

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'A': NEW DELHI**

**BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT  
AND  
SHRI MANISH AGARWAL, ACCOUNTANT MEMBER**

ITA No.401/Del/2023  
(ASSESSMENT YEAR 2016-17)

ITA No.402/Del/2023  
(ASSESSMENT YEAR 2017-18)

Shri Brijesh Kumar Verma, C-173, Block-C, Vivek Vihar, Delhi-110095. <b>PAN-ABBPV4131B</b>	Vs.	DCIT, Central Circle-7, Delhi.
<b>(Appellant)</b>		<b>(Respondent)</b>

<b>Assessee by</b>	Shri Rajesh Jain, CA and Shri Sanjay Garg, CA
<b>Department by</b>	Shri Jitender Singh, CIT-DR
<b>Date of Hearing</b>	04/12/2025
<b>Date of Pronouncement</b>	06/02/2026

**ORDER**

**PER MANISH AGARWAL, AM:**

The captioned two appeals are filed by the Assessee against two separate orders of Learned Commissioner of Income Tax (Appeals)-24, New Delhi, [ Id. CIT(A)] both are dated 30.12.2022 arising out of the assessment order passed u/s 153C/153(3) of the Income Tax Act, 1961 for Assessment Year 2016-17 and 2017-18. The details of the orders of AO is tabulated as under:

<b>Sr. No.</b>	<b>ITA NO.</b>	<b>AY</b>	<b>Assessment Order dated</b>	<b>Section in which Assessment Order is passed</b>
1	401/Del/2023	2016-17	30.12.2021	153C/143(3) of the IT Act
2	402/Del/2023	2017-18	Nil	153C/143(3) of the IT Act

2. Since, in both the appeals, issues are common as well as grounds of appeal taken by the assessee are also common which fact is admitted by both the parties, therefore, both the appeals are taken together and decided by a common order.

3. First we take up the assessee's appeal for **Assessment Year 2016-17** in ITA **No. 401/Del/2023**.

4. Brief facts of the case are that assessee is an individual and filed his return of income u/s 139(1) on 27.11.2016 declaring total income at Rs.5,18,620/-. A search and seizure action was carried out in the case of Jindal Bullion Ltd. Group (JBL) on 05.01.2017. Based on the digital data maintained in a software called Hazir Johri, which was seized from residential cum business premises of Sh. Kusharg Jindal (promoter and director of JBL group), proceeding u/s 153C of the Act in the case of the assessee were initiated after recording the satisfaction by the AO of the assessee upon the receipt of the materials from the AO of the person searched. In response to notice u/s 153C issued, assessee has filed return of income on 19.03.2021 declaring income of Rs.5,18,620/- as was declared in the return filed u/s 139(1) of the Act. Thereafter AO alleged that the assessee is having unrecorded transactions with JBL Group as is evident from the ledger account of the assessee in the Hazir Johari software where name of the assessee is mentioned as "Brajesh (pappu)". This fact is confirmed by the employees of JBL Group who maintained such accounts and based on these statements, the AO concluded that the transactions recorded in the Hazir Johri software in the name of Brijesh (Pappu) belonged to assessee. Accordingly, he held all the transactions as per table appearing in the assessment order as assessee's undisclosed investment and made the addition of the peak balance of Rs. 70,27,262/-

and further made the addition for the profits of Rs.5,45,686/- @ 2% as unexplained money u/s 69A of the Act.

5. Against the said order, assessee filed an appeal before the CIT(A) who vide order dated 30.12.2022 dismissed the appeal of the assessee, therefore, the assessee in appeal before the Tribunal by taking following grounds of appeal:"

