

**IN THE INCOME TAX APPELLATE TRIBUNAL**

**"H(SMC)" BENCH, MUMBAI**

**BEFORE SHRI VIKRAM SINGH YADAV, ACCOUNTANT MEMBER**

**SHRI SANDEEP SINGH KARHAIL, JUDICIAL MEMBER**

**ITA No.6186/MUM/2025**  
**(Assessment Year : 2018-19)**

**Parekh Ornaments LLP**

20, Chandra Villa,  
Nehru Road, Vileparle (East),  
Mumbai - 400057  
PAN: AASFP4562A

..... Appellant

v/s

**Assistant Commissioner of Income Tax,  
Central Circle – 2(3),**

Prathistha Bhavan,  
Old C.G.O. Annexe, M.K. Road,  
Mumbai - 400020

..... Respondent

Assessee by : Shri Ketan Vajani  
Revenue by : Shri Pravin Salunkhe, Sr. DR

Date of Hearing – 18/02/2026

Date of Order - 20/02/2026

**ORDER**

**PER SANDEEP SINGH KARHAIL, J.M.**

The assessee has filed the present appeal against the impugned order dated 17.07.2023, passed under section 250 of the Income Tax Act, 1961 (*"the Act"*) by the learned Commissioner of Income Tax (Appeals)-48, Mumbai, [*"learned CIT(A)"*], for the assessment year 2018-19.

2. The present appeal has been filed by the assessee after a delay of more than 2 years. Alongwith the appeal, the assessee has filed an application

seeking condonation of delay, duly supported by the affidavit of the partner of the assessee, submitting as follows: -

"2. For the assessment year 2018-19, the LLP had filed its Return of Income on 17-10-2018 declaring NIL income. The case of the LLP was taken up for regular assessment and the assessment order was passed u/s. 143(3) of the Income-tax Act, 1961 on 13-4-2021. While completing the assessment, the assessing officer had made additions of Rs. 5,55,960/- u/s. 69A of the Act on account of alleged discrepancy in stock quantity. The LLP had preferred an appeal against the said assessment order before the Commissioner of Income-tax (Appeals) - 48, Mumbai. The appeal filed by the LLP was decided by the CIT(A) vide order dated 17-7-2023. The CIT(A) had rejected the contentions made and had dismissed our appeal confirming the addition of Rs. 5,55,960/- The said order of the CIT(A) was received by the firm somewhere around 27-07-2023.

3. Our LLP had also filed an appeal to the CIT (A) - 48 for the earlier assessment year i.e. for assessment year 2017-18. The said appeal was decided by the CIT(A) on 5-4-2023 dismissing the appeal and confirming the addition of Rs. 80,00,000/- made for the assessment year 2017-18.

4. During the months of 1-08-2022 to till death, my father Shri Rajmal Dalchand Parekh was not keeping good health due to his old age and was suffering from Kidney disease. He had to be hospitalized during the months of 1-08-2022 to till death on multiple occasions. My father eventually expired on 16-02-2023. Due to the health issues of my father, his death and the post death rituals, the partners of the LLP were not able to give due attention to various day to day activities of the business and we had to rely on the employees of the firm for various activities of the firm including accounts and taxation.

5. On receipt of the appeal orders for the AY 2017-18 and also for the AY 2018-19, we had instructed our employee Ms. Vishakha More to consult our chartered accountant and take suitable remedial actions in respect of the appeal orders passed. As stated above, the affairs were being looked after by the said employee of the firm and we were not able to give our attention due to sickness in the family and the demise thereafter. When we resumed the work in normal manner after long gap of 8 months, there were many pressing business needs due to the long time for which we had not been able to concentrate on business. Amongst this situation coupled with the mental state of mind due to the demise in the family, we missed out to make inquiries with our staff about the course of action taken. We were under a bona-fide belief that the appeal would have been filed before the Hon'ble Income-tax Appellate Tribunal under the instructions of our chartered accountant. The said employee Ms Vishakha More left our organization on 30-06-2023.

6. While completing the assessment for AY 2017-18, the assessing officer had also initiated penalty proceedings w/s. 271AAC of the Act in respect the additions made in the assessment. The assessing officer levied penalty of Rs. 6,24,000/- u/s. 271AAC of the Act vide order dated 26-3-2025. We had filed an appeal against the above penalty levied before the Commissioner of

*Income-tax (Appeals). The CIT (A) dismissed our appeal and confirmed the penalty vide his order dated 15-7-2025.*

*7. For the purpose of filing an appeal against the said order dated 15-7-2025 for AY 2017-18, we consulted another chartered accountant and requested him to file the appeal to the Income-tax Appellate Tribunal against the said order. We met the chartered accountant on 17<sup>th</sup> September, 2025 for the above purpose. During the course of our discussion, the chartered accountant inquired about the status of the appeal before the Tribunal in the quantum appeal for AY 2017-18 and directed us to provide him with the copy of the appeal filed. When we checked the office file we found that there was no document available for the appeal filed to the Tribunal against the quantum addition in our case.*

