

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

**BEFORE SHRI OM PRAKASH KANT (ACCOUNTANT MEMBER) &
MS. KAVITHA RAJAGOPAL (JUDICIAL MEMBER)**

**ITA No. 8939/MUM/2025
Assessment Year: 2023-24**

Hitesh Ugamraj Mehta
603, Raibow Plaza, 6th
Floor, 46 Chapa Galli
Zaveri Bazar, Mumbai

Vs.

ACIT 23(1)06
Piramal Chambers,
Lalbaug, Mumbai –
400012

**PAN No. ACJPM9327M
Appellant**

Respondent

Assessee by : Shri Hansraj Mehta
Revenue by : Shri Hemanshu Joshi, Sr. DR

Date of Hearing : 16/03/2026
Date of pronouncement : 30/03/2026

ORDER

PER OM PRAKASH KANT, AM

This appeal by the assessee is directed against order dated 16.09.2024 passed by the Ld. Commissioner of Income-tax (Appeals) / National Faceless Appeal Centre, Delhi [in short 'the Ld. CIT(A)'] for assessment year 2023-24. The grounds raised by the assessee are reproduced as under:

01 On the facts and circumstances of the case and in law the learned Commissioner of Income tax - Appeals erred in confirming ad-hoc disallowances of Rs. 1670940/-being 10% out of labour



charges paid of Rs.16719404/- to five parties and making addition to total income of the appellant. Provisions of the Act ought to have been properly construed and regard being had to facts of the case disallowance of Rs. 1670940/-out of labour charges paid to five parties should not have been confirmed. Reasons assigned by him are wrong and insufficient to justify disallowance of Rs.1670940/- being 10% out of labour charges paid to five parties by the appellant.

02 On the facts and circumstances of the case and in law the learned Commissioner of Income Tax-Appeals erred in confirming ad-hoc disallowances of Rs. 1670940/-being 10% out of labour charges paid to five parties on suspicion, whims, assumption and conjectures and without bringing any cogent material, evidences on record is liable to be deleted.

03 The learned Commissioner of Income Tax Appeals erred in confirming order made under section 143(3) of the Act which is without jurisdiction, illegal, bad-in-law, ultra virus and without allowing reasonable opportunity of the hearing, and without appreciating facts, submission and evidences in their proper perspective, without providing draft assessment order is liable to be annulled.

04 The learned Commissioner of Income Tax - Appeals erred in confirming notice issued under section 143(2) of the Act as valid one, though the same is not in conformity with instruction issued by Central Board of Direct Taxes F.No.225/157/2017/ITA- II dated 23.06.2017, which is binding on him and therefore notice issued under section 143(2) of the Act is without jurisdiction, invalid and make subsequent assessment also invalid and liable to be annulled.

05 The learned Assessing Officer erred in charging interest under section 234A, 234B and 234C and 234D of the Act.

06. The appellant crave leave to add, amend, alter and / or vary any of the grounds of appeal before or at the time of hearing.



2. Briefly stated the facts of the case are that the assessee was engaged in the carrying business of manufacturing and trading of gold jewellery as proprietorship of M/s. Gudhiya Gold Creations. The assessee filed his return of income for the A.Y 2023-24 on 28.10.2023 declaring total income of Rs. 23,13,320/-. The return filed by the assessee was selected for scrutiny assessment and statutory notices under the Income Tax Act, 1961 [in short 'the Act'] were issued and complied. The ld AO was of the view that gross profit declared on the business turnover was low and therefore he examined the various expenses incurred by the assessee including the labour contract expenses. The Ld.AO observed that the assessee had claimed labour expenditure of Rs. 4,92,34,244/- which comprised of labour expenses against manufacturing of Rs. 1,30,85,760/- and other labour expenses of Rs. 3,61,48,484/-. After analyzing the copy of bank statement of the labour contractors obtained from various banks invoking authority u/s 133(6) of the Act, the Ld.AO shortlisted five labourers who had withdrawn the cash from their bank accounts immediately after one or two days from receipt of the cheques from the assessee. After carrying out detailed enquiry and investigation through verification unit of faceless team, the Ld.AO held the payment to those five labour contractors as bogus expenditure and made disallowances aggregating to Rs. 1,67,19,404/-.



3. On further appeal, the Ld. CIT(A) after taking into consideration submission of the assessee and documents supporting justification of the labour contract expenses restricted the disallowance to the extent of 10% of the total disallowance of Rs. 1,67,19,404/- and computed said disallowance to Rs. 16,71,940/-. Aggrieved, the assessee is in appeal before the Tribunal by way of raising the grounds herein above.

4. Before us the Ld. Counsel for the assessee submitted that the sole issue in the grounds raised by the assessee in respect of the 10% of the expenditure sustained by the Ld. CIT(A) out of disallowance made by the Ld. AO. The assessee also raised the grounds challenging the validity of the notice issued u/s 143(2) of the Act.

