

IN THE INCOME TAX APPELLATE TRIBUNAL
“A” BENCH, CHANDIGARH

PHYSICAL HEARING

BEFORE HON’BLE SHRI RAJPAL YADAV, VICE PRESIDENT
AND
HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM

1. आयकर अपील सं./ ITA No.1052/CHANDI/2025
(निर्धारण वर्ष / Assessment Year: 2020-21)
- &
2. आयकर अपील सं./ ITA No.1053/CHANDI/2025
(निर्धारण वर्ष / Assessment Year: 2021-22)
- &
3. आयकर अपील सं./ ITA No.1054/CHANDI/2025
(निर्धारण वर्ष / Assessment Year: 2022-23)
- &
4. आयकर अपील सं./ ITA No.1055/CHANDI/2025
(निर्धारण वर्ष / Assessment Year: 2023-24)

M/s Rajesh Kumar & Co. Gopal Building, Kather By pass Solan (HP) - 173213	<u>बनाम/ Vs.</u>	DCIT/ACIT (Central) Shimla
स्थायीलेखासं./जीआइआरसं./PAN/GIR No. ABLFM-2356-F		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

&

5. आयकर अपील सं. / ITA No.1433/CHANDI/2025
(निर्धारण वर्ष / Assessment Year: 2020-21)
- &
6. आयकर अपील सं. / ITA No.1434/CHANDI/2025
(निर्धारण वर्ष / Assessment Year: 2021-22)
- &
7. आयकर अपील सं. / ITA No.1435/CHANDI/2025
(निर्धारण वर्ष / Assessment Year: 2022-23)

Shri Rahul Thakur (L/H of Shri Rajesh Thakur) Tehsil Arki, Aandroli 166, Solan (HP) - 171102	बनाम/ Vs.	DCIT/ACIT (Central) Shimla
स्थायीलेखासं./जीआइआरसं./PAN/GIR No. ATBPK-3976-B		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थीकीओरसे/ Appellant by	:	Sh. Ajay Jain (CA) – Ld. AR
प्रत्यर्थीकीओरसे/ Respondent by	:	Sh. Manav Bansal (CIT) - Ld. DR

सुनवाईकीतारीख/ Date of Hearing	:	23-03-2026
घोषणाकीतारीख / Date of Pronouncement	:	08-04-2026

आदेश / O R D E R

Manoj Kumar Aggarwal (Accountant Member)

1.1 Aforesaid appeals by two different assessees have, more or less, similar facts as well as issues. These appeals were heard along with the appeals of Smt. Ranjana Kalta, Shri Inder Kalta and M/s Kalta Liquors which have already been disposed-off by us vide separate order ITA Nos.1046-51, 1056-58 & 1060/Chandi/2025. For the purpose of adjudication, facts from the case records of M/s Rajesh Kumar & Co. in ITA No.1052/Chandi/2025 for Assessment Year (AY) 2020-21 has been culled out in this order. The facts of other AYs have been enumerated at appropriate places. The appeal ITA No.1052/Chandi/2025 arises out of an order of learned Commissioner of Income Tax (Appeals)-3, Gurgaon [CIT(A)] dated 31-07-2025 in the matter of an assessment framed by Ld. AO u/s 143(3) r.w.s. 147 of the Act on 27-02-2025. The sole grievance of the assessee is confirmation of substantive addition of Rs.47 Lacs. The assessee being resident firm is stated to be engaged in retail sale of country

liquor and IMFL. One of the partners of this firm was Late Shri Rajesh Thakur who carried out wholesale trade of country liquor under his proprietorship concern M/s Rajput Wines.

1.2 During the course of hearing before us, Ld. AR argued only on the merits of quantum addition and stated that the assessee is not pressing its respective legal grounds in all the appeals. Therefore, the respective legal grounds, as urged in all the appeals, stand dismissed as *not pressed*. The Ld. AR advanced arguments on merits and referred to various documents in support of the same. Reference has been made to various case laws, the copies of which have been placed on record. The Ld. CIT-DR also advanced arguments supporting the orders of lower authorities. Having heard rival submissions and upon perusal of case records, our adjudication would be as under.