*8. Since the appeal orders for AY 2017-18 and 2018-19 were both received in the same time period of April to July, 2023 and we came to know that the appeal for AY 2017-18 was not filed, we also checked about the status of the appeal filed for AY 2018-19. On inquiry with our regular chartered accountant, we came to know that the employee concerned had missed out to communicate with him about the disposal of the appeals against the assessment order for both the assessment years and accordingly he had not filed any appeal to the Tribunal against the appeal orders for both the years.*

*9. After going through the appeal order dated 17-7-2023 and the assessment order, the new chartered accountant, who has been requested to file appeal to the Tribunal against the order confirming the penalty for AY 2017-18, suggested to us that it will be appropriate to file the appeal to the Hon'ble Income-tax Appellate Tribunal for both the assessment years against the appeal order confirming the additions made in the assessment order. He suggested that all the appeals i.e. the appeal against the assessment and the appeal against the penalty both shall be filed simultaneously. As per the advice received, we are now filing the appeal against the order dated 17-7-2023 passed by the CIT (A) against the assessment order passed in our case making additions of Rs. 5,55,960/-. We respectfully submit that the delay caused in filing this appeal is entirely attributable to our bona-fide belief that corrective action had already been taken against the appeal order dated 17-7-2023. We submit that there is no other reason or intent on our part to delay the filing of the appeal before the Hon'ble Income-tax Appellate Tribunal.*

*10. I confirm on oath that the averments made hereinabove are true and correct to the best of my knowledge and belief and I confirm the same on oath."*

3. We find that the reasons stated by the assessee for seeking condonation of delay fall within the parameters for grant of condonation laid down by the Hon'ble Supreme Court in the case of Collector Land Acquisition, Anantnag v/s MST Katiji and others: 1987 SCR (2) 387. It is well established that rules

of procedure are handmaid of justice. When substantial justice and technical considerations are pitted against each other, the cause of substantial justice deserves to be preferred. In the present case, the assessee did not stand to benefit from the late filing of the appeal. In view of the above and having perused the application filed by the assessee, we are of the considered view that there exists sufficient cause for not filing the present appeal within the limitation period and therefore, we condone the delay in filing the appeal by the assessee and proceed to decide the same.

4. In the appeal, the assessee has raised the following grounds: -

*"Objection against confirming addition of Rs. 5,55,960/- on account of alleged discrepancy in stock quantity under section 69A.*

*(a) The assessing officer has erred in making and the Commissioner of Income-tax (Appeals). hereinafter referred to as the "CIT (A)" has erred in confirming the addition of Rs. 5,55,960/-on account of alleged discrepancy in stock quantity and applying the provisions of section 69A of the Act in respect of the same.*

*(b) Your appellant respectfully submits that both the authorities has failed to appreciate that the difference in the stock is very nominal considering the level of the appellant's business. The appellant submits that there can be some small difference on account of difference at the time of weighing and measurement. However, such difference cannot lead to the stock being unexplained investment.*

*(c) Without prejudice to the above, the appellant submits that in any case the provisions of section 69A of the Act cannot be applied in absence of any positive finding that the difference represented unexplained investment of the appellant. Such application of section 69A is only on conjectures, surmises and suspicions and therefore the same is not justified.*

*(d) The appellant further submits that the lower authorities have erred in not appreciating that the difference if any is revenue neutral and gets adjusted in the subsequent year. As such. the impugned addition is not justified.*

*(e) The appellant, therefore, prays that the addition of Rs. 5,35,960/- made u/s. 69A of the Act may please be deleted or any other relief as deemed fit may please be allowed to the appellant."*

5. The solitary grievance of the assessee is against the addition of Rs.5,55,960/- on account of discrepancy in stock quantity.

6. The brief facts of the case pertaining to this issue, as emanating from the record, are: The assessee is engaged in the business of trading, manufacturing and selling diamond stud jewellery, gold jewellery, silver and platinum. For the year under consideration, the assessee filed its return of income on 17.10.2019, declaring a total income of Rs. Nil after setting off the brought forward loss of Rs. 19,91,546/-. The return filed by the assessee was selected for scrutiny, and statutory notices under section 143(2) and section 142(1) of the Act were issued and served on the assessee. During the survey proceedings under section 133A of the Act conducted at the premises of the assessee, the discrepancies in the physical stock vis-à-vis the stock recorded in the books were noticed. Accordingly, during the assessment proceedings, the assessee was asked to explain the stock discrepancy. In response, the assessee submitted that the stock difference is very less compared to the quantum of stock in the hands of the assessee, and therefore, the said difference should be ignored. It was further submitted that the quantum of stock available with the assessee is approximately of Rs.25 crore, and the difference as noticed during the survey is only of Rs.5.50 lakh, which should be ignored and not added to the income of the assessee as an undisclosed income.

