

**IN THE INCOME TAX APPELLATE TRIBUNAL  
"F" BENCH MUMBAI**

**BEFORE HON'BLE SHRI SANDEEP GOSAIN, JUDICIAL MEMBER &  
HON'BLE SHRI BIJAYANANDA PRUSETH, ACCOUNTANT MEMBER**

**ITA No.6015/Mum/2025  
(Assessment Year: 2017-18)**

Deputy Commissioner of Income Tax Central Circle 5(3), Mumbai Room No. 426, 4 <sup>th</sup> Floor, Kautilya Bhavan, Mumbai- 400051	Vs.	Sanghvi Dhanrupji Devaji & Co. 33, Mumba devi Road, Dagina Bazar, Mumbai- 400002
PAN/GIR No. AAQFS6338H		
(Applicant)		(Respondent)

Assessee by	Shri M B Sanghvi
Revenue by	Ms. Kavitha Kaushik, Sr.DR.

Date of Hearing	21.01.2026
Date of Pronouncement	10.03.2026

आदेश / ORDER

**PER SANDEEP GOSAIN, JM:**

The present appeal has been filed by the revenue challenging the impugned order dated 23.12.2024 passed u/s 250 of the Income Tax Act, 1961 ('the Act'), by the National Faceless Appeal Centre, Delhi (NFAC) for the assessment year 2014-15. The revenue has raised the following grounds of appeal:

*1. Ground I - Whether on the facts and the circumstances of the case and in law, the CIT(A) erred in deleting/allowing relief in respect of the addition of Rs.*

*2,62,84,000/- made by the 1 Assessing Officer(AO) under section 68 of the Income Tax Act, 1961 r.w.s 115BBE, despite the assessee's failure to explain the sources for making deposit of cash in Specified Bank Notes (SBN notes)?*

*2. Ground II - Whether on the facts and the circumstances of the case and in law, the CIT(A) erred in deleting the addition made by AO without appreciating the fact that Applying the ratio in 2 the "Theory of Human Probability", no prudent person will hold such Specified Bank Notes (SBNs) in hand in large number in his possession and deposit the same into the bank account on various dates spread over for 15 to 20 days?*

*3. Ground III - Whether on the facts and the circumstances of the case and in law, the CIT(A) erred in deleting the addition made by AO ignoring the legal principle as laid down by Hon'ble 3 Supreme Court in Sumati Dayal v. CIT (214 ITR 801) and CIT v. Durga Prasad More (82 ITR 540), wherein it has been held that apparent facts cannot be accepted as conclusive if they defy the test of human probabilities?*

*4. Ground IV - Whether on the facts and the circumstances of the case and in law, the CIT(A) erred in deleting the addition of Rs. 21,97,711/- u/s 40A(3)(a) of the Income Tax Act, 1961 being cash purchases above Rs. 20,000/-?*

*5. Ground V - The appellant craves leave, to add, amend and/OR alter any of the ground of appeal if need be."*

2. Ground Nos. 1 to 3 raised by the revenue relates to challenging the order of Ld. CIT(A) in deleting the addition of Rs. 2,62,84,000/- made by the AO u/s 68 of the Act. Therefore, we have decided to adjudicate these grounds through the present consolidated order.

3. We have heard the counsels for both the parties, perused the material placed on record on record,

judgments cited before us and also the orders passed by the revenue authorities. From the records, we noticed that as per the facts, the case of the assessee was selected for scrutiny on account of “*Abnormal increase in cash deposits during the demonetization period as compared to pre-demonetization period.*” In this regard Ld. AR submitted that the entire details were filed before the revenue authorities which were also duly considered and also referred to and relied upon, ***the statement of cash in hand, cash sales, total cash and cash deposits in bank during the month for two financial years i.e 2015-16 and 2016-17*** which are mentioned in para 4 of the Ld. CIT(A) and the same is reproduced herein below:

*4.1 The assessee has provided statement of cash in hand, cash sale, total cash and cash deposited in bank during the month for two financial years i.e 2015-16 and 2016-17 which is mentioned hereunder:*

Sanghvi Dhanrupji Devaji & Co  
Month wise Cash Sales and Deposits from 1.4.2015 to 31.03.16

