

**IN THE INCOME TAX APPELLATE TRIBUNAL
“B” BENCH, DELHI**

**BEFORE SHRI ANUBHAV SHARMA, JUDICIAL MEMBER &
SHRI MANISH AGARWAL, ACCOUNTANT MEMBER**

**ITA No.953/Del/2023
(Assessment Year:2017-18)**

DCIT, Central Circle-19, New Delhi	Vs.	Chawla Gems Pvt. Ltd. 2654, Chawla Tower, Bank Street, Karol Bagh, Central Delhi Delhi-110005
स्थायीलेखासं./जीआइआरसं./PAN/GIR No: AA ECC 8124C		
Appellant	..	Respondent

Appellant by :	Sh. I.P. Bansal, Adv& Sh. Vivek Bansal, Adv
Respondent by :	Ms. PoojaSwaroop, CIT (DR)

Date of Hearing	21.01.2026
Date of Pronouncement	04.02.2026

ORDER

PER ANUBHAV SHARMA, JM:

This appeal is preferred by the revenue against the order dated 12.01.2023 of the Ld. Commissioner of Income-tax (Appeals)-27(hereinafter referred as Ld. First Appellate Authority or in short Ld. 'FAA') in Appeal No. CIT(A), Delhi-27/11116/2016-17 arising out of the order dated 28.07.2021 u/s 147 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') passed by the DLC-CC-(4)(10) for AY: 2017-18.

2. Heard and perused the records. The factual background of the case are that the assessee is a private limited company and the returned of income was filed on 31-10-2017 declaring an income of Rs.2,17,89,640/-. The account of the assessee, for the purpose of income tax are audited as per Form No. 3CA and Form NO. 3CD both are dated 31-10-2017 which were duly filed with the Department within statutory period and are part of record along with independent auditor's report. The turnover of the assessee excluding other income and increase/decrease in stock, for the year under consideration is a sum of Rs.22,67,85,231/- and purchases are a sum of Rs.22,88,19,359/- and profit before tax has been reported at Rs.2,25,27,806/-

2.1 That a notice dated 28-01-2020 was issued under section 148 of the Act to examine cash deposit during demonitisation period.

3. The case of assessee, contested before Id. Tax authorities below and here is that the assessee company is engaged in the business of sale and purchase of jewelry of gold, silver and diamond and as per normal trade practice the assessee was receiving sale price in cash up to a sum of Rs. 2 lacs as well as through banking channels. The sale consideration received through cash is deposited in the bank account of the company. That the amount received in cash from customers only was deposited in bank account and the bank statements were already made available and are again being furnished. The turnover of the assessee in the year under consideration is a sum of Rs.22.67 crore including cash sales of Rs. 12.35 crore. The details of cash received against sales was already available and also available in public domain under MCA Portal before processing of the return.

4. The assessing officer however heavily relied the contradiction in the statements of few of the employees regarding opening and closing time of showroom on 08-11-2016 in the statements recorded during the survey conducted on 03-01-2018 and the circumstances that assumption of 5 minutes

for time taken in preparing one invoice cannot lead to such sales being made in the intervening period. AO also found that there was meager turnover of Rs.12.37 lakhs in FY 2015-16 and the stock was transferred from M/s Chawla Jewelers to M/s Chawla Gem P. Ltd without any payment.

5. Assessee succeeded before ld. First appellate authority and the relevant part is reproduced here below;

5.3 Observations and Findings:

i. Sale turnover of the assessee during the year under consideration is Rs.22,67,85,231/- and in immediately preceding year i.e., A.Y. 2016-17 the turnover was Nil as the company was not in operation. Out of this total sales, cash sales were of Rs.12,48,34,060/-.

ii. Sales made by the assessee are including VAT and VAT returns are also submitted by the assessee within due time.

iii. The accounts of the assessee are liable for audit under Section 44 AB of the Act and from year to year these audited reports have been obtained and submitted to the department along with return of income filed for respective years.

iv. Deposit of specified bank notes (SBN) in bank account had taken place on 12, 13, 16, 19 and 21 of November, 2016.

