

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

**BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER
And
SHRI RENU JAUHRI, ACCOUNTANT MEMBER**

**ITA No.5085/M/2025
Assessment Year: 2013-14**

Cool Diamond Private Limited, 2 nd Floor, Plot No. 97, MYCO Industrial Area, Misc Industrial Area, Andheri East, Mumbai – 400093. PAN – AADCC6707	Vs.	Ward ITO -12(1)(1), Room No. 129, Aayakar Bhawan, M K. Road, Mumbai – 400020.
(Appellant)		(Respondent)

Present for:

Assessee by : Shri Vimal Punmiya, Ld. A.R.
Revenue by : Shri Virabhadra S. Mahajan, SR. D.R.

Date of Hearing : 02.12.2025
Date of Pronouncement : 03.02.2026

O R D E R

Per : Narender Kumar Choudhry, Judicial Member:

This appeal has been preferred by the Assessee against the order dated 30.06.2025, impugned herein, passed by the National Faceless Appeal Centre (NFAC)/Ld. Commissioner of Income Tax (Appeals) (in short Ld. Commissioner) u/s 250 of the Income Tax Act, 1961 (in short 'the Act') for the A.Y. 2013-14.

2. In the instant case, an information was received by the AO from the DDIT (Inv.) Unit – 4 – Surat, with regard to the circular transaction of Rs.2,11,19,942/- by the Assessee with M/s. Seven Star Jewels Proprietary. On perusing the information, the AO observed that it is apparent that the Assessee has earned an income to the tune of Rs.2,11,19,942/- but has not included this

amount in the income while filing return of income and therefore, this income has escaped assessment.

3. Thus, the AO on the aforesaid information reopened the case of the Assessee under Section 147 of the Act by issuing a notice dated 31.03.2021 under Section 148 of the Act. The Assessee, in response to such notice filed its return of income for the assessment year under consideration on 30.11.2021.

4. Thereafter, the AO issued various show cause notices to the Assessee, inter alia, alleging:

"5. As per the reasons for reopening of assessment in your case, it is observed that you have huge financial transaction with Seven Star Jewels Prop. Tarachand Paldecha amounting to Rs. 2,11,19,942/-. Please provide details of these transaction along with documentary evidences to corroborate the genuineness and creditworthiness of these transactions for the year under consideration".

5. The Assessee in response to the notices, filed various replies and provided the relevant information and documents. On considering the same, the AO held that the reply of the Assessee is contradictory not only to the information as provided by the Assessee in his reply dated 11.03.202 and in the form of its bank statement of Union Bank of India as Annexure 3, but also with the information available with his office, which is received from the different entities and processed/uploaded into ITVA insight portals.

"5.1 It can be clearly seen from the above bank account statement of Union Bank of India, the assessee has transferred the amount of Rs.65,00,000/- on 03.12.2012 and Rs.30,87,938/- on 04.12.2012, which amounts to Rs.95,87,938/- to M/s Seven star jewels. On the one hand, the assessee was claiming that there was purchase of Rs.66,71,634/- for the purchase of diamonds and on the other hand there was transfer of the amount of Rs.95,87,938/- which is more than the purchase value. There is no rationale for paying more than the invoice bills submitted by the assessee, even it is considered as genuine

purchases. Therefore, the assessee's explanation is camouflaging the accommodation entries for the unaccounted income in the name of purchases. There is inherent inconsistency in the assessee's reply with respect to the issue under consideration.

5.2 Further, the assessee has submitted Annexure 9-Trade payable for FY 2012-13 in the said reply dated 11.03.2022 in which it is clearly shown as the outstanding amount with respect to the party M/s Seven Star Jewels as Rs.66,71,634/- The assessee's claim that the purchase amount was paid through the banking channel for the amount of Rs.66,71,634/-but it was outstanding in the trade payable account as per assessee's submission. Therefore, the assessee's reply is lack of coherence and bereft of facts on the transactions amounting to Rs.2,11,19,942/-."