1. *"The Learned CIT(A) erred in upholding the initiation of proceedings u/s 153C of the Act mechanically on the instant facts of the case and as per law. There was no material seized pertaining to the Appellant during the Search u/s 132(1) of the Act on Jindal Bullion Ltd and Directors.*
2. *Without Prejudice to the above, otherwise also the proceedings initiating u/s 153C of the Act against the Appellant in March 2021 were barred by limitation, being initiated after 15 months of completing the assessment of the Person(s) Searched u/s 132(1) of the Act in December 2019.*
- 2.1 *The Assessing Officer, otherwise also was not having jurisdiction in initiating the proceedings u/s 153C of the Act on the instant facts of the case and as per law therefore the entire proceedings u/s 153C/143(3) of the Act are liable to be quashed.*
3. *That proceedings-initiated u/s 153C of the Act are otherwise also illegal as there was no credible Satisfaction Note of the AO of the Person Searched which give jurisdiction to the AO of the Appellant for initiating the proceedings u/s 153C of the Act.*
4. *Without prejudice to Grounds No. 1 to 3:*
  - 4.1 *Without prejudice to the above Grounds the Assessment Order dated 30th December 2021, passed u/s 153C/143(3) of the Act is null & void as there is no DIN on the Assessment Order and Demand Notice in defiance of mandatory directions of CBDT vide its Circular No. 19/2019 dated 14th August 2019.*
  - 4.2 *That, the Learned CIT(A) has erred in upholding the, issuance of Manual Assessment Order not having DIN, without approval of the Chief CIT/DGIT as valid, in defiance of mandatory directions of CBDT vide Para 3 of its Circular No. 19/2019 dated 14th August 2019 which is arbitrary and unlawful, makes the Assessment Order void-ab-initio.*

- 4.3 *That, the Learned Assessing Officer has delayed by 5 months and 16 days in communicating DIN issued for Assessment Order and further in defiance of mandatory directions of CBDT vide Para 3 of its Circular No. 19/2019 dated 14th August 2019 and further did not disclose this fact to CIT (A) in Remand proceedings and merely communicated that DIN had been generated on 14/01/2022 thereby misleading the Learned CIT(A), which is arbitrary, unjustified and unlawful, makes the Assessment Order void-ab-initio.*
5. *Without prejudice to Grounds No. 1 to 4:*
- 5.1 *The Assessing Officer, relied on certain seized document(s), statements in the Assessment Order which were not confronted to the Appellant whereas the Appellant filed detailed Objections dated 03.11.2021 and required the AO to supply all documents / statements if any pertaining to the Appellant said to have been found during Search u/s 132(1) of the Act.*
- 5.2 *The Assessing Officer did not give adequate opportunity to the Appellant before passing the Assessment Order and making addition of Rs. 75,72,948/-in the returned Income as the Show Cause Notice dated 19.12.2021 issued by AO was drafted mechanically without adjudicating the Submissions filed by the Appellant.*
- 5.3 *The Assessing Officer did not consider detailed Reply dated 25.12.2021 in response to Show Cause Notice and Affidavit filed by the Appellant which were sent by email as there was no window corresponding to Show Cause Notice on the Portal.*
6. *The Learned Assessing Officer erred in making addition of Rs. 75,72,948/-without any corroborative evidence(s), simply on the basis of some alleged documents said to have been generated from the Dongle Seized from the Person Searched without following Section 65B of Indian Evidence Act.*
7. *The Learned Assessing Officer erred in making addition of Rs. 70,27,262/-following peak credit theory just mechanically, arbitrarily without judicially examining the legal and detailed Submissions of the Appellant. Otherwise also, the calculation of amount of peak credit is wrong, excessive and illegal.*
8. *That the Assessment Order passed u/s 153C/143(3) of the Act is illegal as the approval granted u/s 153D of the Act is mechanical on the facts of the case and the same has been given without judicially appreciating the Objection of the Appellant raised during the Assessment proceedings.*
9. *That the Learned Assessing Officer erred in charging Income Tax at Special Rate as prescribed u/s 115BBE of the Act.*

10. *That on facts and circumstances of the case the Learned Assessing Officer has erred in charging interest of Rs. 23,400/-u/s 234A of the income Tax Act, 1961 which is uncalled for, unlawful, unjustified, arbitrary and deserves to be deleted.*
11. *That on facts and circumstances of the case the Learned Assessing Officer has erred in charging interest of Rs. 16,14,628/-u/s 234B of the income Tax Act, 1961 which is uncalled for, unlawful, unjustified, arbitrary and deserves to be deleted.*
12. *The above Grounds of Appeal are without prejudice to one another.*
13. *The Appellant craves the right to add, amend, alter, withdraw or forgo any ground or grounds of appeal before or at the time of hearing.”*

6. During the course of hearing, the Ld. AR of the assessee has not pressed the **Ground of appeal Nos.4 to 4.3**, therefore, same are dismissed.