*v. There is no allegation from the ld. AO that stock was not available for sale on 8.11.2016. **There is also no evidence that appellant had made purchases in cash or the purchases are bogus. Further, the purchases and the stock in hand were duly verified by the survey party from the purchase registers and the stock registers impounded at the time of survey operation.***

vi. In response to the ld. AOs observation that the appellant company has suddenly came into operation at the time of demonetization, the appellant has made following submission.

"That for AY 2012-13 a heavy income tax demand of a sum of Rs. 16,48,00,000/- was raised in the case of the assessee. To discharge the said obligation of tax payment, the payment was made and after making such payment the assessee company was left with no working capital so as to carry on its business activity, therefore, no business was conducted till the refund of tax paid was not granted to the assessee. An appeal was filed before the CIT(A) against the said demand which was decided vide order dated 29-04-2016 resulting into refund of Rs. 17,88,08,000/- (Rs. 16,48,00,000/- being tax and Rs. 1,40,08,000/- being as interest u/s 244A of the Act) and this refund was calculated and granted in pursuance to appeal effect order dated 04-08-2016 passed by ITO, Ward-6(1), New Delhi passed u/s 250/143(3) of the Act. Pursuant to such appeal effect order refund was issued by the Income Tax Department as per demand draft no. 050925 dated 31-08-2016 of a sum of Rs. 17,96,32,000/-. It is, thus a sum of Rs. 17,96,32,000/- has been credited in the bank account of the assessee in Andhra Bank and it can also be seen that prior to that there was negligible balance which was insufficient to carry on any business activity. Copy of bank account was duly furnished before the AO and is part of the record. The assessment record of the assessee in respect of AY 2012-13 is also part of record of the assessee with the Department and incidence of refund is also in the relevant FY and could not have been ignored by the AO. It is only on receiving the refund on 07-09-2016, the assessee made up its mind to start business activity and in furtherance thereof, the assessee had advanced a sum of Rs. 18,05,00,000/- to M/s Chawla Jewelers on 08-09-2016 through cheque no. 81440 for a sum of Rs. 5,00,00,000/- and cheque no. 81441 of a sum of Rs. 13,05,00,000/- for purchase of jewelry and this amount is duly depicted in the ledger produced during the course of assessment proceedings and also the relevant purchases made from the above concern. Reference in this regard can be made to the submissions of the assessee made on 31-05-2021 which has also been reproduced by the AO at pages 3 & 4 of the assessment order wherein it has been mentioned as under:-

"...is submitted that the assessee is a private limited company and engaged in the business of trading in precious gold and diamond

*jewellery. The cash deposited in the bank account during the year under consideration is in the nature of proceeds from cash sale of stock of jewellery and same is duly supported from audited books of account and quantitative stock record. It is pertinent to mention that assessee company was formed in year 1991 but no major activity was carried out in the same owing to the fact that primary business operation was done under name and style of M/s. Chawla Jewellers, partnership concern of the Directors and shareholders of the assessee company. However, as part of business re-organisation and restructuring, it was decided to gradually transfer the business to private limited company. For the said purpose, during the financial year 2016-17, the stock of jewellery amounting to Rs 7.41 crores was transferred from M/s. Chawla Jewellers to assessee company vide invoice dated 08.10.2016 and after that subsequent purchase was made from other suppliers and Chawla Jewellers as per need of the business. Further, both the concerns were sharing the same premises and the business of M/s. Chawla GemsP. Ltd. was carried out through showroom situated at Karol Bagh, Delhi. **It is relevant to mention that payment for the stock transfer was made in well in advance and as such there was no case of any credit purchases as alleged in the show cause notice.**"*

vii. *The ld. AO has stated in his order that the area of the shop is just 600 sq. ft. and space was not enough to accommodate so many customers. In response, the appellant has stated that the total area of the Karol Bagh showroom is about 3,600 sq. ft. which is spread over two floors. The stated area pertains only to the showroom at Karol Bagh and excludes all other area such accounts office, administration and common passage. The Director of the appellant company, Shri Hemant Chawla in his statement dated 03-01-2018 had inadvertently mentioned the area of the showroom as 600 sq. ft.*

viii. *The appellant has also submitted that it had the cash counting machines at its showroom during the F.Y. 2016-17 and the process of counting the cash was very fast. The survey party has erred in not mentioning this fact*