6. Thus, the AO issued a final show cause notice dated 25.03.2022 to the Assessee proposing the additions mentioned above.

7. The Assessee in response to the said notice dated 25.03.2022, filed its reply on 26.03.2022.

8. The AO though considered the aforesaid reply of the Assessee however, not being satisfied with the same, found the same to be untenable and therefore, the AO ultimately made the addition of Rs.2,11,19,942/- in total, by observing and holding as under:

6.1 In the said reply, the assessee was again reiterating the same submission submitted earlier vide reply dated 11.03.2022 that there was only purchase transaction and submitted the same documents again. The assessee's explanation as the transactions with M/s seven star jewels were only purchases are not acceptable as discussed supra. Therefore, it can be concluded that the assessee has nothing to say other than the theory of purchases transactions. In view of the inconsistencies in the facts in the reply submitted by the assessee, the argument of the assessee is not acceptable.

7. In view of the above, it is clear that the assessee has engaged in circular transaction not only with Seven Star Jewels Prop. Tarachand Paldecha amounting to Rs. 95, 87,938/-contrary to assessee's claim, but also with Sh. Bhairav Star Jewels pvt. Ltd. by providing Credit/Debit entries amounting to Rs. 1,15,32,004/- (10514666+1017338). Therefore, the assessee's reply is not only

partial in nature but also misleading. Therefore, the Assessee has failed to prove the information available with this office otherwise. The amount of Rs. 2,11,19,942/-, on account of assessee engaging in circular transactions in the bank account with Seven Star Jewels Prop. Tarachand Paldecha and others and using it as a transit point for fund transfer in its account during, for which the assessee has not offered a justifiable explanation regarding the source of such amount is thereby added to total income of the assessee u/s 68 of the Income-tax Act, 1961. Section 68 reads as under:

"Section 68 of the Income Tax Act, 1961

Where any sum is found credited in the books of an assessee maintained for any previous year, and the assessee offers no explanation about the nature and source thereof or the explanation offered by him is not, in the opinion of the [Assessing] Officer, satisfactory, the sum so credited may be charged to income-tax as the income of the assessee of that previous year.

[Provided that where the assessee is a company (not being a company in which the public are substantially interested), and the sum so credited consists of share application money, share capital, share premium or any such amount by whatever name called, any explanation offered by such assessee-company shall be deemed to be not satisfactory, unless-

(a) the person, being a resident in whose name such credit is recorded in the books of such company also offers an explanation about the nature and source of such sum so credited; and

(b) such explanation in the opinion of the Assessing Officer aforesaid has been found to be satisfactory"

8. Therefore, the amount of Rs. 2,11,19,942/-, on account of assessee engaging in circular transactions in the bank account with Seven Star Jewels Prop. Tarachand Paldecha and others and using it as a transit point for fund transfer in its account during A.Y. 2013-14, is hereby added to the total income of the assessee u/s 68 of the Income-tax Act, 1961 and the amount of tax is calculated u/s 115BBE of the Act. Penalty proceeding u/s 271(1)(c) is being issued separately for concealment of income."

9. The Assessee being aggrieved, challenged the aforesaid addition of Rs.2,11,19,942/- as well as the assessment order dated 29.03.2022 on various aspects including legal, challenging the reopening of the proceedings under Section 147 of the Act. The Assessee, more or less before the Ld. Commissioner claimed that amounts paid/received represent the payments of outstanding trade

payables and against earlier years' sales respectively. The Assessee in support of its case, also submitted bank statements and confirmations of the parties and further claimed that addition, if sustained, would amount to double taxation, since the transactions pertain to earlier years.