7. The Assessing Officer ("AO"), vide order dated 13.04.2021 passed under section 143(3) of the Act, disagreed with the submissions of the assessee and held that the assessee has failed to offer justification for the

stock discrepancy of Rs.5,55,960/- and added the said amount to the total income of the assessee under section 69A of the Act.

8. The learned CIT(A), vide impugned order, rejecting similar submissions of the assessee, dismissed the appeal. Being aggrieved, the assessee is in appeal before us.

9. During the hearing, the learned Authorised Representative ("*learned AR*") reiterated the submissions made by the assessee before the lower authorities and submitted that the discrepancy of Rs.5,55,960/- as noticed during the survey in the stock as per the books vis-à-vis the physical stock of goods is very miniscule as compared to the total stock of Rs.25,80,63,353/- on the date of survey. The learned AR submitted that such a difference can also arise due to differences in the weighing scale/machine used to measure the quantity of the goods.

10. On the other hand, the learned Departmental Representative ("*learned DR*") vehemently relied upon the orders passed by the lower authorities and submitted that apart from making the submission, the assessee has not brought on record any material to substantiate the difference in stock.

11. We have considered the submissions of both sides and perused the material available on record. During the survey proceedings under section 133A of the Act conducted at the premises of the assessee, the following discrepancies in the physical stock vis-à-vis the stock recorded in the books were noticed: -

Sr.No	Particulars	Stock as per books	Physical stock as on 07.07.2017	Difference	Approx. value
1	18 carat gold	18844.286 gms.	18851.17 gms.	6.884 gms.	16,900/-
2	22 carat gold	56717.681 gms.	56761.905 gms.	44.224 gms.	1,19,530/-
3	24 carat gold	597.433 gms.	1007.577 gms.	410.144 gms.	11,29,440/-
4	Silver	56.622 kgs	48.286 kgs	-8.336 kgs	(3,31,580/-)
5	Diamond	1395.133 cts	1384.24 cts	-10.893 cts	(3,78,330/-)
					5,55,960/-

12. From the details of stock comparison, it is evident that not only the physical stock as on the date of survey was found to be more as compared to the stock recorded in the books of account of the assessee, but in respect of stock of silver and diamond, it was found that stock as recorded in the books is more than the physical stock as on the date of survey. Accordingly, the necessary adjustment was made to arrive at the approximate value of the difference between physical stock and stock as per the books of account, amounting to Rs. 5,55,960/-. It is evident from the record that the assessee, though it has raised various submissions to justify the difference in physical stock and stock as per the books of account, did not bring any substantial evidence in support of its claim. There is also not even an independent valuation report regarding the availability of stock to show that the same was correctly recorded in the books. The assessee has merely emphasised on the aspect that the difference is very minuscule as compared to the total stock of goods available with the assessee. However, the same does not disprove the fact that, with respect to certain items, the physical stock was more than the stock recorded in the books. Further, apart from claiming that the final valuation at the year-end would have, in any case, taken care of any discrepancy in the physical stock and stock as per the books of account, no material is placed on record to substantiate this contention.

13. During the hearing, the learned AR also submitted that the addition should not be made under section 69A of the Act even if there is a discrepancy in the physical stock and the stock as per the books of account. From the plain reading of section 69A of the Act, we find that if the assessee is found to be the owner, *inter alia*, of any bullion, jewellery or other valuable article and the same is not recorded in the books of account, if any, maintained by the assessee for any source of income and the assessee also offers no explanation about the nature and source, *inter alia*, of bullion, jewellery or other valuable article or the explanation offered by the assessee is not satisfactory in the opinion of the AO, the value, *inter alia*, of bullion, jewellery or other valuable article may be deemed to be the income of the assessee. Undoubtedly, in the present case, there is a difference in the physical stock and the stock as per the books of account, and the assessee has not been able to satisfactorily explain the said difference. Accordingly, we do not find any infirmity in the addition of Rs.5,55,960/- made under section 69A of the Act in the hands of the assessee on account of stock discrepancy. Therefore, the impugned order is upheld, and the grounds raised by the assessee are dismissed.

14. In the result, the appeal by the assessee is dismissed.

Order pronounced in the open Court on 20/02/2026

**Sd/-**  
**VIKRAM SINGH YADAV**  
**ACCOUNTANT MEMBER**

**Sd/-**  
**SANDEEP SINGH KARHAIL**  
**JUDICIAL MEMBER**

**MUMBAI, DATED: 20/02/2026**

*Prabhat*

Copy of the order forwarded to:

- (1) *The Assessee;*
- (2) *The Revenue; M*
- (3) *The PCIT / CIT (Judicial);*
- (4) *The DR, ITAT, Mumbai; and*
- (5) *Guard file.*

By Order

Assistant Registrar  
ITAT, Mumbai.