Month	Op Cash In hand	Cash Sales	Cash Deposit In Bank	Cash Withdrawn from Bank	Closing Cash In hand
Apr-2015	4358192	3981357	3000000	0	5242030
May-2015	5242030	2620343	2300000	0	5799128
Jun-2015	5799128	1024114	1100000	0	6110267
July-2015	6110267	1889623	4225000	0	4348391
Aug-2015	4348391	2773803	3700000	0	4912072
Sep-2015	4912072	1721058	2099000	0	4617615
Oct-2015	4617615	2823147	2024136	0	4436748
01.11.15 to 08.11.15	4436748	779810	0		5159620
09.11.15 to 30.11.15	5159620	5000915	6200000	0	5086067
Dec-2015	5086067	3887125	3950000	0	5563957
Jan-2016	5563957	3511619	5062000	0	4931986
Feb-2016	4931986	4158076	4407000	0	4738984
Mar-2016	4738984	775572	1300000	0	4217508

Sanghvi Dhanrupji Devaji & Co  
Month wise Cash Sales and Deposits from 1.4.2016 to 31.03.17

Month	Op Cash In hand	Cash Sales	Cash Deposit In Bank	Cash Withdrawn from Bank	Closing Cash In hand
Apr-2016	4217508	2191109	2150000	0	4352185
May-2016	4352185	1259450	450000	0	4580052
Jun-2016	4580052	1526916	2233000	0	4409657
July-2016	4409657	1153054	714168	0	4155897
Aug-2016	4155897	1017215	680000	0	4335650
Sep-2016	4335650	1066010	1150000	0	3759122
Oct-2016	3759122	5001868	5150000	0	5258238
01.11.16 to 08.11.16	5258238	21468587	1100000	0	26037081
09.11.16 to 30.11.16	26037081	677685	24182000	654000	3602573
Dec-2016	3602573	1195995	2100000	300000	3035631
Jan-2017	3035631	2444619	0	0	5715377
Feb-2017	5715377	2221686	4400000	0	3932422
Mar-2017	3932422	6348052	6684000	0	4330609

3.1 And also reiterated the same arguments as were raised before Ld. CIT(A) and the same is mentioned at para Nos. 5 to 5.5 of CIT(A) and reproduced as under:

*5. On the basis of observation drawn at Para No. 4 above, assessing officer reached to a conclusion that concocted cash sale has been booked by the assessee just before the demonetization period to adjust and to bring into books, its undisclosed and unexplained money generated through out of books activities.*

*5.1 Assessee has manipulated books of account to adjust his undisclosed money.*

*5.2 Assessee has pretended that he has sold stock and cash received from the sale is deposited in the bank. This connotation of the assessee is not accepted because actually assessee has undertaken purchases and sales out of the book. Therefore, to adjust its undisclosed money generated from out of books activities, it has booked concocted sales just before demonetization period.*

*5.3 Concocted cash sale cannot be booked without manipulation in books of account and in this case assessee must have manipulated books of account.*

*5.4. Human Probability Test: The explanations offered by the assessee are not accepted for the following reasons:-*

*(a) In the ordinary course, it is human tendency that a person who possesses a large amount of cash in hand, will deposit the same into the bank account immediately, once he comes to know that the currencies which he holds/possesses*

are banned by the prescribed authorities from circulation and that too, he will deposit all the currencies in on a single day as one time deposit and not in piece-meal at different dates. If it is not done within a reasonable time, it is for the assessee to prove the reasons for not doing so. "Human Probability Test" is one of the important tests laid down the highest Court of India in order to check the genuineness of the transactions entered into the books of account of the assessee. The "Human Probability Tests were laid down for the first time in the case of CIT vs. Durga Prasad More (1971) 82 ITR 540 (SC) and followed in the case of Sumati Dayal vs. CIT (1995) 214 ITR 801 (SC). The Human Probability test was also applied in the following cases:

1 A. Rajendran & Ors. vs. ACIT (2006) 204 CTR (Mad) 9

2 Hacienda Farms (P) LTD. vs. CIT (2011) 239 CTR (Del) 212

3 Major Metals Ltd. vs. UOI AND ORS (2012) 251 CTR (Bom) 385

4. Pradip Kumar Loyalka vs. ITO (1997) 59 TTJ (Pat)(TM) 655

5. ACIT vs. Sampat Raj Ranka (2001) 73 TTJ (Jd) 642

(b) Thus, the Court has laid down a test to analyze the genuineness of the entry through the logical analysis. The "Human Probability Test could be applied when the Assessee makes the Officer to believe his/her story as a valid event. The false claims of the Assessee cannot sustain before the test of Human Probabilities.