10. The Ld. Commissioner though considered the aforesaid claim of the Assessee, however, observed that the explanation offered by the Assessee was found contrary and contradictory lacking supportive evidence of genuineness and credit worthiness. Further, though the Assessee has claimed that the amounts represent payment of outstanding trade payables and receipt against earlier year sales, however, the AO has categorically established that the alleged purchases and sales were not corroborated by credible and verifiable evidences, such as transport documents and delivery challans on confirmation from the parties concerned. Further, meanwhile, the Assessee claimed that the transaction related to earlier years, however, it failed to reconcile these claims with amounts credited in the books during current year. The Ld. Commissioner further observed that in this case, the evidence gathered by the AO clearly indicates that the Assessee was involved in the circular transactions aimed at layering and rotation of funds to create and appearance of genuine trade activity. The AO found that the Assessee had transferred Rs.95.87 lakhs to M/s. Seven Stars Jewels despite claiming purchases of Rs.66.71 lakhs only. This excess payment remained unexplained. The reply that the difference was toward old dues was found unsubstantiated. Likewise, transactions with Bhairav Star Jewels Pvt. Ltd. amounting to Rs.1.15 crores were found to be lacking in commercial rationale. The AO had rightly concluded that these entries were in the nature of accommodation entries and the Assessee failed to demonstrate how these amounts had legitimate business purpose. The fact demonstrates a pattern of rotation of funds with no actual

movement of goods, thereby justifying the addition under Section 68 of the Act. The Ld. Commissioner further observed that the Assessee has argued that the addition resulted in double taxation as the transaction pertains the earlier years, however the explanation the bereft of evidentiary support. No material has been furnished to conclusively prove that the amounts now added were already offered to taxation in prior years. Moreover, the claim that Section 68 is inapplicable in debit entries is misplaced as what matters is whether any sum is found credited in the books for which no satisfactory explanation is offered. The burden to establish the genuineness of the credit entries lies squarely on the Assessee, which has not been discharged in the facts and circumstances of the case. On the aforesaid analysis and discussion, the Ld. Commissioner ultimately held the reopening of the assessment under Section 147 of the Act has initiated on the basis of credible information and duly recorded the reasons. Further, the Assessee failed to establish the genuineness and credit worthiness of the transaction credit of Rs.2,11,19,942/-. Thus, the Ld. Commissioner ultimately affirm the aforesaid addition by dismissing the appeal of the Assessee.

11. Thus, the Assessee being aggrieved has preferred instant appeal.

12. Heard the parties and perused the material available on record. The Assessee has filed a chart demonstrating the transactions which read as under:

M/S. COOL DIAMONDS PVT. LTD.
ASSESSMENT YEAR 2013-14

Party Name	Transaction	FY	Bill Dt	Net Amount	Vat	Amount	FY	Transactio Date	Amount
Shri Bhairav Star Jewels Pvt. Ltd	Sale	2009-10	29/03/2010	1,04,10,560	1,04,106	1,05,14,666	2012-13	Receipt 03/12/2012	65,00,000
							2012-13	Receipt 04/12/2012	40,14,666
									<u>1,05,14,666</u>
M/s. Seven Star Jewels	Purchase	2009-10	18/03/2010	94,93,008	94,930	95,87,938	2012-13	Payment 03/12/2012	65,00,000
							2012-13	Payment 04/12/2012	30,87,938
									<u>95,87,938</u>
Shri Bhairav Star Jewels Pvt. Ltd	Purchase	2011-12	02/08/2011	10,17,338	-	10,17,338	2012-13	Payment 04/12/2012	10,17,338
						<u>10,17,338</u>			<u>10,17,338</u>
						<u>2,11,19,942</u>	Total Addition		<u>2,11,19,942</u>
	SALE	2009-10				1,05,14,666			
	PURCHASE	2009-10			95,87,938				
	PURCHASE	2011-12			10,17,338	1,06,05,276			
						<u>2,11,19,942</u>			

