

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'F', NEW DELHI**

**BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER  
And  
SHRI NAVEEN CHANDRA, ACCOUNTANT MEMBER**

ITA No.5596/Del/2025  
Assessment Year: 2017-18

M/s KRC Gems Pvt. Ltd. C/o-Anil Jain, DD & Co., 611, Surya Kiran Building, 19, K.G. Marg, Delhi-110001	Vs	DCIT, CC-28, Jhandewalan New Delhi
(APPELLANT)		(RESPONDENT)
PAN No. AAECK4438M		

Assessee by	Shri Anil Jain, CA
Revenue by	Ms. Harpreet Kaur Hansra, Sr. DR

Date of Hearing	18.02.2026
Date of Pronouncement	05.03.2026

**ORDER**

**PER NAVEEN CHANDRA [A. M]:**

The above captioned appeal is preferred by the assessee against the order dated 21.07.2025, passed by National Faceless Appeal Centre/Learned Commissioner of Income Tax (Appeals), New Delhi (hereinafter referred to as 'ld. CIT(A)'), under section 250 of the Income Tax Act, 1961 [hereinafter referred to as, "Act"] for Assessment Year 2017-18. The assessment order in this appeal is passed by the Assessing Officer [for short, AO] under section 143(3) of the Act.

2. The assessee has raised following grounds of appeal:-

1. That on the facts and circumstances of the case and the provision of law, that the Ld. CIT(A) has failed to appreciate the fact that the impugned assessment order passed u/s 143(3) of the Income Tax Act is illegal, bad in law, without jurisdiction and time barred.

2. That on the facts and circumstances of the case and the provision of law, the Ld. CIT(A) has failed to appreciate the fact that no valid notice u/s 143(2) has been issued and consequently the assessment order also becomes illegal and bad in law.

3. That on the facts and circumstances of the case and the provision of law, the alleged notice issued us 143(2) of the Income tax Act, 1961 dated 14.08.2018 is also in violation of CBDT instruction F No. 225/157/2017/ITA-II dated 23.06.2017 and thus this notice is invalid, and assessment framed pursuant thereto is vitiated in law.

That on the facts and circumstances of the case and the provision of law, that the Ld. CIT (A) has failed to appreciate the fact that the rejections of books of accounts by the Ld. AO is illegal and bad in law.

5. That on the facts and circumstances of the case and the provision of law, that the Ld. CIT(A) has failed to appreciate the fact that the impugned assessment order passed is in violation of the principle of natural justice and without giving adequate time and opportunity to the assessee to represent his case and thus, the assessment order passed is bad in the eyes of law and liable to be quashed.

That on the facts and circumstances of the case and the provision of law, that the Ld. CIT(A) has erred in sustaining the addition of Rs.56,37,000/-on account of undisclosed business income by estimating the gross profit @10% of the cash deposit made during demonetization period i.e.

09.11.2016 to 30.12.2016.

That on the facts and circumstances of the case and the provision of law, that the Ld. CIT (A) has erred in sustaining the addition of Rs. 15,59,595/- by estimating 10% GP on the shortage of physical stock at the time of survey as compared to the stock as per the books of accounts at that time.

8. That on the facts and circumstances of the case and the provision of law, that the Ld. CIT(A) has failed to appreciate the fact that the learned AO has erred in forming an incorrect opinion without confronting the same and in using the same adversely without providing the reasonable opportunity of defending, which inaction of the AO makes the assessment proceedings and consequential assessment order as null and void.

9. That on the facts and the circumstances of the case the Ld. CIT(A) has failed to appreciate the fact that the Ld. AO has erred in initiating the penalty proceedings u/s 271A, 272A(1)(d) and 270A rs. 270A(8) of the Income Tax Act 1961

10. That on the facts and the circumstances of the case the Ld. CIT(A) has failed to appreciate that the learned assessing officer has erred in charging interest u/s 234B is illegal and without prejudice it is excessive.

3. The assessee has raised legal issue with regard to issuance of notice under section 143(2) of the Act being in violation of CDBT Instruction. Ground 2 & 3 challenging the validity of notice u/s 143(2) being in violation of CDBT Instruction F.No. 225/157/2017/ITA-II dated 23.06.2017, is rejected on the basis of the decision of hon'ble jurisdiction Delhi High Court in the case of **Bharat Bansal v National Faceless Assessment Centre Delhi** in W.P.(C) 2238/2026 dated 17<sup>th</sup> February, 2026. The hon'ble Delhi High Court held that the administrative circulars do not override statutory provisions and that scrutiny format are internal administrative guidelines and not enforceable contracts. Such circulars do not create justiciable rights for the taxpayers. In view of the same, the objection that notice has

not been issued in proper format as per circular and are void for non-disclosure of reason, no longer survives. Ground 2 and 3 are accordingly dismissed.