ix. *The number of invoices raised by the assessee on 08-11-2016 were 673. The ld. AO has concluded that all these invoices were issued only after 8 pm i.e. time at which demonetization was announced but ld. AO could not substantiate his conclusion with any evidence. As per appellant these invoices were issued during the full day and he had sufficient time to issue these invoices.*

x. *This is also not the case of the ld. AO that there was any back dating of invoices as survey party had thoroughly checked the work stations of the assessee company and found no change in logs of the computers which could establish that there had been back dating of invoices.*

xi. *Ld. AO has stated in the assessment order that 4 employees have mentioned in their statements that the Karol Bagh showroom was closed at 08:00 P.M. on 08-11-2016. But out of these 4 employees, 3 had left before 8 pm and therefore their statement lacks credibility. Further, there are employees like Smt. Monika Sahney who has stated that the showroom was closed at 12 o'clock on 08-11-2016. Similarly, on this issue, statement of some more employees is as under:*

Name	Extract of statements
Sh. Hemant Chawla	Q.41 Please state at what time, the rush of people increased for purchase of jewellery on 08-11-2016? Ans: There was rush in the shop during the entire day due to ongoing discount scheme at that time but the rush was increased after declaration of demonetization. The rush was keep increasing

	till 12 in the night. However, mostly the sales were made during 9 pm and 12 in the midnight. Q.46 Please state up to what time the sale process was continued in the midnight of 08-11-2016 and 09-11-2016. Ans: The sale was done till only 12 A.M. in the midnight and after that we reconciled our stock and cash.
Smt. Komal Sharma, Sales manager, Karol Bagh	Q.5 At what time on 08-11-2016 you left the store i.e. M/s Chawla Jewellers, 2654, Karol Bagh, bank street, New Delhi- 110005 and at what time store was closed on 08-11-2016? Ans: I left the showroom on 08-11-2016 at 12:30 midnight after attending the last customers 11:59 pm on 08-11-2016 and after matching the closing stock of that day is 08-11-2016.
Sh. Manoj Tiwari, Office clerk, Karol Bagh	Q.4 At what time did you left the showroom and upto what time the showroom was open on 08-11-2016? Ans: I left the showroom in the midnight of 08-11-2016 at 12:45 AM and I saw the shutter of the showroom was half open and I have no idea at what time the showroom closed after I left.
Sh. Rahul Chawla, Partner in M/s Chawla Jewellers, Karol Bagh	Q.6 On 08-11-2016, can you recall the sales figure that day? Ans: I do not remember exact figure now. I have to check the books to tell. Because of huge rush after demonetization, we opened the shop till Midnight 12. I do not exactly remember the number of customers but they are many. And mostly, sales on this day correspond to cash sales.

Thus, it can be concluded that show room was opened till 12 midnight on 08.11.2016.

xii. *The unusual increase in sale cannot be inferred as bogus sales until and unless there is some supporting evidence. Generally, sales vary from month to month and year to year. A comparison with previous periods may raise suspicion but it can not be the sole criteria to treat the unusual increase in sales as bogus sales.*

xiii. *On 8.11.2016, after announcement of demonetization scheme, the purpose behind purchase of jewellery was not for personal use. The main purpose was to convert the SBNs into some tangible assets which can again be converted to cash at an appropriate time. These customers were generally known to the jewellers. Therefore, strict norms of business like choosing the jewellery, bargaining the price, counting the cash, etc. were actually not applicable during this period i.e. from 8pm to 12 midnight.*

xiv. *Regarding cash sales to un-identifiable parties, it is important to understand that in case of over-the-counter cash sales, within the limit permissible by law in any trade or business, the customer can not be forced to submit proof of identification. In case of jewellery business, transaction*

up to Rs.2 lacs in cash have been permitted by the Government without any proof of identification and therefore, no proof of identification was required to be taken from the customers to whom cash sales up to Rs.2 lacs were made.

xv. Lastly, the Id. AO could not identify any defect in sales register, stock register, purchase register and cash book prepared as on date of survey i.e. 03.01.2018 and more particularly as on date of demonetization. Once the books of account for F.Y. 2016-17 are accepted by the Id. AO and the cash sales recorded therein were considered in arriving at the assessed income of the Assessee for the financial year under consideration, then treating the cash deposited in banks against such cash sales as undisclosed income of the Assessee is not sustainable.