13. The Assessee from the aforesaid chart has submitted that during the AY 2009-10 vide bill dated 18.03.2010, the Assessee had made a purchase of Rs.94,93,008/- + 94,930/- (VAT) from M/s. Seven Star Jewels and therefore, in respect of said amount of Rs.95,87,938/- in total, made the payments of Rs.65,00,000/- and Rs.30,87,938/- respectively on dated 03.12.2012 and 04.12.2012 during the assessment year under consideration. The Assessee further demonstrated that during the assessment year under consideration, the Assessee had made the purchase of Rs.66,71,634/- during the year under consideration from M/s. Seven Star Jewels. Somehow both the authorities below have considered the said amount related to the amount paid i.e. Rs.1,95,87,938/- in total, by side lining the relevant documents as filed before the authorities below as well as before the Hon'ble Court, wherein from purchase register attached with the book (page

363) it appears that purchases were made on dated 02.11.2012, 01.12.2012 and 05.12.2012 respectively to the tune of Rs.34,60,774/-, 15,05,983/- 17,04,877/- (in total 66,71,634/-). The Assessee further demonstrated that the Assessee during the assessment and first appellate proceedings filed the copy of financial statements for AY 2010-11, 2011-12, 2012-13 and copy of purchase register for AY 2012-13 and copy of sales register for AY 2012-13. Further, the Assessee has also provided the sale and purchase invoices and confirmation of accounts by M/s. Bhairav Star Jewels Pvt. Ltd and M/s. Seven Star Jewels Pvt. Ltd. The Assessee further claimed that it has provided the purchase register for AY 2010-11 and 2011-12 as well and sales register for 2010-11 and 2011-12 and the copy of the transactions. The Assessee from the e-proceedings response acknowledgment dated 25.12.2024 demonstrated, having been filed the aforesaid documents and various other documents before the Ld. Commissioner.

14. Further, the Assessee by drawing attention of this Court to e-proceedings response acknowledgment dated 27.03.2022 (page 189 of paper book) has also demonstrated the fact that it has filed the ledger account of M/s. Bhairav Star Jewels, stock register of Bhairav Star Jewels, purchase bill from Bhairav Star Jewels, export documents, note on genuine purchase and Tribunal order on Diagold Designs Ltd. The Assessee further by drawing attention of this Court to e-proceeding acknowledgment dated 04.02.2022, has also demonstrated the fact that it has also filed the ledger confirmation, bank statement of M/s. Seven Star Jewels, Union Bank of India Statement, Extract of Stock Register, Purchase Invoice of M/s. Seven Star Jewels, Export Invoices, Audited Balance sheet with annexure, note for genuine purchase and details of trade payables.

15. Thus, on the aforesaid facts and circumstances and the documents, are of the considered view that the Assessee has demonstrated and/or prima facie discharged its onus cast under Section 68 of the Act. However, still the authorities below doubted the transactions of the Assessee mainly on the reason that the Assessee had shown purchase to the tune of Rs.66,71,634/-, whereas made the payment of Rs.95,87,938/- in total during the year under consideration to M/s. Seven Star Jewels (Rs.65,00,000/- +30,87,938/-). Further, there is no rationale for paying more than the invoice bills submitted by the Assessee, even if it is considered a genuine purchase. The Assessing Officer further observed that the Assessee has engaged in circular transaction with M/s. Seven Star Jewels Proprietor and M/s. Bhairav Star Jewels Pvt. Ltd. by providing credit/debit entries amounting to Rs.95,87,938/- and 1,15,32,004/- (Rs.1,05,14,666/- + Rs.10,17,338/-). However, the Assessee failed to prove the information available with the AO's office otherwise. We further observe that the Ld. Commissioner also observe that the Assessee though claimed before the Ld. Commissioner that the transactions pertain to the earlier years and the addition if sustain, would result in double taxation. However, no material has been furnished by the Assessee to conclusively prove that the amounts now added were already offered to tax in prior assessment.