7. **Grounds of appeal No.1 to 3 & 5** are with respect to initiation of proceedings u/s 153C of the Act wherein the assessee has challenged the action of the AO by stating that material seized was not pertaining to the assessee and further claimed that the order u/s 153C was time barred. In support, before us, Ld. AR for the assessee submits that assessee did not enter into any such unrecorded cash transactions with JBL Group and all the transactions were made through bank channel and duly recorded in the books of account maintained by the assessee. Ld. AR submits that AO has relied upon the entries found recorded in Hazir Johri Software seized from the possession of third party and by placing reliance on the statements of Ms. Parul Ahluwalia, director and former employee of JBL wherein she had admitted of such transactions as unrecorded sales, however, nowhere in her statements, name of the assessee was stated. Ld. AR further argued that no opportunity of cross examination of Ms. Parul Ahluwalia was given to the assessee, despite repeated requests made. Ld. AR submits that Hazir Johri ledger was neither

found nor seized from the possession of the assessee and thus no presumption u/s 132(4) of the Act could be drawn against the assessee when seized material was found from possession of third party and no corroborative evidence or material was found / brought on record in post search investigation. Therefore, it is requested that no addition could be made on the basis of these transactions. The Ld. AR submits that provisions of section 292C of the Act are applicable to M/s JBL Group no to the assessee company.

8. The Ld. AR placed reliance on the judgments of Co-ordinate Delhi Bench of Tribunal in the case of ***Sammati Jewellers vs. DCIT, Central Circle-7, Delhi*** in ***ITA No.3031/Del/2022*** wherein vide order dt. 28.02.2025, under identical circumstances additions made was deleted of transactions found noted in Hazir Johri ledger from JBL Group, alleged by the Revenue as cash transactions recorded out of books. Reliance is further placed on the judgment of the Co-ordinate Bench in the case of ***Sachin vs. DCIT*** in ***ITA No.2613 & 2614/Del/2024*** dated 05.03.2025 wherein under identical circumstances additions made were deleted. Ld. AR therefore, prayed that the additions so made deserves to be deleted.

9. On the other hand, the Ld. CIT-DR supported the orders of the lower authorities and submitted that Hajir Johri Software was seized during the course of search on JBL Group and contained complete details of transactions carried out with the assessee both through bank and in cash as well. It is further submitted by Ld. CIT-DR that the persons who had recorded the transactions in the said software also admitted this fact that such transactions were carried out in cash with persons whose ledgers were found. Based on this admission, AO had made the addition in the hands of assessee and therefore ld. CIT DR requested to confirm the same.

10. In rejoinder, Ld. AR reiterated that no opportunities for cross examination were provided and further stated that entries found are not related to the assessee and no cash transactions was carried out by the assessee, therefore, requested for the deletion of the additions made.

11. Heard both the parties and perused the material available on record. The claim of the assessee is that transactions has found noted in the seized documents do not pertain to the assessee and no opportunities of cross examination was provided. The digital data in Hazir Johari software was found and seized from the residence of Sh. Kusharg Jindal (promoter and director of JBL group) which contained transactions in cash with various persons. It is observed that based on this data, additions were made in the case of various other persons whose names were appearing in the said digital data wherein additions of alleged cash transactions made by the authorities below stood deleted by the Co-ordinate Bench of ITAT Delhi. One of such case is of Sachin where in ITA No.2614/Del/2022, the Co-ordinate Bench has made following observations while deleting the additions:

*“13. We have heard the rival submissions and perused the materials available on record. At the outset, we find that a search and seizure operation was conducted u/s 132 of the Act on 05.01.2017 in the case of Jindal Bullion Ltd (JBL). During this search, digital data stored in software called „Hazir Johri” was seized from the residence of Mr. Kushagra Jindal, promoter of JBL. The said software purportedly contained parallel books maintained by JBL where both transactions through the banking channel and cash transactions were found recorded. The Ld. AO observed that a statement of Ms. Parul Ahluwalia, Director and former employee of JBL, was recorded under Section 132(4) of the Act, wherein, she stated that both „pakka” (entries recorded in regular books of account) and „kaccha” (unaccounted) transactions undertaken by JBL were documented in the „Hazir Johri” software. On perusal of seized data, among others, a ledger named „Pankaj kb” allegedly pertaining to Assessee was found. In the said ledger, the transactions made in cash as well as through banking channel were found recorded. But it is pertinent to note that the Hazir Johri Software was found and seized from the premises of JBL at the time of its search under section 132 of the Act. Hence the presumption under section*

292C of the Act would apply to JBL and not to the assessee. Eventhough the proceedings stood initiated under section 153C of the Act on the assessee, the basic presumption under section 292C of the Act would only be on JBL. The assessee on its part had categorically denied the transactions reflected in the said Hazir Johri Software by clearly stating that the entries found thereon contains transactions of various other unrelated parties with the assessee and that the employee of JBL had recorded all the transactions against assessee"s name. Admittedly, the entries reflected in the said software pertains to other unrelated parties with the assessee. Admittedly, the said ledger is a combined ledger account of various transactions pertaining to other unrelated parties with the assessee and contains few transactions pertaining to the assessee. However, there is no concrete material brought on record by the lower authorities to implead assessee with all those transactions. Even for the transactions where assessee"s name was mentioned, the revenue was not able to bring any corroborative evidence to prove the nature of such transaction. Hence it could be safely concluded that the assessee had given a plausible explanation about the contents of the said software. Furthermore, as rightly pointed out by the Ld. AR, there is no corroboration of those entries with the bills / vouchers , sales, stock registers etc., showing the cash sales to prove that the alleged cash sales belong to the assessee. Hence those entries cannot be relied upon for making an addition in the hands of the assessee.

14. We also find that the Co-ordinate Bench of this Tribunal in the case of Anoop Kumar Soni vs. DCIT in ITA No. 1641/Del/2021 dated 2.8.2023, wherein while adjudicating almost similar facts related to search on JBL, the Tribunal held that since the ledger found during the search „ AP" contains the entries of parties other than assessee, then said ledger cannot be said to be belonging to assessee and addition made on the basis of assumption was deleted. The relevant observations made by the Tribunal in this regard are as under:-

“30. The banking transactions pertaining to other entities such as Aarthav Gems & Jewels Pvt. Ltd., Surasti Overseas Pvt. Ltd., M/s Saumya Bullion & Jewellers were also recorded in the account AP whereas it had nothing to do with the assessee. In the Remand Report dated 02.08.2021 the Assessing Officer verified all these banking transactions and accepted the contentions of the assessee. In other words, it was verified by the Assessing Officer that some of the banking transactions recorded in the account AP pertain to other entities and not the assessee. Only 23% of the total banking transactions pertain to assessee and remaining 77% are between JBL and other parties. In the facts of the assessee's corroboration is missing. It is for the searched party i.e. JBL to explain the contents of material recovered from his premises. In case the searched party states that the material belongs to a third party there has to be some connect or corroboration with the third party. On the facts of the present case there is no direct evidence to establish that the account AP belongs to Anoop Soni. The entire action is based on presumptions made by the A.O.

*Notably, simultaneous search action on 05.01.2017 on Anoop Soni did not detect any material or evidence to establish or even suggest that he was engaged in unaccounted and undisclosed transactions involving sale/purchase of gold in cash outside books of accounts. 31. The entire addition by treating the account AP as belonging to Anoop Soni has been made on the basis of presumption drawn and the statement of Shri Parul Ahluwalia. However, statement of the assessee has not been recorded on this issue either at the time of search, post search inquiries or even during the assessment proceedings. A careful examination of the account AP as reproduced in the assessment order would reveal that in the remarks column various acronyms have been used against different transactions such as JD, KCX, RBG Overseas, KMTY, Oven AJ, JBL Coins, Oppo Mobile, Satia, Ishaan, Anshul, Vinod 8676, Guddu etc. These abbreviations ITA Nos. 2613 & 2614/Del/2022 Sachin Page | 10 show that the transaction recorded is neither through bank nor cash because since specific acronyms have been used, these transactions cannot be inferred to be pertaining to the assessee even if it is presumed with account AP belongs to the assessee. 32. Hence, keeping in view, the entire factual matrix of the case, we hold that no addition is warranted in the case of the assessee. In the result, the peak credit theory set out by the ld. CIT(A) would also become infructuous. The appeals of the assessee on this ground are allowed and accordingly the appeals of the revenue are liable to be dismissed.”*

*15. Similar view was taken by this Tribunal in the case of Surender Kumar Jain in ITA No. 1314/Del/2023 dated 07.03.2024 arising out of search in the JBL, wherein it was held that entries in the Hajir Johri ledger of M/s. JBL, supposedly involving M/s. S.K. Impex, do not prove actual transactions without corroborative evidence such as bills or invoices. The additions are based on conjecture and the statement of Mr. Parul Ahluwalia lacking supporting evidence was deleted. The relevant findings of the said decision are as under:-*

*“9. We have given our careful thought to the submission of the parties and perused the records. The facts are not in dispute. During assessment proceedings the common plea of the assessee in both the AY(s) was that merely entries found in the Hajir Johri ledger of M/s. JBL supposedly in the name of M/s. S.K. Impex, the proprietary concern of the assessee does not tantamount to actual transactions having taken place in the absence of any corroborative evidence such as bills, invoices, challans etc. There is no linking in the order of the Ld. AO/CIT(A) that the alleged cash transactions are substantiated by any supporting evidence as claimed by the assessee. On the contrary, the impugned additions are based purely on conjectures and surmises solely relying on the statement of Ms. Parul Ahluwalia, Director and former employee of M/s. JBL, the entity subjected to search operation during which her statement was recorded. The Ld. AR submitted before us that Ms. Parul Ahluwalia nowhere in her statement*

*identified that alleged cash transactions related to the assessee. No specific questions in this regard were asked from her. Nothing is forthcoming from the side of the Revenue to controvert the above pleadings of the assessee.”*

*16. In view of the above observations and respectfully following the judicial precedents relied upon hereinabove, we hold that no addition could be made in the hands of the assessee by placing any reliance on Hazir Johri Software. Accordingly, the grounds raised by the assessee are allowed for both the years under consideration.”*

12. Since facts of the present case are identical where the additions have been peak credits of entries found noted as undisclosed and further profit @ 2% was estimated thus, by respectfully following the aforesaid judgements, we hold that no addition could be made in the hands of the assessee on the basis of alleged material found from the possession of third person. Accordingly, the Ground of appeal Nos.1 to 3 and 5 taken by the assessee are allowed.

13. Since we have already allowed the legal grounds taken, other grounds of appeal taken on the merits of the additions become academic in nature.

14. In the result, this appeal of the assessee is allowed.

**ITA No.402/Del/2023 for AY 2017-18**

15. As observed above, admittedly facts of the present appeal are identical to the facts in assessee's appeal for AY 2016-17 in ITA No. 401/Del/2023 where by following the decisions of the Co-ordinate Bench of ITAT, Delhi in the case of Sachin in *ITA No.2614/Del/2022*, we have already allowed the appeal of the assessee. Thus, by following the same observations made herein above, which are *Mutatis Mutandis* applicable, the present appeal of the assessee is allowed.

16. In the result, appeal of the assessee is allowed.

17. In the final result, both appeals of the assessee in **ITA No. 401/Del/2023** for **AY 2016-17** and **ITA No. 402/Del/2023** for **AY 2017-18** are allowed.

Order pronounced in the open Court on 06/02/2026.

*Sd/-*

**(MAHAVIR SINGH)**  
**VICE PRESIDENT**

Dated:06/02/2026  
*PK/Sr. Ps*

Copy forwarded to:

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

*Sd/-*

**(MANISH AGARWAL)**  
**ACCOUNTANT MEMBER**

**ASSISTANT REGISTRAR**  
**ITAT NEW DELHI**