5. The ground No. 1 & 2 of the appeal relate to disallowance of the labour charges sustained by the Ld. CIT(A) in respect of the five labour contract parties. The facts for the issue in dispute are that the Ld. AO issued 133(6) of the Act the Bank of all labour contractor and collected their bank statements for the year under consideration. After analyzing the bank statements of the all the labour contractors, the ld AO identified five parties where they had withdrawn the money by way of cash from their bank accounts within one or two days of receipt of the



cheque from the assessee. The Ld.AO was of the suspicion that said cash withdrawal must have been returned back to the assessee within one or two days. The Ld.AO therefore issued a show cause notice to the assessee for justifying the said labour charges.

5.1 The assessee replied that those labour contractors were neither the family members nor relative of the assessee and therefore the assessee cannot influence those parties. It was further submitted that the assessee cannot peep into the business affairs of the parties and how they managed their businesses and the assessee cannot be answerable to explain the transactions in their bank accounts. The assessee cannot keep track of the transactions in bank accounts of the other party from whom he had obtained services of labour charges and made payment by account payee cheque as required under the provisions of the Act. The assessee had retained the copy of the bills issued by them. The assessee further submitted that the reason for withdrawals from the bank accounts can be explained by the respective parties only who have withdrawn the cash from the bank accounts.

5.2 In view of the reply of the assessee the Ld.AO issued notice u/s 133(6) of the Act to those parties. All the parties replied to the notices issued by the Ld.AO. The main



contention of the parties for withdrawing cash was that they had to depend on their business for daily workers who required to pay in cash as per the industries standard but the Ld.AO found the reply / response submitted by all those labour contractors as identically worded and therefore he did not believe in those replies. According to the Ld.AO those job workers had declared their return of income u/s 44AD of the Act only. In view of the Ld.AO the assessee having turnover exceeding Rs. 150 Crores, therefore assessee should have been its own manufacturing unit rather than outsourcing to the so many contractors.

5.3 The Ld.AO further referred the matter to the verification unit under the faceless assessment utility. The verification unit deployed inspectors for verification of premises of those contractors but they reported that the parties were not found at the addresses given in their return of income. On the basis of the report of verification unit, the Ld.AO ultimately made addition of Rs. 1,67,19,404/- by observing as under:

6.1.11 Based on the findings outlined above, it has been observed that the labour parties do not reside at the latest address mentioned in the Income Tax Return (ITR). Furthermore, this address is also indicated in the covering letter provided by the labour parties in their reply. It has been confirmed that no business activities are being carried out at the said address. These discrepancies raise significant concerns about the legitimacy of the business operations claimed by the labour parties. From the evidence gathered, it can be ascertained that the



entities involved, to whom the labour charges were paid, do not exist. This further casts doubt on the authenticity of the associated expenditure, which to have been fabricated in an attempt to reduce the taxable profit of the assessee. The existence of these non- genuine entities, coupled with the lack of business activity at the provided address, strongly suggests that the transactions in question are bogus.

6.1.12 The reply submitted by the assessee has been carefully considered; however, it was found to be unsatisfactory. The assessee has failed to discharge the onus of proving the genuineness of the transactions. Further it can be ascertained from the above discussion that the labour parties to whom the payments were made withdrew the amounts on the same day and subsequently returned the money back to the assessee. The fact that there were same-day deposits and withdrawals raises serious suspicions about the legitimacy of these transactions. This pattern of immediate returns and withdrawals indicates that the transactions were likely structured to create a facade of legitimate payments without any actual business activity taking place. The nature of these transactions, where funds are withdrawn the same day, creates a significant red flag. This raises a query over the genuineness of the labour charges claimed by the assessee. it leads to the conclusion that the payments were merely fabricated for the purpose of reducing taxable income.

5.4 On further appeal, the Ld. CIT(A) however after considering the submissions of the assessee and various documents filed restricted the disallowance to the extent of 10% of the expenditure in relation to those five parties, the relevant finding of the Ld. CIT(A) is reproduced herein below:

5. However, it is important to understand the nature of jewellery business. Assessee is engaged in trading as well as manufacturing of gold jewellery. In this business, there are small and mostly illiterate labourers, who find it very difficult to



maintain books of accounts and proper bank accounts. Their residences are also mostly rental premises. Hence, in order to ensure that all labour charges are being paid through bank accounts, mostly jewellers entered into contract with one big labour contractor, who in turn manages small labourers. It is the duty of main labour contractor to fulfil all documentary and legal requirements and get the work done. In this case also, same modus operandi is being followed. This is the reason why these labour contractors immediately withdraw the cash from their bank accounts, as soon as they receive, as they need to pay to small labourers immediately. In all these proceedings, nowhere AO has raised doubt about the genuineness of the labour expenses, for which bills have been submitted by these five labour contractors. Further, AO has accepted other labour charges i.e out of total labour charges of Rs.4,92,34,244/-, AO has disallowed labour charges of Rs. 1,67,19,404/- only, belonging to these five parties and accept all other expenses.