1.3 The additions made by Ld. AO, in various years, in the case of partnership firm M/s Rajesh Kumar & Co., could be tabulated as under: -

	<u>Amt (Rs.)</u>			
	AY 2020-21	AY 2021-22	AY 2022-23	AY 2023-24
<u>Substantive Additions</u>				
Addition of out of books purchases u/s 69C	Rs.47,00,000/-	Rs.4,15,00,000/-	Rs,1,88,00,000/-	Rs.2,00,00,000/-
Addition of out of book sales u/s 28	----	----	Rs.17,48,050/-	Rs.27,28,320/-
Addition of out of book sales u/s 28	----	----	----	Rs.1,14,77,681/-
Addition on account of unexplained expenditure u/s 69A	----	----	----	Rs.51,10,000/-
Addition on account of unexplained money u/s 69A	----	----	----	Rs.5,31,650/-
Addition on account of	----	----	Rs.41,42,780/-	----

unexplained money u/s 69A				
Addition of unaccounted money u/s 69A	----	----	Rs,3,50,000/-	----
<u>Protective Additions</u>				
Addition of unaccounted money u/s 69A	----	----	----	Rs.77,23,500/-

1.4 The additions made by Ld. AO, in various years, in the case of Shri Rajesh Thakur (rep. by legal heir Shri Rahul Thakur), could be tabulated as under: -

	<u>Amt (Rs.)</u>		
	AY 2020-21	AY 2021-22	AY 2022-23
<u>Protective Additions</u>			
Addition of out of books cash purchases u/s 69C	Rs.47,00,000/-	Rs.4,15,00,000/-	Rs,1,88,00,000/-
Addition of out of book sales u/s 28	----	----	Rs.17,48,050/-
Addition of unexplained money u/s 69A	----	----	Rs.3,50,000/-
Addition on unexplained money u/s 69A	----	----	Rs.41,82,780/-

1.5 Having heard rival submissions and upon perusal of relevant case laws including our decision in the case of Smt. Ranjana Kalta, Shri Inder Kala and M/s Kalta Liquors (supra), our adjudication would be as under.

2. Proceedings before lower authorities

2.1 The impugned assessment has been framed on the assessee-firm pursuant to search action u/s 132(1) on assessee group on 04-11-2022. The case of the assessee belongs to 'M/s Himgiri Beverages and Others' Group of Cases. Post-search, notice u/s 148 was issued by Ld. AO to the assessee on 24-11-2023 and the assessee furnished return of income declaring income of Rs.90.73 Lacs. The case was subjected to scrutiny wherein various notices were issued by Ld. AO

from time-to-time u/s 142(1) which were duly been responded to by the Assessee.

2.2 The first issue that arose during assessment proceedings was alleged unaccounted cash purchases from Shri Kapil Gupta. This addition was made on the basis of Annexure A-1, A-2 & A-3 as found and seized from the residential premises of Shri Kapil Gupta of M/s Hingiri Group during search action on 04-11-2022. The search findings on that group revealed that M/s Hingiri Beverages was not maintaining any regular books of account. The business transactions were noted in three diaries as maintained by Shri Kapil Gupta for Calendar Years 2020, 2021 & 2022. These diaries contained date wise details of accounted and unaccounted purchase and sale transactions by the said group. In these diaries, few entries were mentioned as '*Rajesh*'. The same was identified as Shri Rajesh Thakur as associated with M/s Rajput Wines, M/s Rajta Wines and M/s Ram Parkash. The statement of Shri Kapil Gupta was recorded u/s 132(4) and corroboration of these entries was sought to be done on the basis of excise records and evidence seized from the premises of Shri Inder Kalta and his books of accounts. It was concluded that the entries recorded as "802" pertain to unaccounted sale of liquor and made without a valid excise permit. The statement of Shri Rajesh Thakur was also recorded who admitted to have purchased unaccounted liquor from M/s Hingiri Beverages through various entities. Total amount as paid by Shri Rajesh Thakur to Shri Kapil Gupta on account of unaccounted purchases for AY 2020-21 was

quantified at Rs.47 Lacs. This issue was confronted to the assessee during assessment proceedings and the assessee was show-caused.

2.3 During assessment proceedings, the assessee refuted such allegation of Ld. AO. In sum and substance, it was contended that this was unverified oral statement without any concrete and corroborative evidences which could not be used against the assessee. The assessee was only one of the partners in M/s Rajesh Kumar & Co. and the statement of other partners was not taken. The department could not identify the concern to which alleged transaction relates. The assessee also opposed reliance on dumb documents as found during search on third-party premises. The presumption of Sec. 132(4A) and Sec. 292C could not be invoked against the assessee. The assessee also stated that Shri Kapil Gupta retracted from the statement. However, by referring to various case laws and raising presumption of Sec. 132(4A) & Sec. 292C, all these submissions stood rejected by Ld. AO. Finally, the amount of Rs.47 Lacs was added to the income of the assessee as out-of-book purchases. Similar additions of Rs.415 Lacs, Rs.188 Lacs & Rs.200 Lacs were made for AYs 2021-22, 2022-23 and 2023-24 respectively. These additions were made on protective basis in the hands of Shri Rahul Thakur (Legal heir of Shri Rajesh Thakur). Upon further appeal, Ld. CIT(A) confirmed substantive additions and rejected plea of addition of profit element. The protective addition for Late Shri Rajesh Thakur was deleted subject to the rider that if a stand was taken by the assessee or higher

judicial forum hold that the unaccounted cash expenditure relates to M/s Rajput Wines, the said addition would stand confirmed.

2.4 In AY 2022-23, the assessment was framed u/s 143(3) on 27-09-2024 wherein Ld. AO made three other additions of out-of-book sales for Rs.17.48 Lacs, addition of unexplained money u/s 69A for Rs.3.50 Lacs & Rs.41.82 Lacs respectively.

2.5 The addition of Rs.17.48 Lacs is alleged cash sales by Shri Rajesh Thakur to Shri Inder Kalta. The same was on the basis of Pages 175 to 201 of Annexure A-8 as found and seized from business premises of M/s Rajput Wines and assessee at Gopal Building. These pages contained details of cash received from Shri Inder Kalta in lieu of cash sales of liquor. During search, statement of Shri Ashish Rajta was recorded u/s 131(1A) who admitted about unaccounted sales by Rajesh & Co. to Shri Inder Kalta. The statement of Shri Ashish Rajta was confronted to Shri Rajesh Thakur u/s 132(4) and he concurred with the same. Similar entries were found recorded on seized mobile phone of Shri Inder Kalta wherein the entries were found recorded in the name of '*Rajesh Solan*'. Such unaccounted sales were quantified at Rs.206.13 Lacs for AY 2022-23 and Rs.336 Lacs for AY 2023-24. After rejecting assessee's submissions, Ld. AO computed average Gross Profit of 5.48% for FYs 2019-20 to 2021-22 which was enhanced by 3% on account of savings in accounting cost and fixed expenses on unaccounted sales. The Gross Profit (GP) rate of 8.48% was accordingly applied to unaccounted sales to compute unaccounted income of the assessee as business income in AYs

2022-23 & 2023-24. Since the assessee failed to establish as to in whose hands these transactions would be assessed, protective addition was made in the hands of Shri Rajesh Thakur through legal heir Shri Rahul Thakur. The Ld. CIT(A) upheld substantive addition but deleted protective addition with identical rider.

2.6 The addition of Rs.3.50 Lacs represent cash transaction of Shri Rajesh Thakur with Shri Kamal Singla. This addition was based on Page Nos.220 to 250 of Annexure-8 as found from business premises at Gopal Building. Shri Ashish Rajta stated that the same represent cash loan taken by an employee Shri Kamal Singla of Paradise Distilleries which stood repaid by him. The Ld. AO added the amount of Rs.3.50 Lacs since assessee failed to establish that this cash was generated from business activity. The source of cash loan remained unascertained. Similar protective addition was made in the hands of Shri Rajesh Thakur through legal heir Shri Rahul Thakur. The Ld. CIT(A) confirmed the substantive addition but deleted protective addition with identical rider.

2.7 The last addition of Rs.41.82 Lacs pertain to certain cash transaction which stems from documents seized from Gopal Building as Annexure A-2. Shri Ashish Rajta confirmed that the transaction represents advances given to various employees of the assessee. Shri Rajesh Thakur concurred with the statement of Shri Ashish Rajta. Finally, this amount was added as unexplained money u/s 69A since the sources of cash advances remained to be established by the assessee. Similar protective addition was made in the hands of Shri

Rajesh Thakur through legal heir Shri Rahul Thakur. The Ld. CIT(A) confirmed the substantive addition but deleted protective addition with identical rider.

2.8 In AY 2023-24, Ld. AO made addition of unaccounted cash purchases from Shri Kapil Gupta for Rs.200 Lacs. The out-of-book sales to Shri Inder Kalta were estimated at GP rate of 8.12% which resulted into addition of Rs.27.28 Lacs on similar lines. The third addition represent out-of-book sales for Rs.114.77 Lacs. During search at Gopal Building, a day book of sales for the month of Sept. / Oct. 2022 was available whereas the day book of period stood destroyed as confirmed by Shri Dharma Pal in statement u/s 132(4). Total cash collection as per the day book was quantified by Ld. AO at Rs.14,13,50,748/- on which Ld. AO applied GP rate of 8.12% to make addition of Rs.1,14,77,681/- u/s 28. Similar protective addition was made in the hands of Shri Rajesh Thakur through legal heir Shri Rahul Thakur.

The fourth addition was for Rs.51.10 Lacs which represent payment of salary and rent in cash, the evidences for which were found during search on assessee. The same were added as unexplained expenditure and added to the income of the assessee. Similar protective addition was made in the hands of Shri Rajesh Thakur through legal heir Shri Rahul Thakur. Another addition of Rs.5,31,650/- was made which represent cash found from Gopal Building.

The last addition of Rs.77.23 Lacs is protective addition which represents cash found from residential premises of Shri Rajesh Thakur. The assessee stated that the cash belong to M/s Rajesh Kumar & Co. The said firm is retailer in which the assessee is a partner. Majority of the sales were in cash which were duly recorded in the regular books of accounts. The assessee furnished cash book of M/s Rajesh & Co. to establish availability of cash. However, substantive addition was made in the hands of Shri Rajesh Kumar whereas protective addition was made in the hands of the assessee-firm. The Ld. CIT(A) dismissed the appeal of M/s Rajesh Kumar & Co. and also confirmed substantive additions against which the assessee is in further appeal before us.

Our findings and Adjudication

3. From submissions of Ld. AR, it could be seen that M/s Rajput Wines is proprietorship concern of Late Shri Rajesh Thakur. This entity is engaged in wholesale business of Country Liquor L-13 from AY 2021-22 onwards. This entity, being a wholesaler, purchased country liquor mainly from manufacturer M/s Himgiri Beverages (Prop. Shri Kapil Gupta) and sold liquor to retail liquor vendors including M/s Kalta Liquors. It has further been submitted that all the purchases have been made M/s Rajpur Wines through excise permits and the payments are through banking channels only. Similarly, sales have been made through excise permits and the payments are received through banking channels only. The manufacturer collects TCS on purchases & the assessee collects TCS on sale to liquor vends. Under

extant State Excise law, there is complete prohibition to sell liquor in open market by wholesaler except to retail liquor vends having valid quota. The Excise laws have designed in a manner that the manufacturer sell liquor to wholesaler who, in turn, sells liquor to retail vends. Practically, the manufacturer sells liquor to retailer directly after taking order from retailer. However, billing by manufacturers has to be done through wholesaler as per extant Excise laws. In nutshell, the wholesaler is completely prohibited to make any out-of-books purchases and therefore, the allegation of cash purchases by M/s Rajput Wines has no basis. The transaction between M/s Rajput Wines and manufacturer M/s Hingiri Beverages are regular accounted transaction through banking channels only which are duly recorded in regular books of accounts and subjected to TCS. It has further been stated that there is no statement of Shri Kapil Gupta about any out-of-books sales to the M/s Rajput Wines. In the Annexures, the entries have been made in the name of *Rajesh*. Shri Rajesh Thakur never made any such admission about unaccounted purchases by M/s Rajput Wines and no documentary evidences, in this respect, have been found during search proceedings. Therefore, the addition as made in the hands of Late Shri Rajesh Thakur (prop. M/s Rajput Wines) has no basis. It has further been submitted that M/s Rajesh Kumar & Co. is engaged as retail vendor who has operated approx. 80 to 90 number of liquor vends. This entity sells liquor in cash to individual customers. The daily day book of all the vends were prepared and part of the cash sale was deposited in Banks and out-of-

books sales were used for making payment to manufacturers against out-of-book purchases. The Ld. AR accordingly prayed for reasonable profit estimation on unaccounted sales as quantified by Ld. AO during the course of assessment proceedings. It has further been stated that once profit element has been estimated on the sales, the separate addition of unaccounted purchases could not be sustained.

4. We find that similar arguments have been accepted by us in the case of Smt. Ranjana Kalta & Ors. (supra). Therefore, taking the same view, we would accept the prayer of Ld. AR. Therefore, protective addition as made in the hands of Shri Rajesh Thakur on account of unaccounted purchases for AYs 2020-21 to 2022-23, as impugned before us, stand deleted. The addition of profit element on unaccounted purchases as made from Shri Kapil Gupta would be considered in the hands of M/s Rajesh Kumar & Co. In the case of M/s Kalta Liquors which has similar retail background, we have estimated profit element of 3% of total cash collection. Taking the same view, we direct Ld. AO to apply the profit element of 3% on unaccounted purchases of Rs.47 Lacs & Rs.415 Lacs for AYs 2020-21 and 2021-22 which would result into addition of Rs.1,41,000/- for AY 2020-21 and addition of Rs.12,45,000/- for AY 2021-22. This addition would be made in the hands of M/s Rajesh Kumar & Co. The appeals of M/s Rajesh Kumar & Co., for these two years, stands partly allowed.

5. For AYs, 2022-23 & 2023-24, the quantum of unaccounted purchases is Rs.188 Lacs and Rs.200 Lacs. However, Ld. AO has made estimated addition on total cash collection as found noted in the

seized documents. From the enumerated facts, it clearly emerges that the assessee being retail vendor has indulged in out-of-books purchases as well as out-of-books sales. The unaccounted purchases have close nexus with unaccounted sales as carried out by the assessee. This is further supported by the fact that no discrepancy has been found during search in physical stock as held by the assessee which would mean that the unaccounted purchases of stock were followed by unaccounted sales. It is also quite logical that without purchases, there could be no sales. Until the stock was purchased by the assessee, the same could not be sold. These transactions would certainly have one-to-one correlation and it is quite obvious that the unaccounted purchases would be sourced out of unaccounted cash collection on sales. The assessee does not have any other business activity or any other source of income. Therefore, in our considered opinion, separate addition of unaccounted gross purchases could not be sustained in the hands of the assessee. The quantum of unaccounted sales for AY 2022-23 is Rs.2,06,13,800/- whereas the said figures for AY 2023-24 is Rs.3,36,00,000/-. Both these figures far exceed the quantum of unaccounted purchases of Rs.188 Lacs & Rs.200 Lacs for AYs 2022-23 & 2023-24 respectively. Therefore, the separate addition of Rs.188 Lacs and Rs.200 Lacs stand deleted. On unaccounted sales, Ld. AO is directed to apply profit rate of 3% which would sustain addition of Rs.6,18,414/- for AY 2022-23 and addition of Rs.10,08,000/- for AYs 2023-24. The impugned addition, in the hands of M/s Rajesh Kumar & Co., stand

restricted to that extent. The protective addition of Rs.17,48,050/- as made in the hands of Late Shri Rajesh Thakur for AY 2022-23 stand deleted. The corresponding grounds of respective appeals stand disposed-off accordingly.

5. The addition of Rs.3,50,000/- as well as Rs.41,82,780/- clearly represent advances made by the assessee-firm M/s Rajesh Kumar & Co. and the same do not have any income element. These advances have been sourced out of unaccounted sales by M/s Rajesh Kumar & Co. Therefore, both the additions, on substantive basis in the hands of M/s Rajesh Kumar & Co. as well as on protective basis in the hands of Late Shri Rajesh Thakur stand deleted. The corresponding grounds of respective appeals stand disposed-off accordingly.

6. In AY 2023-24, the addition of Rs.1,14,77,681/- represent profit element on out-of-book sales. However, the submissions of the assessee are that these are recorded sales. The amount as recorded in these day books, as tabulated by Ld. AO, are as under: -

Amount (in Rs.)

Particulars	Annexure A-3 (Sept., 2022)	Annexure A-4 (Oct., 2022)	Annexure A-5 (Sept., 2022)	Annexure A-1 (Oct., 2022)	Total
Cash collections	1,56,75,647/-	7,62,23,237/-	1,36,14,049/-	3,58,37,815/-	14,13,50,748/-
Total Bank deposits out of this cash	1,43,39,340/-	5,64,09,940/-	Nil	3,30,05,075/-	10,37,54,355/-
Balance / cash expenses in various heads	13,36,307/-	1,98,13,297/-	1,36,14,049/-	28,32,740/-	3,75,96,393/-

The Ld. AO has applied GP rate on gross cash collections of Rs.14,13,50,748/-. However, it could clearly be seen that out of these collections, the amount of Rs.10,37,54,355/- has been deposited by

the assessee in regular bank accounts which could not be considered to be unaccounted sales of the assessee since the same stood already offered to tax, being part of regular books of accounts. On the remaining balance of Rs.3,75,96,393/-, taking the same view, we direct Ld. AO to apply GP rate of 3% which comes to Rs.11,27,892/-. The impugned addition stands restricted to that extent. Consequently, separate addition of cash expenditure for Rs.51.10 Lacs and cash found for Rs.5,31,650/- could not be sustained. Both these additions stand deleted.

7. The last addition is protective addition of Rs.77.23 Lacs which represent cash found from the premises of Shri Rajesh Thakur. As per the statement of the assessee, this cash belongs to M/s Rajesh Kumar & Co. which is a retail vendor. In this firm, majority of the sales are in cash and the assessee duly furnished cash book of M/s Rajesh & Co. to establish availability of cash as found during the search. In our considered opinion, once the cash book has been furnished which shows ample availability of cash as found during search, the onus of the assessee stood discharged and therefore, no such addition could be sustained. We are also of the opinion that the telescoping benefit of estimated addition in all the four years could be granted to the assessee against cash found since this firm do not have any other source of income. Considering these twin facts, this addition is to be considered substantively in the hands of the assessee and the same stand deleted. The corresponding grounds of appeal stand allowed.

Conclusion

8. All the appeals stand partly allowed.

Order pronounced on 8th April, 2026.

**-Sd-
(RAJPAL YADAV)
VICE PRESIDENT**

**-Sd-
(MANOJ KUMAR AGGARWAL)
ACCOUNTANT MEMBER**

Dated: 08-04-2026

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

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF

ASSISTANT REGISTRAR

ITAT CHANDIGARH