(c) Applying the ratio in the "Theory of Human Probability" no prudent person will hold such Specified Bank Notes (SBNs)

*in hand in large number in his possession and deposit the same into the bank account on various dates spread over for 15 to 20 days. It has been held by the Hon'ble Supreme Court in the Case of SumatiDayal VS CIT (cited supra) that the time period between cash in hand and deposit of such cash in bank account should not be too long and therefore, must not be against human probabilities. In the case of the assessee, it is seen that the deposits of SBN notes are made on different dates and also in different bank spread over for 15 to 20 days,, which the assessee could not substantiate with reasonable explanation.*

*As enumerated in the decision of the Hon'ble Supreme Court in the case of Roshan Di Hatti Vs Cil (1977) 107 ITR 938 (SC), Kale Khan Mohammed Hanif Vs CIT (1963) 50 ITR 1 (SC), it has been held in various judicial pronouncement that where the nature and source of any receipt/investment, whether it be a money or other property. cannot be satisfactorily explained by the assessee, it is open for the revenue to hold that it is the income of the assessee and no further burden lies on the revenue to show that the income is from any particular source. In the case of the assessee, the assessee could not explain the sources for making deposit of cash in SBN notes to the extent of Rs. 2,62,84,000/-.*

*5.5 Considering the facts discussed above, I am satisfied that Books of account maintained by the assessee are not presenting true and correct facts and hence the accounts of the assessee are not complete and correct, and therefore are liable to be rejected u/s 145(3) of the Income Tax Act, 1961, which is reproduced herewith for ready reference:-*

*"(3) Where the Assessing Officer is not satisfied about the correctness or completeness of the accounts of the assessee, or where the method of accounting provided in sub-section (1) or accounting standards as notified under sub-section (2), have not been regularly followed by the assessee, the Assessing Officer may make an assessment in the manner provided in section 144.*

4. However, still additions were made by the AO by holding that the assessee had concocted story and booked bogus sales to bring into books his unaccounted money. But the said additions were deleted by Ld. CIT(A) by holding as under:

*6. Ground No.1 to 6: The assessee is a partnership firm carrying on the business of manufacturers and dealers in gold ornaments, gold bullion and trading in diamonds and colour stones under the firm name 'M/s. Sanghvi Dhanrupji Devaji & Co.' The assessee is a retailer and has a retail outlet. The AO has noted that the assessee has deposited cash of Rs.2,62, s.2,62,84,000/- in SBN notes in the bank during demonetization period, During the course of assessment proceedings, the assessee has produced statement of cash in hand, cash sale, total cash and cash deposited in the bank during the month of two financial years i.e. 2015-16 and 2016-17 asunder:*

*6.1 The AO noted that in the F.Y. 2015-16, there is consistent trend that the assessee had cash in hand of around Rs.40 to 50 lakhs and the cash sale of maximum around Rs.50 lakh in month of November 2015. Further, the trend of cash deposit which peaked in the month of November to Rs.62 lakh. However, in the F.Y. 2016-17 there is increase in cash sale and cash deposit from 1st November 2016 to 8th November 2016 just before demonetization. The AO has noted that in the following months, the cash sale started following previous years trend. The AO has also mentioned that the assessee was*

*having cash in hand of Rs.2,60,37,081/- on 8 November 2016 but the assessee did not deposit the cash in one go but rather it has deposited the cash in parts during the month of November and December, 2016. Further, the AO has also stated that the assessee tried to manipulate and fictitiously inflate the cash in hand balance in F.Y. 2016-17. The month wise cash sales and cash deposits made by the assessee in the F.Y. 2016-17 is as under:*

*6.2 Further, AO has stated that assessee has created fictitious cash in hand as on 08.11.2016 to give genuine colour and bring into the books, unaccounted money generated from out of books sales and purchases or any other activity in view of the details as mentioned below:*

*6.3 Further, on perusal of bills of purchase of old ornaments, the AO has noted that no purity or any other details have been specified in the cash purchase bills. Hence, AO held that purchases of old ornaments in cash are used as colourable device to inflate the stock and to justify introduction of unexplained money during demonetization. The AO has also mentioned that the assessee has sold gold bullion of Rs.1,72,82,000/- of different small weights in retail to 103 persons on 08.11.2016 and making sales in such numbers in a day is beyond human probability. It was also found by the AO that the assessee has sold gold ornaments to more than 30 persons below Rs.2,00,000/- which puts contention of the assessee under doubt. The AO has noted that the assessee has revised all its VAT returns. Further, the AO did not accept the explanation of the assessee that labour charges were not included in the original VAT returns.*

*6.4 Thus, the AO has concluded that the assessee has booked cash sales just before the demonetization period to adjust and to bring into books its undisclosed and unexplained money generated through out of books activities and it has manipulated books of account to adjust undisclosed money. The AO did not accept the contention of the assessee that it had sold stock and cash received from sales is deposited in the bank. Therefore, the AO has rejected books of the account of the assessee u/s.145(3) of the Act and has made addition of*

*Rs.2,62,84,000/- u/s.68 of the Act into the hands of the assessee on account of cash deposits made in the bank during demonetization period.*

*6.5 The assessee during the course of appellate proceedings has mentioned that the AO has not given any reason or evidence as far as incorrectness and incompleteness of accounts and rejection of its books of account u/s.145(3) of the Act. Further, the assessee mentioned that it has a retail outlet and after the news of demonetization, the general people/customers believed in buying gold rather than depositing the amount into the bank due to which there was a huge rush in the gold/silver retail shops which leads to increase in sale on the date of demonetization i.e. on 08.11.2016. Further, the assessee stated that there were more than 35 persons including staff, partners with their relatives engaged in the sale of gold bullion and ornaments after demonetization in the entire shop having area of more than 3,000 sq.ft.*

*6.5.1 The AO has mentioned that the assessee has has not deposited cash balance as on 08.11.2016 at one go. The assessee in this regard has submitted that the deposits in bank were made in a piecemeal manner on account of long queues in the bank to deposit demonetized notes, exchange of demonetized notes with the valid currency as well as for withdrawal of valid currency.*

*6.5.2 The AO in para 4.5 of the assessment order has referred to table drawn for the month of June 2016 and October, 2016 wherein he has stated that the assessee has created fictitious cash balance to increase cash in hand. The assessee in this regard has submitted that the AO has failed to consider the receipts of cash received from the debtors and same is not included in the table. The assessee stated that as per the format given by the AO, there was no column where amount received from the debtors and expenses incurred could be included resulting into inflated cash balance as per the observation made by the AO. The assessee further submitted that after including, columns of cash received from debtors and expenses incurred it in the format of the relevant month, cash*

*balance at the end of the relevant month as per Moreover, the said fact could also have been verified from the cash book submitted by the assessee along with letter dated 23.09.2019.*

*6.5.3 The AO has mentioned that on the purchase invoice of old gold ornaments, details of purity is not mentioned. In this regard, the assessee stated that old gold ornaments are received from customers and all required details (i.e. description, rate and amount) are mentioned in the purchase invoice. The assessee further stated that the said practice is consistently followed for decades by the assessee. As regards the copy of the invoice printed on page no. 8 of the order, the assessee stated that the said invoice dated 25.01.2017 i.e. after demonetization period and the purchase is against the sale of ornaments and the same can be verified from the details of purchase of old gold ornaments submitted on 25.11.2019 before the AO wherein under the column of mode of payment, the assessee has mentioned as cash adjusted against sales. The assessee further stated that majority of the old gold ornaments purchased are adjusted against sales and said fact can be verified from the details of purchase of old gold ornaments submitted before the AQ. The assessee also stated that it has submitted the value of purchases of old gold ornaments as URD purchase in the VAT returns filed every month regularly. The assessee has mentioned that it has revised VAT returns on account of labour charges received which has no impact on the quantity flow of the assessee.*

*6.5.4 The AO has made addition u/s.68 of the Act treating cash deposited in bank, which is received from cash sales, as unaccounted unexplained money generated out of book of accounts and shown as cash sales by the assessee. The assessee has stated that the cash received out of cash sales are regularly and duly recorded in books of accounts and which have been duly verified and audited.*

*6.5.5 The assessee further submitted that the AO did not find any relevant discrepancy in the submission made by the assessee and wrongly concluded that the assessee has manipulated books of accounts to adjust its undisclosed money.*