6. AO has made disallowance on the ground that during spot verification, these labour contractors were not found by VU, but given the nature of business, it is a normal practice. Even in one case VU inspector himself has found another address of one of the labour contractor, namely Dipankar narayan Maity. This business runs in the very small bylanes, where labourers mostly operate from rented premises which also keeps on changing. AO has made addition on the surmises that all the cash withdrawn by these five labour contractors was received back by assessee, but there is no documentary evidence to prove this round tripping of funds. All these five contractors were filing their Return of income, and even submitted their profit and loss account, balance sheet and copy of ITR along with bills of labour charges, which were even GST compliant in case of few parties and they follow all legal procedures. Further, there was no any adverse information in possession of the AO, on the basis of which, it can be concluded that these five parties were engaged in any type of bogus billing.

7. In assessment order, AO has raised doubt that labour parties had sufficient balances in their bank account, then why they were



immediately withdrawing cash. But, it is businessman's own way of doing business. He cannot do business as per the whims of Assessing Officer. Further, the fact that they have sufficient balance in their bank accounts, show their creditworthiness and genuinity.

8. During the assessment proceedings, assessee has submitted all the relevant details along with documentary evidences and explained in detail about the nature of labour charges. Relevant extract of assessee's submission is reproduced as below

"25.02.2025: It is submitted that assessee is engaged mainly in the business of trading in Gold Jewellery, apart from above the assessee is also making jewellery on the basis of labour charges for other parties.

In the process of business the assessee is purchasing gold bar from market and issuing these gold bar along with alloy to karigar for making gold ornaments, who makes ornaments for labour charges. After ornaments are ready same are handed over to assessee and labour charges are credited in his account and paid by issuing cheques to them. This labour charges is debited in Profit and Loss Account under the head 'Labour (Mfg)'.

Apart from above the assessee is also receiving gold bar and alloys from other parties for making ornaments. These gold bars and alloys are issued to Karigar who makes ornaments and charge labour charges from the assessee. This labour charges is debited in Profit and Loss Account under the head 'Labour Paid'. The assessee in turn hand over these ornaments to parties and charges labour charges which is credited in Profit and Loss Account under the head 'Labour Charges'.

I am enclosing following related documents for your kind perusal:

(a) Details of Labour Charges paid

(b) Confirmations from parties to whom labour charges paid



- (c) Issue vouchers issued by parties for handing over gold and alloys to us for making jewellery*
- (d) Issue vouchers issued by us for handing over gold and alloys to Karigar for making jewellery*
- (e) Receipt vouchers issued by us on receipt of gold jewellery from Karigar and showing labour charges payable to Karigar*
- (f) Labour charges bill for making jewellery on behalf of parties*
- (g) Receipt voucher issued by respective parties on receipt of jewellery from us*
- (h) Issue voucher issued by us for handing over Gold Bar and alloys for making jewellery on our behalf by Karigar*
- i) Receipt voucher issued by us on receipt of jewellery from Karigar.*

From these submissions and documentary evidences, submitted by assessee, it is clear that he has produced all the documentary evidences along with Karigar issue vouchers, Karigar receipt vouchers, labour charges bills, labour charges confirmations etc. Assessing officer has never raised any doubt about the authenticity and genuineness of these documents and has not cast any iota of doubt over the books of the assessee and stock statement of the assessee. No rejection of books has been done by AO. Further, in response to notices u/s.133(6) all five labour contractors replied along with documentary evidences.

9. Hence, considering the above factual matrix, 100% disallowance of labour charges, incurred on these five parties amounting to Rs. 1,67,19,404/- can not be said to be non-genuine, as assessee was engaged in regular business of Gold jewellery, in which labour charges are integral part of business. But at the same time all the enquiries conducted by VU, can't be brush aside completely. Hence, in order to meet the ends of justice, 10% of total disallowance, amounting to Rs. 16,71,940/-, is being disallowed and rest of the addition is being deleted. Accordingly,



AO is directed to confirm the addition to the extent of Rs. 16,71,940/-, being 10% of Rs. 1,67,19,404/- and give relief for remaining amount. Hence, these grounds of appeal by assessee are hereby partly allowed.

6. We have heard the rival submissions and perused the material on record. The core issue before us is the sustainability of an ad-hoc disallowance in the face of corroborated evidence of business expenditure. In the case the Ld.AO in view was of the suspicion of genuineness of labour charges and therefore, he carried out enquiries through issue of the notices u/s 133(6) of the Act as well as through the verification unit and on the basis of the outcome of the verification unit the addition has been sustained.