16. As observed above, the Assessee had made the purchase of Rs.66,71,634/- during the assessment year under consideration but somehow, the authorities below misconstrued the said amount adjusted/paid to the tune of Rs.95,87,938/- by side lining the fact that the Assessee during the AY 2010-11 on dated 18.03.2010 has made the purchase of Rs.95,87,938/- only and therefore, has paid the said amount in the assessment year under consideration but not with regard to the amount of Rs.66,71,634/-, the purchases made by the Assessee during the year under consideration, which the

Assessee has claimed that it has made such purchase in the AY 2013-14, which is under consideration, but not in that year.

17. We further observe that no such addition of opening balances and/transactions carried out by the Assessee during the AYs 2009-10 and 2011-12 when the sale and purchases were made by the Assessee, has been made by the AO. Thus, there is no reason to treat the parties as non-genuine, as it is admitted fact that the transactions were carried out through banking channel and substantiated by the Assessee by filing relevant documents, such as purchase and sale register, invoices and other relevant documents as also held by the Hon'ble Co-ordinate Bench of the Tribunal at Mumbai in the case of *Shiva Educational Trust vs. Income Tax Officer (Exemp.)* (ITA No. 4081 and 4082/M/2023). Further, the Hon'ble Delhi High Court as well, in the case of *Commissioner of Income Tax, Delh- 4 vs. Usha Stud Agriculture Farms Ltd. (2009) 183 taxmann.com 277 (Delhi)* has also considered the identical issue, wherein the cash credit entry was appearing in the books of Assessee over past many years and therefore, that was not a fresh credit entry pertaining to relevant assessment year and thus, the Hon'ble High Court affirmed the view of the then Ld. CIT (A) and the Tribunal, in deleting the addition, as relied on by the Assessee herein.

18. We further observe that with regard to the objection of the revenue authorities to the effect that the Assessee failed to provide the transport bills, etc. The Assessee has claimed that he deals with diamonds and jewelry, which depends upon the physical movement and hand by hand delivery and therefore, there was no delivery receipt required/available to produce before the authorities below. Further, the Assessee has also established the fact that all the purchases and sales bills were produced before the authorities below and without purchases, the sales cannot be accepted.

Further, the accounts of the Assessee were duly audited by the Tax Auditor, all payments made by account payee cheques, stock register was properly maintained and not doubted by the authorities below, all parties have given confirmation of purchases and affidavits stating the transactions as genuine as applicable VAT has also been paid to the Maharashtra Government and most importantly, there is no evidence that cash was received back by the Assessee.

19. Further the authorities below merely relied on the information received from the DDIT (Inv.), whereas sales tax department levied Sales Tax on the said purchase and Assessee paid the relevant sales taxes. Further, the Assessee by filing the relevant documents as mentioned above, has duly discharged its prima facie onus cast on it thus, no addition is sustainable.

20. We are convinced by the aforesaid claim of the Assessee qua establishing the prima facie case and/or discharging the prima facie onus cast under Section 68 of the Act. However, with regard to the observation made by the Ld. Commissioner to the effect specifically that the Assessee has argued that addition results in double taxation since, the transaction pertains to the earlier years, however, the explanation of bereft of evidentiary support, as no material has been furnished as **conclusive proof** to prove that the amounts now added were already offered to tax in prior assessments. In our considered view, this fact requires verification by the jurisdictional Assessing Officer. Thus, for the limited purpose of verification, we remand the issue to the file of the jurisdictional AO for verification of the said fact and to re-compute the income accordingly.

21. In the result, the Assessee's appeal is allowed, subject to verification as directed above.

Order is pronounced on dated 03-02-2026, as per rule 34(5) of the Income Tax (Appellate Tribunal) Rules, 1963

Sd/-
(RENU JAUHRI)
ACCOUNTANT MEMBER

Sd/-
(NARENDER KUMAR CHOUDHRY)
JUDICIAL MEMBER

Tarun Kushwaha
Sr. Private Secretary.

Copy to: The Appellant
The Respondent
The CIT, Concerned, Mumbai
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.