6.5.6 Further, without prejudice, the assessee has submitted that the AO has taxed the 'cash sales' of the assessee which is already offered to tax at the time of filing of return of income and hence once an income is offered for taxation by the assessee, the same cannot be taxed as undisclosed cash credit u/s 68 of the Act. The assessee has placed reliance on the following judgments:

(a) *DIT(E) v Keshav Social and Charitable Foundation (2005) 278 ITR 152 (Del)*

(b) *CIT v. Uttaranchal Welfare Society [2014] 364 ITR 0398 (All)*

(c) *Kishore Jeram Bhai Khaniya 1220/Del./2011 &Ors; Order dated 13.5.2014]*

6.6 Further with regards to cash deposit into bank account during demonetization period, the assessee has relied on following decisions:

253//iz/ i. *ACIT vs. Heerapanna Jewellers, ITA No. (ITAT, ( ME TAX2020TITAT, Vishakhapatnam)*

ii. *M/s. Kundan Jewellers Pvt Ltd ITA No. 1035/Mum/2022 dated 29/05/2023*

iii. *ACIT vs. Ramlal Jewellers (P.) Ltd. [2023] 154 taxmann.com 584 (Mumbai - Trib.) [26-07-2023]*

iv. *Param Gold L.T.A. No.2467/Mum/2023 dated 16/01/2024*

v. *R. S. Diamonds India (P.) Ltd. vs. ACIT [2022] 145 taxmann.com 545 (Mumbai - Trib.)*

6.7 Facts of the case and submission of the assessee have been examined. During the year under consideration, the assessee has shown turnover of Rs. 102,28,59,967/-. It is found that the assessee has deposited cash of Rs.2,62,84,000/- during the demonetization period in the bank account. The assessee has mentioned that it has deposited cash in the bank account against the cash sales made by it and the same has been recorded in books of the account. Further, to support purchases and sales and more particularly cash sales during the period

*01.10.2016 to 08.11.2016, the assessee has submitted the following details along with supporting to prove source of cash received and deposited during assessment proceedings:*

- a. Bank statements for the F.Y.2016-17.*
- b. Online response made on e-filing portal of the department with regard to source of cash deposits.*
- c. Cash book along with narrations for the F.Y.2016-17.*
- d. Month wise details of Sales and Purchases as per the format.*
- e. Month wise Cash Sales and Cash Deposits from 01-04-2015 to 31-03-2016.*
- f. Month-wise Cash Sales and Cash Deposits from 01-04-2016 to 31-03-2017.*
- g. Date wise details of stock register of all stock items in quantity. Details of quantity submitted alongwith tax audit report.*
- h. Sample invoices of each party to whom sales above Rs.5,00,000/- made during the year.*
- i. Sample invoices of each party from whom purchases (other than old gold ornaments) made during the year.*
- j. Party wise sales above Rs.5,00,000/- along with address and PAN.*
- k. Details of entire purchases along with address and PAN (above Rs.2,00,000/- ).*
- 1. Details of Cash received from Debtors during the year under consideration are attached herewith.*

*6.8 Thus, from the above, it is seen that the assessee had furnished requisite documents before the AO. Further, I found that the assessee has duly recorded the cash sales made by it into its books of accounts out of its business activities. The AO has not found any relevant discrepancy in the submission made*

by the assessee and has wrongly concluded that the assessee has manipulated books of accounts to adjust its undisclosed money. Further, though the AO has stated that the assessee has undertaken the purchases and sales out of the books, the same is not supported by any corroborative evidence. In this regards, reliance is placed on the decision of Hon'ble ITAT Vishakhapatnam in the case of ACIT vs. Heerapanna Jewellers, ITA No. 253/Viz/2020 wherein ITAT held that where AO made addition under section 68 on account of huge cash amount deposited by assessee-jeweler in its bank account post demonetization, since assessee had explained source of said cash deposits as sales of jewellery, produced sale bills and admitted same as revenue receipt as well as offered it to tax and assessee also represented outgo of stocks which was matching with sales, impugned addition was to be deleted. Relevant para of the judgment of the ITAT is reproduced hereunder:

"9. In view of the foregoing discussion and taking into consideration of all the facts and the circumstances of the case, we have no hesitation to hold that the cash receipts represent the sales which the assessee has rightly offered for taxation. We have gone through the trading account and find that there was sufficient stock to effect the sales and we do not find any defect in the stock as well as the sales. Since, the assessee has already admitted the sales as revenue receipt, there is no case for making the addition u/s.68 or tax the same u/s.115BBE again. This view is also supported by the decision of Hon'ble Delhi High Court in the case of Kailash Jewellery House (Supra) and the Hon'ble Gujarat High Court in the case of Vishal Exports Overseas Ltd. (supra), Hence, we do not see any reason to interfere with the order of the Ld. CIT(A) and the same is upheld."

6.9 Moreover, I found that the Jurisdictional ITAT, Mumbai in the case of R.S Diamonds India(P) Ltd. Vs ACIT[2022(145 taxmann.com 545)] as well as in the case of Param Gold Vs ITO -42(1)(4), Mumbai (ITANo.2467/Mum/2023 A.Y.2017-

18) has followed the above referred decision of ITAT Vishakhapatnam and has allowed appeal of the assessee. मूलो

*6.10 In view of the facts of the case and the decisions of the Hon'ble ITAT referred above, the addition of Rs.2,62,84,000/- made by the AO u/s.68 of the Act on account of cash deposits is deleted.*

5. After having heard the counsels for both the parties and having perused the material placed on record, we find that assessee being trader in gold bullion and diamonds etc., had deposited cash of Rs. 2,62,84,000/- in SBN notes in the bank during the demonetization period. However, in order to substantiate the source of the above amount, the assessee had produced statement of cash in hand, cash sales, total cash and cash deposited in the bank during the month of two financial years i.e 2015-16 & 2016-17 the details of which are already mentioned in the order of Ld. CIT(A) at Para No. 6.

6. However the AO had not given any reasons or evidence so far as the incorrectness and incompleteness of account and rejection of its books of account u/s 145(3) of the Act. More particularly when the assessee had categorically justified the huge cash sale and specifically mentioned that after news of demonetization, the general people / customers believed in buying gold due to which there was a rush in the gold / silver retail shops which leads to increase in sale on the date of demonetization. It was submitted that the AO had also failed to consider the receipts of cash received from the debtors and same is not included in the table. The Ld. AR submitted stated that as

per the format given by the AO, there was no column where amount received from the debtors and expenses incurred could be included resulting into inflated cash balance as per the observation made by the AO. It was further submitted that after including, columns of cash received from debtors and expenses incurred in the format of the relevant month, cash balance at the end of the relevant month, as per the format, will match with Cash A/c. Moreover, the said fact could also have been verified from the cash book submitted by the assessee along with letter dated 23.09.2019.

7. We noticed that assessee had shown turnover of Rs. 102,28,59,967/-. It is noticed that the assessee had deposited cash of Rs.2,62,84,000/- during the demonetization period in the bank account. It was submitted that the said cash was deposited in the bank account against the cash sales made by the assessee and the same had been recorded in books of the account. Further, to support the purchases and sales and more particularly cash sales during the period 01.10.2016 to 08.11.2016, the assessee had submitted the following details along with supporting documents to prove source of cash received and deposited during the assessment proceedings:

***a. Bank statements for the F.Y.2016-17.***

**b. Online response made on e-filing portal of the department with regard to source of cash deposits.**

**c. Cash book along with narrations for the F.Y.2016-17.**

**d. Month wise details of Sales and Purchases as per the format.**

**e. Month wise Cash Sales and Cash Deposits from 01-04-2015 to 31-03-2016.**

**f. Month-wise Cash Sales and Cash Deposits from 01-04-2016 to 31-03-2017.**

**g. Date wise details of stock register of all stock items in quantity. Details of quantity submitted alongwith tax audit report.**

**h. Sample invoices of each party to whom sales above Rs.5,00,000/- made during the year.**

**i. Sample invoices of each party from whom purchases (other than old gold ornaments) made during the year.**

**j. Party wise sales above Rs.5,00,000/- along with address and PAN.**

**k. Details of entire purchases along with address and PAN (above Rs.2,00,000/- ).**

**1. Details of Cash received from Debtors during the year under consideration are attached herewith.**

8. Since the assessee had furnished all the requisite documents and the cash sales carried out were duly recorded into the books of accounts and no discrepancy was pointed out by the AO and in this regard reliance was being placed upon the decision of Hon'ble ITAT Vishakhapatnam in the case of **ACIT vs. Heerapanna Jewellers, ITA No. 253/Viz/2020** wherein ITAT held that

where AO made addition under section 68 on account of huge cash amount deposited by assessee-jeweler in its bank account post demonetization, since assessee had explained source of said cash deposits as sales of jewellery, produced sale bills and admitted same as revenue receipt as well as offered it to tax and assessee also represented outgo of stocks which was matching with sales, impugned addition was to be deleted. Relevant para of the judgment of the ITAT is reproduced hereunder:

*"9. In view of the foregoing discussion and taking into consideration of all the facts and the circumstances of the case, we have no hesitation to hold that the cash receipts represent the sales which the assessee has rightly offered for taxation. We have gone through the trading account and find that there was sufficient stock to effect the sales and we do not find any defect in the stock as well as the sales. Since, the assessee has already admitted the sales as revenue receipt, there is no case for making the addition u/s.68 or tax the same u/s.115BBE again. This view is also supported by the decision of Hon'ble Delhi High Court in the case of Kailash Jewellery House (Supra) and the Hon'ble Gujarat High Court in the case of Vishal Exports Overseas Ltd. (supra), Hence, we do not see any reason to interfere with the order of the Ld. CIT(A) and the same is upheld."*

Apart from this, we also found that the Jurisdictional ITAT, Mumbai in the case of **R.S Diamonds India(P) Ltd. Vs ACIT [2022 (145 taxmann.com 545)]** as well as in the case of Param Gold Vs ITO -42 (1) (4), Mumbai (ITA No. 2467/Mum/2023 A.Y.2017-2018 had followed the above referred decision and deleted the additions.

9. Even no new facts or circumstances have been placed on record before us in order to controvert or rebut the findings so recorded by Ld. CIT(A). Therefore, we see no reasons to interfere into or to deviate from the lawful findings so recorded by Ld. CIT(A). Therefore, considering the entire facts and circumstances as discussed by us above we found that Ld. CIT(A) had rightly deleted the additions and thus we uphold the order of Ld. CIT(A), the **ground Nos. 1 to 3** raised and by the revenue stands dismissed.

10. **Ground No.4**, this ground raised by the revenue relates to challenging the order of Ld. CIT(A) in deleting the addition of Rs. 21,97,711/- u/s 40A(3)(a) of the Act being cash purchase above Rs. 20,000/-

11. We have heard the counsels for both the parties, perused the material placed on record on record, judgments cited before us and also the orders passed by the revenue authorities. From the records we noticed that additions u/s 40A(3)(a) of the Act was made by the AO on the ground that assessee had made cash purchases above Rs. 20,000/- amounting to Rs. 21,97,711/-. However, the same was deleted by Ld. CIT(A) by its detailed order by observing as under:

*7.1 The AO has noted that the assessee has made cash purchases above Rs.20,000/- amounting to Rs.21,97,711/-*

during the year under consideration and hence the same has been disallowed by him u/s.40A(3) of the Act.

7.1.1 During the course of appellate proceedings, the assessee contended that it has made purchases of old gold ornaments against the sales made to the same person on the same day. The assessee further submitted that against the said sale, only the difference is received after setting off the price towards the purchase of old gold ornaments and similarly, if sale value is lower than the purchase cost of old gold ornaments, the net payment is made and which is always below Rs.20,000/-. The assessee stated that this is a common practice followed in the industry by the retail gold jewellers wherein the old gold ornaments is exchanged against the new gold ornaments and the difference amount is paid or received to/from the customer. The assessee also submitted that it has not made payment exceeding Rs.20,000/- to a customer in a day and thus, there is no contravention of provisions of Section 40A(3)(a) of the IT Act. The assessee has also submitted the details of corresponding sales made against purchases of old gold ornaments of 44 items as per the list given by the AO in the assessment order. Further, the assessee has relied on the judgment of Hon'ble ITAT Chennai in the case of Deputy Commissioner of Income-tax, Company Circle 1(3) vs Kirtilal Kalidas Jewellers (P.) Ltd. reported in [2012] 27 taxmann.com 341.

7.1.2 Facts of the case and submission of the assessee have been examined. From the details filed by the assessee, it is seen that the assessee has not made payment exceeding Rs.20,000/- to a customer in a day. It is seen that the purchases made of old gold ornaments are against the sales made by the assessee to the same person on the same day and against the said sale, only the difference received by the assessee after setting off the price towards the purchase old gold ornaments. Further, I found that the case of the assessee is covered by exceptions provided in Clause (d) of Rule 6DD

*which gives the alleviating circumstances where rigours of Section 40A(3) are not attracted. The same is read as under:*

*d) where the payment is made by way of adjustment against the amount of any liability incurred by the payee for any goods supplied or services rendered by the assessee to such payee;*

*7.1.3 Further, the Hon'ble ITAT, Chennai in case of Deputy Commissioner of Income- tax, Company Circle I(3) vs Kirtilal Kalidas Jewellers (P.) Ltd. reported in [2012] 27 taxmann.com 341 has held that "where the payments were effected to a customer on account of adjustment resulting out of an exchange of old jewellery with new Jewellery, then it does get covered under the exception clause (d) of Rule 6DD."*

*7.1.4 In view of the facts of the case and decision of Hon'ble ITAT, Chennai referred above, disallowance of Rs.21,97,711/- made by the AO u/s.40A(3) of the IT Act is deleted.*

12. After having heard the counsels for both the parties and on perusal of the material placed on record, we find that as per the assessee, it had made purchases of old gold ornaments against the sales made to the same person on the same day. The assessee further submitted that against the said sale, only the difference is received after setting off the price towards the purchase of old gold ornaments and similarly, if sale value is lower than the purchase cost of old gold

ornaments, the net payment is made and which is always below Rs.20,000/-. The assessee stated that this is a common practice followed in the industry by the retail gold jewellers wherein the old gold ornaments is exchanged against the new gold ornaments and the difference amount is paid or received to/from the customer. The assessee also submitted that it has not made payment exceeding Rs.20,000/- to a customer in a day and thus, there is no contravention of provisions of Section 40A(3)(a) of the IT Act. The assessee had also submitted the details of corresponding sales made against purchases of old gold ornaments of 44 items as per the list given by the AO in the assessment order. Further, reliance was also placed upon the judgment of Hon'ble ITAT Chennai in the case of **Deputy Commissioner of Income-tax, Company Circle 1(3) vs Kirtilal Kalidas Jewellers (P.) Ltd. reported in [2012] 27 taxmann.com 341.**

13. We found that since it was common practice followed in the retail business of gold jewel wherein the gold is exchange against new gold ornaments and difference amount is paid by the customers and in the case in hand no payment exceeding Rs. 20,000/- was made and assessee had submitted the details of corresponding sales made against purchases of old gold ornaments of 44 items

as per the list mentioned by the AO in the assessment order. Further, reliance was also placed upon the judgment of Hon'ble ITAT Chennai in the case of **Deputy Commissioner of Income-tax, Company Circle 1(3) vs Kirtilal Kalidas Jewellers (P.) Ltd. reported in [2012] 27 taxmann.com 341.**

14. Since, the case of the assessee is covered by exceptions provided in Clause (d) of Rule 6DD which gives the alleviating circumstances where rigours of Section 40A(3) are not attracted. The same reads as under:

*d) where the payment is made by way of adjustment against the amount of any liability incurred by the payee for any goods supplied or services rendered by the assessee to such payee;*

15. Moreover, Coordinate Bench of ITAT, Chennai in the case of **Deputy Commissioner of Income- tax, Company Circle I(3) vs Kirtilal Kalidas Jewellers (P.) Ltd. reported in [2012] 27 taxmann.com 341** has held that *"where the payments were effected to a customer on account of adjustment resulting out of an exchange of old jewellery with new Jewellery, then it does get covered under the exception clause (d) of Rule 6DD."*

16. Even no new facts or circumstances have been placed on record before us in order to controvert or rebut the findings so recorded by Ld. CIT(A). Therefore, we see no reasons to interfere into or to deviate from the lawful

findings so recorded by Ld. CIT(A). Hence, this ground raised and by the revenue stands dismissed.

17. In the result, the appeal filed by the revenue stands dismissed.

Order pronounced in the open court on 10.03.2026

**Sd/-**

**(BIJAYANANDA PRUSETH)  
ACCOUNTANT MEMBER**

**Sd/-**

**(SANDEEP GOSAIN)  
JUDICIAL MEMBER**

Mumbai, Dated 10/03/2026

**आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / The CIT(A)
4. आयकर आयुक्त (अपील) / Concerned CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुम्बई/ DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार ( Asst. Registrar)  
आयकर अपीलीय अधिकरण, मुम्बई / ITAT, Mumbai