6.1 Before us however Ld. Counsel for the assessee submitted that the assessee was engaged in the business of manufacturing and trading in gold jewellery. In the process of business the assessee purchased gold bar and same were issued to karigars for converting same into gold ornaments. The assessee also received gold bars for converting into gold ornaments from other jewelers in the market which turn issued to karigars for converting into gold ornaments. The Karigars charge labour charges for converting gold bar into gold ornaments. He further submitted that labour charges paid to Karigars is integral part of the assessee, without incurring same the assessee cannot carry on his business.



6.2 Regarding the verification carried out by the verification unit, the assessee submitted that the verification was carried out on the basis of address provided in their reply to notice u/s 133(6) of the Act. The assessee was not informed about this fact otherwise if opportunity was given the assessee could have accompanied with VU officer and shown their present work address where they were available.

6.3 Regarding the verification carried out, Ld. Counsel for the assessee submitted that in case of Rbikanta Madan Pal address was mentioned as Room No. 47, Bldg O.57, Telgali, Vithalwadi, Mumbai, Pin Code No. 420 001, whereas the VU officer carried out the enquiry at Vithavadi, Mumbai having Pin code No. 400002, which is a town named Vithalwadi near Kalyan. The Ld. Counsel further submitted that the VU officer has not provide the name of the persons from whom enquiry was made during the physical verification of the addresses. Thus according to the Ld. Counsel for the assessee the verification has been has been carried out in dark and cannot be made basis for disallowance even of the 10% in the case of assessee.

6.4 Having considered the submissions of the assessee and finding of the Ld. CIT(A) on issue in dispute, we are of the opinion that Firstly, the Assessee has produced an exhaustive trail of documentation, including "Karigar" issue/receipt vouchers, labor



bills, and bank confirmations. The AO did not reject the books of account under Section 145(3) of the Act, nor did he find any discrepancy in the stock statements. It is a settled principle that labor charges are an integral and inextricable component of a jewellery manufacturing business; without such expenditure, the reported turnover—which the Revenue has accepted—could not have been achieved.

6.5 Secondly, All five labor contractors responded to notices under Section 133(6), confirming the transactions. They are independent tax-paying entities who file returns under Section 44AD. The Ld. CIT(A) correctly noted that the immediate withdrawal of cash is a commercial necessity in this sector to pay small-scale artisans who do not operate within the formal banking system. The Revenue's suspicion, however strong, cannot take the place of proof. There is no evidence on record to establish that the cash withdrawn by the contractors ever flowed back to the Assessee.

6.6 Thirdly, the Assessee has successfully demonstrated that the VU's field inquiries were flawed, particularly regarding the misidentification of pin codes and locations (e.g., confusing Vithalwadi in Mumbai with Vithalwadi near Kalyan). Furthermore, the VU failed to provide the names of the persons interviewed during the site visits. In a trade where artisans often operate from modest, rented premises in congested by lanes, a mere "not found"



report, without granting the Assessee an opportunity to produce the parties, cannot be the sole basis for disallowance.

6.7 Lastly, we find a fundamental contradiction in the findings of the Ld. CIT(A). On one hand, the Ld. CIT(A) accepted the Assessee's explanations regarding the industry's modus operandi, the creditworthiness of the contractors, and the lack of evidence regarding round-tripping. On the other hand, he chose to sustain a 10% disallowance on a purely ad-hoc basis. It is a well-entrenched legal maxim that disallowance cannot be founded upon conjectures, surmises, or "split-the-difference" logic. Once the Ld. CIT(A) concluded that the expenditure was genuine and necessary for the business, and that the AO had failed to prove the "bogus" nature of the transactions, there remained no legal or factual basis to maintain a 10% disallowance. An ad-hoc addition, in the absence of a specific finding of inflated expenses or non-business purposes, is arbitrary and bad in law.

6.8 In view of the above, we find the ad-hoc disallowance of ₹16,71,940/- to be unsustainable. The order of the Ld. CIT(A) is modified to this extent, and the addition is hereby deleted. Grounds 1 and 2 are allowed.

7. As the primary addition has been deleted on merits, the remaining grounds challenging the technical validity of the notice



under Section 143(2) and the charging of interest are rendered academic and are dismissed as infructuous.

8. In the result, the appeal of the Assessee is **partly allowed**.

Order pronounced in the open Court on 30/03/2026.

**Sd/-
(KAVITHA RAJAGOPAL)
JUDICIAL MEMBER**

**Sd/-
(OM PRAKASH KANT)
ACCOUNTANT MEMBER**

Mumbai;

Dated: 30/03/2026

KRK, SR. PS

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER,
(Assistant Registrar)
ITAT, Mumbai