5. Ld. DR has submitted that AO has very reasonably relied the statements of employees and surrounding circumstance to hold that alleged claim of cash sales of jewelry is false. It was submitted that this assessee has only operated during the demonitisation period and that itself makes the claim suspicious.

6. Having considered submission and material on record, at the outset it comes up that along with the reply dated 18-11-2020 the following documents were submitted to AO:

i. Copy of ledger of the assessee in the books of M/s Chawla Jewelers, GK branch of M/s Chawla Gem P. Ltd. FY 2016-17.

ii. Copy of ledger of the assessee in the books of M/s Chawla Jewelers, Karol Bagh branch of M/s Chawla Gem P. Ltd. FY 2016-17.

iii. Copy of bank account of M/s Chawla Gem P. Ltd. in Andhara bank account no. 030711100001662 (15-04-2015 to 29-03-2017).

iv. Copy of cash book of M/s Chawla Gem P. Ltd. for FY 2016-17.

v. Copy of sale register/VAT register from 01-10-2016 to 31-03-2017.

7. Taking up the most attractive contention of AO about acquiring of stock from sister concern without payment and it is established that a sum of Rs. 18,05,00,000/- for purchase of jewelry was made on 08-09-2016 in addition to a sum of Rs. 18,84,12,850/- which was already outstanding as on 01-04-2016 and to substantiate such fact, copy of ledger of M/s Chawla Gem P. Ltd in the books of M/s Chawla jewelers was filed wherein amount of Rs.13,05,00,000/- and Rs.5,00,00,000/-has been credited on 08-09-2016 vide cheques no. 081441 and 081440 respectively and to further support copy of bank account no. 030711100001662 of the assessee in Andhara Bank, Bank street branch, Karol Bagh was also filed supporting these entries. Thus, it was stated that for making purchases the advances were made by the assessee to M/s Chawla Jewelers.

8. As with regard to the reliance of statement of employees recorded on 03-01-2018 and we find same were recorded after 14 months from the date of demonetization, therefore, it is unjust to rely the statement to much for holding there was no sales at all.

9. Then AO could not identify any defect in sales register, stock register, purchase register and cash book of the sister concern from whom the assessee has show the purchase of stock or as inventoried on date of survey i.e. 03.01.2018 also. In fact in the case of sister concern, Chawal Jewelers while deciding appeal of revenue ITA No.954/Del/2023, by order of even date, we have observed that in the assessment order of Chawal Jewelers, Assessing Officer has recorded the part of statements and we find that in the statement of Sh. Chiranjeev Roy who was working as Account Assistant since 2001, is reproduced and he in his statement had stated that the books of accounts were updated till 02.01.2018. In question No.15, he mentioned that the details of stock lying as on the date on both the showrooms is being provided. In his statement he also provides supporting vouchers and stock registers of sales. In response to question No. 24, he deposes that, there are 14 sales persons

and in the question No. 27 he specifically explained the system of issuing the stock to sales person in regard to the group concerns.

10. Now as with regard to the suspicion casted by Id. DR and the AO too on the basis of assessee being active in the demonitisation period we are of considered view that even if assessee had come in existence in the said period that itself is not basis to hold the whole of its claim to be sham. As business entity assessee may have been dormant and became active in disputed period but business people have to be given liberty of managing their affairs to the best of their prudence. The reorganization of the two entities by transfer of stock from Chawla Jewellers to assessee may be a instance of tax management or in worst case of tax avoidance by bifurcating the income to two entities, but in any case, when the purchases and stock in the books of either is not disturbed the unusual stock transfer to dormant entity does not make the cash sales itself doubtful.

11. The circumstances or statements relied by Id. DR can only help as case built on factual foundation by analyzing the purchase, inventory and sales, but instead of finding any discrepancy in the substantive evidences of assessee, on broad assumptions and surmises the cash sales were doubted,

which have been rightly accepted by Id. CIT(A) and findings need no intervention.

12. The grounds as raised have no substance. The appeal of revenue having no merit is **dismissed**.

Order pronounced in the open court on 04.02.2026

Sd/-
(Manish Agarwal)
ACCOUNTANT MEMBER

Sd/-
(Anubhav Sharma)
JUDICIAL MEMBER

Dated 04.02.2026
Mitali, Sr. PS

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT NEW DELHI