

**IN THE INCOME TAX APPELLATE TRIBUNAL
“C” BENCH, AHMEDABAD**

**BEFORE DR. BRR KUMAR, VICE PRESIDENT &
SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER**

I.T.A. No.429/Ahd/2024
(Assessment Year: 2017-18)

Income Tax Officer, Ward-1(1)(1), Ahmedabad	Vs.	Ankit Gold Ltd., 3, Somnath Complex, Opp. Ratan Chambers, Shethnipole, Ahmedabad-380001
[PAN No.AACCR2284G]		
(Appellant)	..	(Respondent)

Appellant by :	Shri Kalpesh Rupavatia, Sr. DR
Respondent by:	Shri Tushar Hemani, Sr. Adv. & Shri Parimalsinh B. Parmar, AR

Date of Hearing	30.04.2025
Date of Pronouncement	23.06.2025

O R D E R

PER SIDDHARTHA NAUTIYAL - JUDICIAL MEMBER:

This appeal has been filed by the Department against the order passed by the Ld. Commissioner of Income Tax (Appeal), (in short “Ld. CIT(A)”), National Faceless Appeal Centre (in short “NFAC”), Delhi vide order dated 12.01.2024 passed for A.Y. 2017-18.

2. The Department has raised the following grounds of appeal:

“1. Whether the CIT(A) has justified in law and on facts in deleting addition of Rs.3,02,51,598/- made u/s. 68 of the I.T. Act on account of unexplained cash deposited in Specified Banking Notes (SBNs) during the period of demonetizations?

2. The appellant craves leave to amend or alter any ground or add a new ground, which may be necessary.

3. It is, therefore, prayed that the order Ld. CIT(A) may be set aside and that of the Assessing Officer be restored.”

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3. The brief facts of the case are that the assessee is engaged in the business of manufacturing, retail, and wholesale of gold jewellery. During the assessment proceedings, the Assessing Officer noted that during the demonetization period, from 09.11.2016 to 30.12.2016, the assessee deposited a sum of Rs. 3,02,62,000/- in cash, which as per the assessee had come from cash sales duly recorded in the books of account. The assessee submitted that the sales were supported by proper documentation, including audited books, purchase and stock registers, cash and bank books, bills, and vouchers. However, the Assessing Officer was not satisfied with the explanation and treated the cash deposits as unexplained income under section 68 of the Act. The AO observed several discrepancies and inconsistencies in the assessee's submissions. Firstly, the sales invoices did not contain complete names, addresses, or PANs of customers, and many sales were shown in cash in amounts just below Rs. 2 lakhs, which as per the AO was a deliberate attempt to avoid reporting requirements. Secondly, the assessee failed to provide jewellery-wise stock details for the crucial months of October, November, and December 2016. The Assessing Officer also noted that although the assessee had reported a surge in jewellery manufacturing during this period, no labour charges were reflected in the cash book, which raised doubts about the veracity of manufacturing activity. Further, the AO pointed out inconsistencies in the monthly production and consumption data of gold ornaments, along with a significant fall in electricity and gas charges despite the alleged increase in manufacturing and sales. The assessee had also made substantial purchases of gold ornaments in September and

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October 2016, and most payments were made to one of the suppliers, M. S. Jewellers, which were made by the assessee immediately after the demonetized currency was deposited. Further, notice issued to M.S. Jewellers under section 133(6) of the Act was also returned with the remark “left” by the Postal Department, casting further doubt on the genuineness of transactions. The AO also took note of the contrast between cash deposits of Rs. 3.02 crore during the demonetization period in the current year as against only Rs. 1.3 lakh in the corresponding period of the preceding year. He also pointed to a massive jump in closing cash balance from Rs. 72,536/- in October 2015 to Rs. 2.57 crore in October 2016. Based on these findings, the AO held that the assessee had inflated cash sales to justify the cash on hand and, thereby, the large deposits during the demonetization window. Accordingly, the Assessing Officer invoked the principle of human probability and the preponderance of evidence to assess the plausibility of the assessee’s explanation. Consequently, the AO rejected the assessee’s books of account under section 145 of the Act, deeming the reported sales figures as being manipulated and unreliable. The Assessing Officer proceeded to treat the entire cash deposit during the demonetization period as unexplained cash credit under section 68 of the Act. Thus, an addition of Rs. 3,02,62,000/- was made to the assessee’s income, by holding that the cash deposits represented unexplained income masked as fabricated sales.