4. The assessee has raised issues on merits with regard to the addition of Rs.56,37,000/- on account of business income by estimating 10% of cash deposits made during the demonetization period and the addition of Rs.15,59,595/- by estimating 10% of GP on shortage of physical stock at the time of survey.

5. The ld. Counsel for the assessee vehemently argued that the cash deposits in the bank account during demonetization period are out of cash sales which is borne out from the VAT return which shows the cash sales recorded during demonetization period. The ld AR argued that the cash deposits in the bank are out of sufficient cash balance in hand. Further, the ld. Counsel strongly contended that there was no shortage of physical stock. It is stated by the ld. Counsel that the Assessing Officer has wrongly rejected the books of accounts.

6. Per Contra, ld. Departmental Representative heavily relied upon the assessment order and the order of the ld. CIT(A).

7. We have heard the rival submissions and perused the materials available on record. We find that a survey u/s 133A of the Act was conducted on the premises of the assessee wherein the stock as per

books found was Rs. 1,55,95,946/-, whereas the stock as per physical verification/valuation was found to be nil. The fact of shortage of stock has been admitted as sold outside books by the key person Shri Karan Singh Soni in the statement recorded u/s 131(1A) of the IT Act. Further, during the survey, it was found that cash in hand as per books was Rs.1,26,236/- whereas no cash was found during survey operation as per physical verification. In this regard, no explanation was offered by key person Sh. Karan Singh Soni. It was also found from verification of stock register, that the cash sales reflecting in item-wise stock details in stock register was found mismatched with the cash book. The AO, finding no satisfactory explanation for such discrepancy and unaccounted sales of stock, rejected the books of account u/s 145(3) of the Act which we consider to be valid in law.

8. We find that the assessee had made cash deposits of Rs 5.53 crore in Indian Overseas Bank and Rs 10 lakh in State Bank of India account during the demonetization period which the assessee claimed it be out of cash sales. The Assessing Officer has considered 25% of the total cash deposits as gross profit (i.e., Rs 1,40,92,500/-) of the assessee as undisclosed business income which has been reduced to 10% (ie. Rs.56,37,000/-) by the Id. CIT(A). The other addition relates to shortage of stock found during the course of survey of Rs.1,55,95,946/-

admitted as sales made out of books. The Assessing Officer has taken 25% gross profit of such unrecorded sale and has made addition of Rs.38,98,986/- which the ld. CIT(A) has restricted to 10% of unrecorded sale at Rs.15,59,594/-.

9. In the instant case, we find that the assessee has attempted to prove the entire source of cash deposit during demonetization as business receipts coming out of cash sales. Although the assessee, prima facie, appears to have discharged its onus of explaining source of cash deposit, it's contentions to prove the source, hardly deserves to be accepted in entirety especially when the AO/CIT(A) found discrepancy in books of account and sales made out of the books during survey. On the other hand, the Revenue's endeavour to disbelieve the assessee's contention that cash deposit has been made out of sales cannot be fully justified. In this peculiar factual matrix, there is some element of failure to explain some of the cash deposit, cannot be ruled out. We are of the opinion that in such facts and circumstances, the estimation of income by the AO/CIT(A) is appropriate way to estimate the income of the assessee. Be that as it may, we deem it appropriate, in larger interest of justice, that a gross profit at the rate of 8% of the cash deposit would be just and proper with a rider that the same shall not be treated as a precedent. Similarly, we estimate the gross profit

at 8% of the sales which are not recorded in books of account as found in the survey operation. The ground of appeal no 4 to 8 is partly allowed.

10. In the result, the appeal of the assessee ITA No.5596/Del/2025 is partly allowed.

Order was pronounced in the open court on 05.03.2026.

Sd/-  
**(SATBEER SINGH GODARA)**  
**JUDICIAL MEMBER**

Dated: 05.03.2026

Sd/-  
**(NAVEEN CHANDRA)**  
**ACCOUNTANT MEMBER**

*Shekhar*

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asstt. Registrar, ITAT, New Delhi