

**IN THE INCOME TAX APPELLATE TRIBUNAL DELHI
(DELHI BENCH 'E' NEW DELHI)****BEFORE SHRI YOGESH KUMAR U.S., JUDICIAL MEMBER
AND
SHRI AVDHESH KUMAR MISHRA, ACCOUNTANT MEMBER****ITA No. 181/Del/2024 (A.Y. 2017-18)**

Deputy Commissioner of Income Tax, Room No. 316A, C. R. Building, I. P. Estate, New Delhi	Vs	La Solitaire Jewels Private Limited 2706, Bank Street Road, Karol Bagh, New Delhi- 110005 Delhi PAN: AAACL9483H
Appellant		Respondent

Assessee by	Sh. Mayank Patwari, Adv and Sh. Akash Ojha, Adv
Revenue by	Sh. Gouranga Chandra, Sr. DR
Date of Hearing	27/08/2025
Date of Pronouncement	30/10/2025

ORDER**PER YOGESH KUMAR, U.S. JM:**

The captioned appeals are filed by the Revenue against the order of Ld. Commissioner of Income Tax (Appeals/ National Faceless Appeal Centre ('Ld. CIT (A)/NFAC' for short), New Delhi dated 22/11/2023 for the Assessment Year 2017-18.

2. The Grounds of Appeal are as under:-

"1 Whether on the facts and circumstances of the case the Ld. CIT(A) erred in deleting addition u/s 68 related to cash deposits representing cash sales of Rs. 8,39,36,867/- as explained even though it was 1349% increase as compared to earlier F.Y. 2015-16.

2 Whether on the facts and circumstances of the case the Ld. CIT(A) erred in allowing the appeal even though assessee did not maintain proper books of account and AO had rejected books of account u/s 145(3) of the IT Act 1961.

3. Whether on the facts and circumstances of the case the Ld. CIT(A) erred in allowing the appeal even though assessee did not discharge its onus of evidence related to lose diamond purchased of Rs. 3.6 crores from individuals.

4. Whether on the facts and circumstances of the case the Ld. CIT(A) erred in allowing the appeal of the assessee against the findings of survey action dated 17.03.2017 that assessee had surrendered a sum of Rs. 1 crore on account of difference found in cash in hand on 08.11.2016 for an unexplained sum of Rs. 61.37 crores from RK Overseas. Further in the instant case, for the A.Y. 2017-18, the actual tax amounts to Rs. 6,61,95,908/- which is above the monetary limits prescribed in the Circular No. 17/2019 dated 8th of August 2019 (amendment to circular No. 3/2018 dated 11th of July, 2018) i.e. Rs. 50 Lakhs for appeal in ITAT. Therefore, further filing of appeal is recommended for A.Y. 2017-18.

3. Brief facts of the case are that, the Assessee filed return of income declaring income of Rs. 61,11,760/-. The return of the Assessee was processed by CPC, later on the case of the Assessee was selected for compulsory scrutiny as the survey was conducted in the said case. a notice u/s 143(2) of the Income Tax Act, 1961 ('Act' for short) was issued and an Assessment Order came to be passed u/s 143(3) of the Act on 29/12/2019 by making addition of Rs. 8,30,51,490/- u/s 68 of the Act on account of unexplained cash deposited during the demonization period. Aggrieved by the assessment order dated 29/12/2019, Assessee preferred an Appeal before the Ld. CIT(A). The Ld. CIT(A) vide order dated 22/11/2023, deleted the said addition by allowing the Appeal of the Assessee.

4. As against the order of the Ld. CIT(A) dated 22/11/2023, the Department preferred the present Appeal on the grounds mentioned above.

5. The Ld. Departmental Representative vehemently submitted that the Ld. CIT(A) erred in deleting the addition made u/s 68 of the Act on account of cash deposited during the demonetization period ignoring the fact that there was increase of cash sales of 1349% compare to Financial Year 2015-16. Further submitted that the Ld. CIT(A) committed error in allowing the Appeal even though the Assessee did not maintain proper books of account and the A.O. has rejected the books of account u/s 145 (3) of the Act. The Ld. Departmental Representative relying on the order of the Ld. CIT(A) sought for allowing the Appeal.

6. We have heard both the parties and perused the material available on record. The Ld. CIT(A) while deleting the impugned addition observed as under:-

“Adjudication

Grounds No 1 to 6:

These grounds are being appealed against the order of Ld. A.O in making an addition of Rs 8,30,51,490/- u/s 68 rws 115BBE on account of unexplained cash deposits in the bank accounts of the assessee, rejection of books of accounts by the Ld. A.O u/s 145(3) of the Act and the lack of reasonable opportunity having been given by the A.O to the assessee to explain his case. Since, all the grounds of the appellant are inter-related, the same are being adjudicated together. The assessment order of the Ld. A.O, the written submissions filed by the appellant and the facts and circumstances of the case have been perused.

The major issue in the present appeal, which is addition on account of unexplained cash deposits of Rs.8,30,51,490/-. The basis of addition and the finding of the Assessing Officer is being summarised as below:-

- 1. Purchases in the month of September 2016, out of which the cash sales have been made in October 2016, are fictitious.*
- 2. The stock register maintained by the Assessee is not proper.*
- 3. Year on year cash deposits and cash sales have increased exponentially.*
- 4. The cash deposit made was very late which is unusual for a business.*
- 5. Bills for cash sales do not the particulars of the customer.*

All these are discussed in the subsequent paragraphs on the basis of the evidence, facts of the case and submissions of the Appellant, before me: -

- 1. Authenticity of the purchases out of which the cash sales have been made, as claimed by the Appellant;*

As for the purchases in the month of September 2016, it is seen that out of the total purchases of the month of Rs.6,85,79,279/-, the AO has raised his suspicion over the purchases made from Sh. Bharat Kalra of Rs.1,74,98,950/- and Sh. Ram Chand Kalra of Rs.1,74,98,250/- and a meagre cash purchase of Rs.17,377/-.

From the submissions made by the appellant it is concluded that the Appellant produced the confirmations, ITRs, purchase vouchers and bank statements of these persons. The AO also issued notices u/s 133(6) of the Act to these persons calling for the verification and confirmation of these transactions and both of them complied. It can be seen that these purchases have been made under the VAT exempt category as they have been sold by these persons in the personal capacity.

Shri Bharat Kalra and Shri Ram Chand Kalra have also explained the source of these items. Further, the Assessee had disclosed such purchases in VAT return for the quarter ending September 2016 which was filed on 27.10.2016, much before the announcement of demonetisation by the Government of India on 08.11.2016. This is testament to the fact that the appellant could not have modified its purchases to explain the cash sales in the subsequent month once the demonetisation was announced. In view of the aforesaid facts, I find that the purchases made in the month of

September 2016 are genuine as no other infirmities have been pointed out by the Ld. AO to controvert the same.

1. Properness of the stock register maintained by the Appellant;-

During the course of assessment proceeding, the Appellant had filed the stock register for F.Y. 2016-17 with the Ld. AO. The averment made by the Ld. AO is that the stock register maintained by the Appellant was not proper for the reason that it was open for false claims of sale and purchase.

On perusal of the stock register submitted by the appellant, it is observed that the same has been maintained item wise and date wise. The appellant, in its written submission has specifically referred to the stock register vis-à-vis the sales made in the month of October 2016. Further, on going through stock register and the sale register concomitantly, it is seen that more than 50% of the cash sales made in the month of October 2016 have been made out of the opening stock for the month of September 2016, i.e., purchases made before the month of September 2016. Also, the Appellant has provided the item-wise sale and purchase details of the stock and no infirmities have been pointed out by the Ld. AO with respect to the purchases made before the month of September 2016. The findings of the Ld. AO in respect of purchases made during the month of September 2016 have not been found out to be correct, as per observations in the preceding paras. The stock register and other summaries appear to be in order and no adverse inference can be drawn in respect of non-genuineness of the purchases or sales thereof in the case of the appellant.

1. Significant increase in cash deposit and cash sales when compared to the preceding year:-

The cash deposited in bank has grown exponentially by 1349% from F.Y. 2015-16 to 2016-17, and cash sales have also increased by 1214% over F.Y. 2015-16. The cash sales made by the appellant during October, 2016 is more than the total cash sales of A.Y. 2016-17 as evident from the fact that total cash sales in F.Y.2015-16 was Rs.85,22,634/- whereas sales in Oct, 2016 alone is claimed to be Rs.10,35,32,989/-.

The Appellant has explained the same, the major reason behind this increase has been stated to be the introduction of trading of loose diamonds during that time. To substantiate its claim, the appellant has filed the proof of purchase of such diamonds during the assessment proceedings. The Appellant has further substantiated that the increase in sales by almost Rs.8.75 Crores when compared to preceding year and is marked by a corresponding increase in the expenses by Rs.8.39 Crores (approx.), showing that there is no abnormal increase in sales alone.

On perusal of such facts, I find that there is marginal increase in the Gross Profit and Net Profit ratios when compared to the preceding year. On perusal of the subsequent year's data, it is seen that cash sales are at Rs.7.41 Crores as compared to Rs.10.35 Crores in the year under consideration. This fact shows that cash sales and increased since F.Y. 2016-17 for some reason. The reason given by the appellant, thus, appears to be plausible given the assessee's performance in the subsequent year. Also, I find that the Return of Income filed by the Assessee for the subsequent year, i.e., for A.Y. 2018-19 has been processed u/s 143(1) of the Act and the same has not been selected for scrutiny assessment.

1. Late deposit of cash in the bank.

From the perusal of bank statements, it is observed that the bulk of the cash was deposited by the appellant during the demonetisation period. As per the books of accounts, the Appellant was holding on to huge cash representing sales of Rs.8,39,36,867/- at the end of Oct, 2016 and had deposited only Rs.1,50,000/- upto 04.11.2016.

Once demonetisation was declared on 08.11.2016 then assessee started depositing bigger amount of cash from 12.11.2016 onwards, and on 17 different occasions large cash deposits were made upto 30.12.2016. This fact was also confronted to the Appellant by the Ld. A.O. The appellant explained that in the year under consideration, Diwali and Dhanteras festivals were in the month of October 2016 and there was huge demand and rush on the jewellery shops during the month of these two festivals. The appellant has contended that it is very common during the month of Diwali that the shops remain open till late at night and therefore it is generally very hectic during those days and not much time was available during those days to carry and deposit such huge cash sale amount in the bank. The Appellant also submits that the entire jewellery business is full of risk, not only the cash but also jewellery requires safety and it is very common that even a small jewellery shop has its own locker for the safekeeping of jewellery at night and also there is a gun man standing outside the jewellery shops at night for safety of jewellery. The shops have lot of stock in hand every day and night and thus, the question risk involved in keeping such huge cash in own locker rather than safety of a bank does not arise. The arguments of the Appellant do make a valid point to some extent, however, still these arguments made by the AO and Appellant are circumstantial and cannot be replaced with the evidence on record.

1. Genuineness of cash sales;

The Ld. AO states that the bills raised for cash sales did not bear the proper details of the transaction and the purchaser. To this, the Appellant submits that the details are mentioned on the request of the customers as cash sale customers do want specific details. However, the details and description of

the sale items were duly recorded in the books of the Appellant. These details have been submitted by the Appellant by way of sale, purchase and stock registers. The Ld. AO has not pointed out any flaw in the books of accounts and even the ones pointed out have failed the test of logic and facts. Further, no infirmities have been pointed out in the cash book of the Appellant either. All these facts cannot be ignored while deciding the present matter. Regardless, when the purchases so doubted by the AO have been accepted and there is no scope of any afterthought or manipulation, the books of account have to be held to be proper. In a similar case, the jurisdictional Tribunal at Delhi in the case of Fine Gujranwala Jewellers v. Income-tax Officer [2023] 151 taxmann.com 340 (Delhi - Trib.) [27-03-2023] discussing all the relevant precedence on the issue of cash deposit held as below: -

"18. We should keep in mind that the fact for Assessment Year 2016-17 cannot be comparable with the fact of Financial Year 2017-18 or any other year because the extraordinary incident of demonization was unique to Financial Year 2016-17, the abnormal increase in the cash sale and their deposit in the bank account consequent to demonization could not be basis for the rejection of account and addition u/s 68 of the Act. The Tribunal Bench at Vishakhapatnam in the case of Asstt. CIT v. Hirapanna Jewellers [2021] 128 taxmann.com 291/189 ITD 608 held as under:-

'7. We have heard both the parties and perused the material placed on record. In the instant case, the assessee has admitted the receipts as sales and offered for taxation. The assessing officer made the addition u/s 68 as , unexplained cash credit of the same amount which was accounted in the books as sales. In this regard, it is worthwhile to look into section 68 which reads as under:

68. Where any sum is found credited in the books of an assessee maintained for any previous year, and the assessee offers no explanation about the nature and source thereof or the explanation offered by him is not, in the opinion of the [Assessing] Officer, satisfactory, the sum so credited may be charged to income-tax as the income of the assessee of that previous year:

From the perusal of section 68, the sum found credited in the books of accounts for which the assessee offers no explanation, the said sum is deemed to be income of the assessee. In the instant case the assessee had explained the source as sales, produced the sale bills and admitted the same as revenue receipt. The assessee is engaged in the jewellery business and maintaining the regular stock registers. Both the DDIT (Inv.) and the AO have conducted the surveys on different dates, independently and no difference was found in the stock register or the stocks of the assessee.

Purchases, sales and the Stock are interlinked and inseparable. Every purchase increases the stock and every sale decreases the stock. To disbelieve the sales either the assessee should not have the sufficient stocks in their possession or there must be defects in the stock registers/stocks. Once there is no defect in the purchases and sales and the same are matching with inflow and the outflow of stock, there is no reason to disbelieve the sales. The assessing officer accepted the sales and the stocks. He has not disturbed the closing stock which has direct nexus with the sales. The movement of stock is directly linked to the purchase and the sales. Audit report u/s 44AB, the financial statements furnished in paper book clearly shows the reduction of stock position and matching with the sales which goes to say that the cash generated represent the sales. The assessee has furnished the trading account, P&L account in page No. 7 of paper book and we observe that the reduction of stock is matching with the corresponding sales and the assessee has not declared the exorbitant profits. Though certain suspicious features were noticed by the AO as well as the DDIT (Inv.), both the authorities did not find any defects in the books of accounts and trading account, P&L account and the financial statements and failed to disprove the condition of the assessee. Suspicion however strong it may be, it should not be decided against the assessee without disproving the sales with tangible evidence.

7.1. In the case of CIT v. Associated Transport (P.) Ltd. [1996] 84 Taxman 146/[1995] 212 ITR 417 (Cal). The Tribunal found that the assessee had sufficient cash in hand in the books of account of the assessee, therefore, held that there was no reason to treat this amount as income from undisclosed sources and it was not a fit case for treating the said amount as concealed income of the assessee. The revenue moved to Calcutta High Court against the order of the tribunal and the Hon'ble High Court has confirmed the order of the Tribunal while deleting the penalty, Hon'ble Calcutta high court held as under:

"8. The Tribunal was of the view that the assessee had sufficient cash in hand. In the books of account of the assessee, cash balance was usually more than Rs. 81,000. There is no reason to treat this amount as income from undisclosed sources. It is not a fit case for treating the amount of Rs. 81,000 as concealed income of the assessee and consequently imposition of penalty was also not justified in this case."

In the case of Lalchand Bhagat Ambica Ram v. CIT [1959] 37 ITR 288 (SC), the Hon'ble Apex Court decided the matter in favour of assessee of the ground that it was clear on the record that the assessee maintained the books of accounts according to the mercantile system and there was sufficient cash balance in its cash books and the books of account of the assessee were not challenged by the Assessing officer. If the entries in the

books of accounts are genuine and the balance in cash is matching with the books, it can be said that the assessee has explained the nature and source of such deposit.'

19. In the present case, the department has not rejected the books of accounts of the Assessee accepted in VAT. The regular books of accounts were maintained in the normal course of business in which no flaw, fallacy or deficiency was pointed out by the AO. It is well settled law that once the assessing officer accepts the books of accounts and the entries in the books of accounts are matched, there is no case for making the addition as unexplained. In the assessee case of R S Diamonds India (P.) Ltd. v. ACIT [2022] 145 taxmann.com 545/[2023] 198 ITD 344 (Mum. - Trib.) the Income-tax Tribunal Bench at Mumbai has held as under:-

"4. I have heard the parties and perused the record. The facts that the deposit made into the bank account is from out of the books of accounts and the said deposits have been duly recorded in the books of account are not disputed. It is the submission of the assessee that it had received advance money from walk in customers for sale of jewellery over the counter and the amount so received was duly recorded in the books of account. The said amount alongwith other cash balance available with the assessee was deposited into the bank account after announcement of demonetization by the Government of India. He also submitted that the assessee has raised sale bills against the said advances in the name of respective customers. Since the transaction was less than Rs. 2.00 lakhs, it was stated that the assessee did not collect complete details of the customers. Thus, it is seen that the advance amount collected from customers, the sales bill raised against them etc., have been duly recorded in the books of account. The impugned deposits have been made from cash balance available with books of account. I also notice that the Assessing Officer has not rejected the books of account. When cash deposits have been made from the cash balance available in the books of account, in my view, there is no question of treating the said deposits as unexplained cash deposit as opined by the Assessing Officer.

5. The Ld A.R relied on certain case laws which are relevant to the issue under consideration. In the case of Lakshmi Rice Mills (1974) 97 ITR 258 (Patna), it has been held that, when books of account of the assessee were 3 R. S. Diamonds India Private Limited accepted by the revenue as genuine and cash balance shown therein was sufficient to cover high denomination notes held by the assessee, then the assessee was not required to prove source of receipt of said high denomination notes which were legal tender at that time. In the case of M/s. Hirapanna Jewellers (ITA No. 253/Viz/2020 dated 12-5-2021), it was held that when the cash receipts represented the sales which has been duly offered for taxation,

there is no scope for making any addition under section 68 of the Act in respect of deposits made into the bank account.

6. I notice that the decision rendered in both the above said cases support the case of the assessee. Accordingly, in the facts and circumstances of the case, I am of the view that the addition of Rs. 45 lakhs made in the hands of the assessee is not justified, since the said deposits have been made from the cash balance available in the books of account. Accordingly, I set aside the order passed by learned CIT(A) on this issue and direct the Assessing Officer to delete the addition of Rs. 45 lakhs."

Further, in the case of Lakshmi Rice Mills v. CIT [1974] 97 ITR 258 Hon'ble Patna High court held as under: "It is, in my view, a fundamental principle governing the taxation of any undisclosed income or secreted profits that the income or the profits as such must find sufficient explanation at the hands of the assessee. If the balance at hand on the relevant date is sufficient to cover the value of the high denomination notes subsequently demonetised and even more, in the absence of any finding that the books of account of the assessee were not genuine, the source of income is well disclosed and it cannot amount to any secreted profits within the meaning of the law." Thus, considering the above ratio, when the Assessee's books of account were not rejected, the Lower authorities ought not to have made additions.

..... 22. In the case in hand the reason for disbelieving the cash deposit is that the assessee has been deposited below Rs. 2 lakh in every transactions that lead to the conclusion of the Assessing Officer that the same has been done to avoid the application of provision of section 285BA read with Rule 114E of the Act. The said observation made by the Assessing Officer without any material in his hand. There is no prohibition under law to make sale transaction below Rs. 2 lakhs as such the assessee had at liberty to manage his own affairs. From the action of the assessee in raising the sales bill below Rs. 2 lakhs the Assessing Officer cannot interpret as the sale are bogus only to give color to non-genuine transaction as genuine transaction. The evidence brought on record by the Assessing Officer are not enough to hold that sales were not genuine. More so, the other wing of the Govt has already accepted the sale transaction under VAT, hence, the Assessing Officer is precluded from making contrary findings on the issue when the sales are not doubted. The other contention of the ld DR is that the assessee has not maintaining stock register properly and date wise stock position are not given. The Assessing Officer made the said observation without rejecting the books of account form which true profit and loss accounts could be ascertained and there is no quarrel on this issue. The lower authorities cannot place reliance on the circumstantial evidence which is only conjectures and surmises and the said approach of the ldCIT(A) is devoid of merit it deserves to be rejected.

Further, the income of the assessee has to be computed by the Assessing Officer on the basis of available material on record and it is very important to have a direct evidence to make an addition rather than circumstantial evidence. When the assessee gives any reply or submission or any documents to the Assessing Officer, it is duty of the Assessing Officer to examine the same in the light of the available evidence. In the present case the Assessing Officer and the IdCIT(A) have concluded the findings on the basis of conjectures and surmises. The Assessing Officer has to establish the link between the evidence collected by him and the addition to be made. The entire case has to be dependent on the Rule of evidence, the assessee in this case explained the source of bank deposits are from cash sales. The Assessing Officer proceeded to disbelieve the explanation of the assessee on the presumption basis without bringing the corroborative material on record. The Assessing Officer is required to act fairly as reasonable person and not arbitrarily capriciously. The assessment should have been made based on the adequate material and it should stand on its own leg. The Assessing Officer without examining any parties to whom the goods are sold by the assessee, came to conclusion that the sales are not genuine, without even rejecting the books of account which is in our opinion is erroneous.

23. In view of the above discussion we are of the considered opinion that the IdCIT(A) has committed error in upholding the addition made by the AO u/s 68 of the Act. Accordingly, we allow the grounds of appeal of the assessee.”

In light of the above findings and judicial decisions, it is hereby held that the cash deposits made by the Appellant are duly explained out of the sale proceeds and I, direct the Ld. AO to kindly delete the addition of Rs. 8,30,51,490/-.

Further, the appellant has raised the ground that he was not given an adequate opportunity to present the facts before the Ld. A.O. However, adequate opportunity has been provided to the appellant during the course of these proceedings. The Grounds of appeal 1 to 6 are hereby allowed.”

7. As could be seen from the order of the Ld. CIT(A), the Ld. CIT(A) allowed the Appeal of the Assessee after going into the merits of the case in detail and found that the Assessee had disclosed all the purchases in VAT return for the quarter ending September 2016, which was filed on

27/10/2016, much before the announcement of demonization by the Government of India on 08/11/2016 and accordingly held that purchases made in the month of 2016 are genuine. Further observed that the Assessee has maintained proper stock register and on verification of the same, Ld. CIT(A) observed that more than 50% of cash sale made in the month of 2016 are out of opening stock for the month of 2016 i.e. purchases made before the month of 2016. Further it has been observed that major reason behind increase of cash sale by 1349% from F.Y 2015-16 to 2017-18 was due to introduction of trading of loose diamonds during that time and also accepted the reason given by the Assessee for increase of marginal gross profit and net profit ratios comparing to the preceding year. Further, the Ld. CIT(A) on verification of bank statements observed that, as per the books of accounts, the Assessee was holding on to huge cash representing sales of Rs.8,39,36,867/- at the end of Oct, 2016 and had deposited only Rs.1,50,000/- upto 04.11.2016 i.e. due to no much time available to the Assessee due to Diwali rush and was kept in own locker. Further, the sales were duly recorded in the books of accounts of the Assessee and no flaw in the books of account has been found by the A.O. and also no infirmities have been found in the cash book of the Assessee. The Ld. CIT(A) has also relied on settled judicial precedents and held that the

cash deposits made by the Assessee was out of sale proceeds. Thus, in the absence of any contrary material placed before us to contradict the findings of the Ld. CIT(A), we find no option but to affirm the findings and the conclusions of the Ld. CIT(A). Finding no merits in the grounds of Appeal of the Revenue, the Appeal of the Revenue is dismissed.

Order pronounced in the open court on 30th October, 2025

Sd/-

**(AVDHESH KUMAR MISHRA)
ACCOUNTANT MEMBER**

Date:- 30.10.2025

R.N, Sr.P.S*

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

Sd/-

**(YOGESH KUMAR U.S.)
JUDICIAL MEMBER**

ASSISTANT REGISTRAR
ITAT, NEW DELHI