4. In appeal before CIT(Appeals), in response to the allegations made by the Assessing Officer, the assessee rebutted each point by offering its

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clarification. Regarding the claim that the assessee failed to furnish names, addresses, and PANs of customers, the assessee submitted that under the law, such details are not required for sales below Rs. 2 lakhs, which covered the majority of their transactions. Reliance was placed on judicial precedents, including the Ahmedabad ITAT decision in *Nitisha Silk Mills Pvt. Ltd.* and the Bombay High Court ruling in *R.B. Jessaram Fatehchand v. ACIT*, to substantiate that the absence of these customer details does not invalidate the sales. In response to the allegation that sales ranged between Rs. 50,000/- and Rs. 1,99,000/- which indicated manipulation, the assessee submitted that there is no evidence to show that the assessee intentionally split invoices or structured sales to avoid reporting thresholds. Regarding the lack of jewellery-wise stock details for the period October to December 2016, the assessee submitted that it had adequate inventory to meet the sales demand and that sales were made from its existing stock. The mere absence of item-wise details did not imply that sales were fictitious, particularly when purchases and stock positions were duly supported by records. On the issue of increased jewellery production and the alleged absence of labour charges during the festive months, the assessee submitted that it maintains high stock levels in anticipation of unpredictable demand, especially around Diwali. It also submitted that labour charges amounting to Rs. 11.25 lakhs had in fact been recorded in the books, and a delay in payment could not be construed as evidence of fabrication. With regard to the allegation of inconsistencies in month-wise production and consumption data, the assessee submitted that no specific discrepancy had been identified by the AO and stated that the records were

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verified by an independent Auditor. In response to the allegation concerning a reduction in electricity and gas charges despite increased sales and manufacturing, the assessee submitted that these overheads were negligible relative to turnover and that such variations cannot justify discarding sales figures, particularly when higher income was offered for tax. In response to AO's reference to significant purchases of gold ornaments in September and October, the assessee submitted that this was necessitated by the need to build up stock before the festival season, which is consistent with standard business practice. Further, with regard to the query regarding the payments to M.S. Jewellers following cash deposits during the demonetization period, the assessee submitted that the purchases were made from this supplier only in the month of November and that the sales which were made by the assessee during the demonetization period were not from these purchases. The assessee submitted that sales arising from such purchases had not been questioned, and the mere fact that a notice to M.S. Jewellers returned undelivered could not be a valid ground for making an addition in the assessee's case. Finally, the assessee submitted the comparison of cash deposits in the demonetization period with those in the prior year was immaterial, as such fluctuations are normal in the jewellery business, which is subject to seasonal and demand-driven volatility.

5. In view of the submissions of the assessee, CIT(Appeals) allowed the appeal of the assessee and held that the addition made under section 68 of the Act. CIT(Appeals) held that the assessee had maintained proper

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books of accounts, including stock and purchase registers, and had substantiated the cash sales with sufficient documentation and audited VAT returns. CIT(Appeals) accepted the explanation of the assessee that the cash sales were made from existing stock, no material defect was found in the stock records, and noted that sales were consistent with normal business trends during the festive season. Further, the rejection of books by the AO was held by CIT(Appeals) to be unwarranted, especially since net profit was accepted and no discrepancy was found in purchases or stock of the assessee. CIT(Appeals) relied on judicial precedents which have held that once books are rejected, the AO cannot separately invoke section 68 to treat declared sales as unexplained income. Accordingly, the appeal of the assessee was allowed and the addition of ₹3,02,51,598/- under section 68 was directed to be deleted. While passing the order CIT(Appeals) made the following observations:

“5.1.2.1 I have perused the arguments of the Assessing officer and the submissions made before me, by the appellant. I have also perused the paper book containing the copy of audited annual account, copy of VAT annual return, month wise stock details, copy of stock register, copy of purchase register, copy of purchase bills, party wise purchase statement and the ledger confirmation from M.S. Jewellers. I have also considered the compilation of case laws filed by the appellant. It is seen that the appellant has maintained stock register and the quantitative details of product sold. It is also seen that the sales have been advanced out of the available stock and the purchase which have been recorded in the books of accounts are duly audited. Coming to the defect pointed out by the Assessing officer that the appellant failed to furnish Jewellery wise stock details, I find merit in the arguments of the appellant that it has been historically maintaining details of stock in quantity of gold and not article wise. The appellant is required to establish that it had sufficient inventory available prior to sale, and in my view the appellant has discharged this onus. With regard to the Assessing officer's arguments that the labour charges are not commensurate with increased manufacturing activity during the period, the appellant's explanation with regard to delayed payment of certain labour charges cannot be summarily dismissed without advancing any counter evidence. There is no specific finding with regard to the non-genuineness of such charges and hence the appellant's explanation with regard to it being in the natural course of business has to be accepted. The AO has

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further contended that there are substantial purchases in the month of September and October. The appellant has explained that it is a part of general business practice as this period leads up to the festival and marriage seasons. Further it has been appreciated that the sales are out of balance stock available. Also on perusal of the VAT return it is seen that the said stock has been accepted and certified by the VAT auditor. With regard to the AO's argument that most payments are made to M.S. Jewellers on account of purchases and the notice u/s 133(6) issued to the entity returned as "left", the appellant submits that the purchases were made from such party in the month of November and there was no prior purchase. The appellant further submitted the ledger confirmation of the said party. There has been no further attempts by the Assessing officer to investigate the matter further after the appellant had discharged its onus by submitting the confirmation. Without prejudice to the same, there is substance in the argument of the appellant that the sales made in months of September and October were not out of purchases from the said party, and the subsequent sales have anyways been accepted during the assessment proceedings. On the sales side, the AO has doubted the cash sale as the bills do not contain the complete name, address and PAN of the customers and also majority of the sales are below 2 lacs to deliberately escape producing the requisite details. The appellant on the other hand has taken recourse to the plethora of judgements on this issue. Specific reference has been drawn to the Jurisdictional ITAT decision in the case of Nitisha Silk Mills Pvt. Ltd. Vs. ITO (ITA No. 896/Ahd/2011). In view of the various judicial pronouncement on this issue (as per the appellant's submission and compilation of case laws) mere non maintenance and/or non-submission of such data cannot be held against the appellant.

Finally, coming to the compelling argument advanced by the Assessing officer with regard to comparative patterns of cash sales, cash deposits and closing balance of cash in hand with earlier years.

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5.1.2.2 It is also seen that no specific defect has been found out in the stock details nor has it been changed/alterd by the Assessing officer. The appellant has also placed on record that the VAT returns have been audited, filed and accepted by the concerned department. There is nothing on record to show that either the purchases or the sales have been proven to be bogus. The Assessing officer also accepted the net profit as declared and it is seen that even in the subsequent years the books of account and the results thereof have been accepted by the Assessing officer. It has been held by the Hon'ble ITAT Vishakhapatnam in the case of M/s. Hira Panna Jeweller in ITA No. 253/Viz/2020 that "once there is no defect in the purchase and sales and the same are matching with in flow and outflow of stock, there is no reason to disbelieve the same." The Jurisdictional ITAT Ahmedabad in the case of Chirag Nareshbhai Soni Vs. ITO in ITA No. 19/Ahd/2022 has specifically visited the issue and observed as follows: "generally the instances for the rejection of the books of account include when entries in respect of certain transactions are all together omitted or incorrect or where the accounts show an abnormally low rate of profit or where there is an inherent lacuna in the system of accounting." In view of the above, and the various judicial pronouncements quoted by the appellant in his submission, I find that the action of the

Assessing officer in rejecting the books of account and going on to accept the NP, is not correct.

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5.1.3 In summary, in view of the judicial precedents, and the entirety of the facts and circumstances of the case, I hold that the addition u/s 68 is not justified. Accordingly, the Assessing officer is directed to delete the addition of Rs.3,02,51,598/- u/s 68 of the IT Act, 1961. Ground no.1 is allowed.”

6. The Department is in appeal before us against the aforesaid order passed by CIT(Appeals) deleting the additions made by the Assessing Officer. Before us, the Ld. DR placed reliance on the observations made by the Assessing Officer in the assessment order. In response, the Counsel for the assessee primarily reiterated the arguments taken before CIT(Appeals). We have heard the rival contentions and perused the material on record. In the present case, the primary issue for consideration is whether an addition under section 68 of the Act can be validly made in respect of cash sales that are duly recorded in the books of accounts and offered to tax by the assessee. The assessee is engaged in the business of manufacturing, retail, and wholesale of gold jewellery. During the Assessment Year 2017-18, the assessee made cash sales of gold ornaments amounting to ₹3,02,51,598/-, which formed part of the total turnover. These transactions were recorded in the books of accounts, and the profit element arising from them was duly offered for taxation, which is not in dispute. The Assessing Officer framed the assessment under section 143(3) and treated the said cash sales as non-genuine. The Assessing Officer rejected the books of accounts under section 145(3) of the Act and made an addition under section 68 of the Act, alleging that the sales were unsubstantiated and lacking in verifiable details. However, in appeal, the

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Commissioner (Appeals) found the action of the AO to be unjustified both in fact and in law. The Commissioner (Appeals), in our considered view has rightly noted that the amount in question was already recorded as sales in the books and that such sales were supported by supporting documentation. Once the sales realization has been duly taxed, making an addition of the same amount under section 68 of the Act would result in double taxation, which is impermissible under law. This view is well supported by judicial precedents, including *DCIT v. Damodardas Mohanlal Chokshi (ITA 554/Ahd/2023)*, and *ACIT v. Radhika Jewellers (ITA 201/Ahd/2023)* among others. Moreover, on a perusal of the case records, we note that the genuineness of the sales was supported by various documentary evidence submitted by the assessee, including audited financial statements, VAT returns, month-wise stock details, stock and purchase registers, purchase bills, sales register, cash book, bank statements, and break-up of cash sales. No specific defect was pointed out by the AO in the stock records or purchases corresponding to the sales. The cash deposits were linked to these documented sales, and there was no evidence brought on record by the AO to demonstrate otherwise. The CIT(A) also observed that the AO failed to substantiate the rejection of books under section 145(3) with any material defect or inconsistency in the accounting records. It was further held by CIT(Appeals) that the purchases were not doubted, the stock register was duly maintained, and the VAT returns were audited and accepted by the relevant authorities. Therefore, once the AO accepted the sales as genuine for the purpose of determining profit, he could not invoke section 68 of the Act for taxing the

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same amount again as unexplained cash credit. Thus, in light of the above facts and consistent with numerous judicial pronouncements, in our considered view the Commissioner (Appeals) has correctly held that the addition under section 68 of the Act was uncalled for and directed deletion of the same. Therefore, the deletion of the addition of ₹3,02,51,598/- made under section 68 of the Act is justified and deserves to be upheld.

7. In the result, the appeal of the Department is dismissed.

This Order pronounced in Open Court on

23/06/2025

Sd/-
(DR. BRR KUMAR)
VICE PRESIDENT

Ahmedabad; Dated 23/06/2025

TANMAY, Sr. PS

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

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt.Registrar)
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad