disallowance is unsustainable on merits. Even otherwise, the learned

CIT(A) has recorded that the addition under section 68 and the disallowance under section 36(1)(iii) were beyond the scope of limited scrutiny and no approval was obtained for conversion to complete scrutiny. Such finding, being in consonance with binding CBDT Instructions, independently supports the deletion. Accordingly, the disallowance of ₹20,94,072/- is deleted.

17. In view of the foregoing discussion and considering the totality of facts and circumstances, we find that the order passed by the learned CIT(A) is well-reasoned and free from legal or factual infirmity. The appeal filed by the Revenue is dismissed and the Cross Objection filed by the assessee is allowed.

18. In the result, the appeal of the Revenue is dismissed and the Cross Objection of the assessee is allowed.

Order pronounced on 29th January, 2026.

**Sd/-
(MAKARAND VASANT
MAHADEOKAR)**

ACCOUNTANT MEMBER

Mumbai; Dated 29/01/2026
KARUNA, *sr.ps*

**Sd/-
(AMIT SHUKLA)**

JUDICIAL MEMBER

Copy of the Order forwarded to :

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

//True Copy//

BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai