

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "G", NEWDELHI**

**BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT
and
SHRI S. RIFAUR RAHMAN, ACCOUNTANT MEMBER**

**ITANo.5882/DEL/2025
(Assessment Year : 2017-18)**

Rakesh Kumar,
97, Rishav Vihar,
Delhi – 110 092.

vs.

ITO, Ward 58 (6),
New Delhi.

(PAN: CPMPK8337K)

(APPELLANT)

(RESPONDENT)

ASSESSEE BY : Shri Sumit Chawla, Advocate
REVENUE BY : Shri Mahesh Gupta, Sr. DR

Date of Hearing : 12.03.2026
Date of Order : 04.06.2026

ORDER

PER S. RIFAUR RAHMAN, AM :

1. This appeal is filed by the assessee against the order of the Ld. Commissioner of Income-tax (Appeals)-3, Noida[hereinafter referred to as 'ld. CIT(A)]dated 30.07.2025 for the Assessment Year 2017-18.
2. Brief facts of the case are, assessee filed his return of income for Assessment Year 2017-18 on 21.03.2018 declaring total income of Rs.8,47,920/-. Subsequently, assessee filed revised return of income on 06.06.2018

declaring total income of Rs.8,47,920/-. The case was selected for limited scrutiny under CASS. The notices under section 143(2) and 142(1) of the Income-tax Act, 1961 (for short 'the Act') were issued and served on the assessee, the reason for limited scrutiny is cash deposited during the year. In response, assessee filed a letter dated 02.12.2019 through ITBA portal.

3. The assessee is running the business of jewellery in the name and style of M/s. R.V. Gold Hallmark. The Assessing Officer observed that assessee has deposited Rs.5,60,29,500/- during demonetization period. The Assessing Officer observed from the records that assessee has deposited cash of Rs.3,71,000/- during pre-demonetization period, during demonetization period Rs.5,60,29,500/- and post demonetization Rs.3,35,500/-. The Assessing Officer observed from the submissions made by the assessee in response to show-cause notice dated 21.12.2019 that assessee has deposited huge cash during demonetization period for which assessee has claimed to have received as advance from various customers before 08.11.2016. In order to verify the correctness of the statement, summons u/s 131 of the Act were issued to 8 parties to test check the assessee's claim but he noticed that none of them have appeared to record statement. Accordingly, assessee was showcased as to why the above cash deposit should not be treated as undisclosed income. Since none of the parties have responded to the notice

u/s 131 and also assessee was asked whether VAT return was filed or not to which assessee submitted that it has not filed any VAT return for the FY 2015-16 and started filing VAT return from FY 2017-18 only. Based on the above observations, the Assessing Officer observed that assessee has never encountered sale of gold/jewellery/bullion either in the past or after demonetization period and had also not filed VAT returns, it is practically impossible for him to adjudicate whether assessee had actually carried on trading business. The onus is on the assessee to establish his business activities, to which assessee has grossly failed. With the above observations, he proceeded to make the addition of Rs.5,60,29,500/- u/s 69A of the Act.

4. Aggrieved with the above order, assessee preferred an appeal before the Id. CIT (A)-3, Noida. After considering the detailed submissions of the assessee, Id. CIT (A) dismissed the appeal preferred by the assessee with the following observations:-

“4.1 Grounds of Appeal Nos. 1 to 6: In these grounds of appeal, the AR has contested the addition made by the AO on account of cash deposits in the bank. The case of the assessee was selected for scrutiny for the reasons that the cash was deposited in the bank accounts during the year under consideration. The AO has reported that the assessee has filed ITR declaring total income of Rs. 2,99,000/- for AY 2016-17 and Rs. 8,47,920/- for AY 2017-18 whereas, the total cash deposited in the Bank of India Account, Ram Vihar Branch amounted to Rs. 5,60,29,500/-. The said cash was deposited during the demonetization period. The nature of business disclosed by the assessee is that he is running business of jewellery in the name of M/s. RV Gold Hallmark as his proprietorship concern. The AO has further reported that the cash deposited in the one current and two saving accounts of the assessee in pre-demonetization period was Rs. 6,90,600/- and the cash deposited during the post demonetization period was Rs. 4,15,500/- whereas, the cash deposited during the demonetization period of Rs. 5,60,93,500/-

. During the assessment proceedings, the assessee explained before the AO that he received cash as advance from various customers before 08.11.2016 and deposited the same into the bank account during the demonetization period. Further, as per assessee, the amount deposited in bank was utilized for purchase of gold/bullion. After the purchase of gold/bullion, the same is sold to the customers from whom the advances were received. The AO has further stated the assessee was directed to submit the list of persons along with the addresses from whom huge cash advances were received. The AO further issued summons u/s 131 to eight such customers on test check basis but none of them appeared before the AO. As per AO, all the summons were returned back undelivered with remarks "left" and "incomplete address". The assessee further submitted that no VAT return has been filed by the assessee for the year under consideration. The AO further reported that the assessee has never entered into the sale of gold/bullion either in the past or after the demonetization period. The AO accordingly treated the cash deposited during the demonetization period as unexplained cash of the assessee u/s 69A of the Income Tax Act, 1961.

During the appellate proceedings, the assessee reiterated the submissions filed before the AO. The appellant further stated that the assessee had purchased gold from M/s SS Bullion and the confirmation statement of the same was submitted before the AO. The appellant has acknowledged that the compliance with the VAT laws could not be made by the assessee. Further, the appellant submitted that audit report, balance sheet, cashbook and other financials of the assessee confirm the genuineness of the transactions made by the assessee. The appellant further submitted that sufficient opportunity was not given by the AO to the persons who were summoned to explain the source of cash given to the assessee.

The contentions of the appellant have been gone through. The facts of the case need to be seen from the business activity of the assessee. The AO has reported that the assessee has not entered into the sale and purchase of gold prior to the demonetization period. For a regular jeweller, who is into this business for long, sufficient stock of gold would be available if a buyer comes to buy the gold/bullion etc. The case of the assessee is peculiar for the reason that the assessee is maintaining no stock to provide gold to its customers. It is also surprising that the alleged cash received by the assessee from its so called customers was deposited in the bank account only during the demonetization period. In case, the business of the assessee was genuine, the cash deposit would have been evenly spread out over the complete year. It is further surprising that the assessee did not file the VAT returns for the year under consideration to give any sense of credibility to the transactions under question. The AO also made enquiry with the persons from whom the cash had been received but the summons were returned back with comments like "left" and "incomplete address". The whole modus operandi of the assessee appears to be to deposit the cash in the current account and then give it a color of normal business activity to escape the clutches of law. A genuine business activity is marked by regular trading,

availability of stock, confirmations from the buyers and sellers and filing of VAT returns etc. In the case of the assessee, the trading is one time, no stock is there, confirmation is only from the seller of gold i.e. M/s. SS Bullion and VAT returns have not been filed. The appellant has contended that most of the buyers of the gold had sale bills less than Rs. 2 lacs and hence, proper addresses were not maintained. The issue to be looked into here is not the buyers of gold with bills less than Rs. 2 lac but the alleged persons from whom the cash advances were received and deposited in the bank account of the assessee. The AO investigated the said fact wherein, summons were issued to such persons but all remained un-complied. In above circumstances, the following evidences weigh heavily against the assessee:

- a. No regular business activity.
- b. No stock
- c. No details of buyers of gold
- d. No VAT Returns
- e. Absence of confirmations from the persons who had given advance in cash to the assessee

In above circumstances, the modus operandi utilized by the assessee is just a colorable device to cover the unaccounted cash transactions in the garb of business activity, The said business activity could never be proved leading the AO to make addition of the cash deposit u/s 69A of the Income Tax Act, 1961.”

5. Aggrieved with the above order, assessee is in appeal before us raising following grounds of appeal :-

“1. That the learned Commissioner of Income Tax (Appeals)-3, Noida has erred both in law and, on facts in upholding the determination of income made by the learned Income Tax Officer, Ward-58(6), Delhi of the appellant at Rs.5,68,77,420/- in an order of assessment dated 26.12.2019 u/s 143(3) of the Act.

2. That the learned Commissioner of Income Tax (Appeals)-3, Noida, has erred both in law and on facts in upholding an addition made of Rs.5,60,93,500/- representing alleged unexplained cash deposits in the bank account of the appellant during the period of demonetization and brought to tax under section 69A of the Act read with section 115BBE of the Act

2.1 That learned Commissioner of Income Tax (Appeals)-3, Noida failed to appreciate that provision of 69A of the Act not applicable to the facts of the appellant

2.2 That the learned Commissioner of Income Tax (Appeals) has failed to appreciate that once the audited books of accounts stood accepted wherein it is a matter of record that cash deposited represented advance from customer towards sale of bullion by the appellant then both logically and legally cash deposit could not be added by invocation of provisions of u/s 69A of the Act.

2.3 That the learned Commissioner of Income Tax (Appeals) has failed to appreciate that once the purchases made and declared in the audited books of accounts are duly accepted then no subjective assumption and presumption could be made a basis to assume, allege and conclude that cash deposited in bank account out of advance received from customers against sale of bullion utilized for purchases of gold / bullion were unexplained cash deposit u/s 69A of the Act.

2.4 That the learned Commissioner of Income Tax (Appeals) had failed to appreciate that appellant purchased gold and bullion from SS Bullions a registered dealer having VAT no.7416988531 having registered address 4931 to 4934, 2nd Floor, Gali No. 40, Regharpura Karol Bagh. Delhi - 110005 through RTGS Mode, purchase confirmation not only submitted by appellant but also the learned Assessing officer obtained confirmation directly from SS Bullion.

3 That without prejudice to the above and in the alternative, even otherwise, the learned Commissioner of Income Tax (Appeals) has erred both in law and on facts in holding that amount deposited in the bank by the appellant is taxable as income under section 69A of the Act and thereafter computed the demand in accordance with the rates specified in section 115BBE of the Act as amended by Taxation Laws (Second Amendment) Act, 2016.

4 That the learned Commissioner of Income Tax (Appeals) has also erred both in law and on facts in upholding the levy of interest of Rs.34,63,936/- u/s 234A of the Act, interest of Rs.1,42,88,736/- u/s 234B of the Act and interest of Rs.18/- u/s 234C of the Act which is not leviable on the facts of the appellant.

5 That learned Commissioner of Income Tax (Appeals)-3, Noida failed to appreciate that even otherwise order of assessment is without jurisdiction

6. At the time of hearing, ld. AR of the assessee submitted that cash receipts bifurcation from 01.04.2016 to 08.11.2016 is as under :-

“Cash Receipts Bifurcation from 1st April to 8th November 2016

Total cash received between 31st Oct to 8 Nov 2016 from Individual person	5,32,41,800
OPENING CASH BALANCE	10,50,665
DIAMOND SALE	19,72,262
F-30 CASH RECEIPTS	2,22,975
F-41 CASH RECEIPTS	12,51,795
LESS : EXPENSES	- 10,98,084
 TOTAL	 <u>5,66,41,413</u>

7. He also filed sales register from 01.04.2016 to 08.11.2016. He further filed written submissions which read as under :-

“The assessee is dealing in business of hallmarking from 2014, having Bureau of Indian Standards (BIS) no. CRO/RHMS/R-110065 dated 26.12.2014; and having started the business of sale and purchase of bullion in November 2016. For the purchase of bullion assessee had received trade advances from various persons in cash before 8 Nov 2016 and the said trade advances were deposited in his bank account by assessee and the assessee purchase the gold during period of demonetization and had given delivery of gold bullion to various customers on his shop by purchasing gold and making payment to SS BULLION (purchaser) having VAT no. 07416988531 through banking mode of RTGS. The case has been selected for scrutiny and notice has been issued on various dates under section 142 (1) and under section 143 (3) of Income Tax Act and reply has been filed electronically. Aggrieved by the order of AO assessee has filed appeal before CIT where the Hon’ble CIT has erred in his order by not giving relevance to the fact that 8-11-2016 was exceptional because of the demonetization of old notes. Assessee has provided purchase confirmation from SS BULLION to AO to substantiate his genuineness. The AO passed the order against assessee ignoring the SS BULLION has confirmed to AO that purchases done during the FY were through him.

Thus, assessee erred with order of CIT has filed appeal before Hon’ble ITAT bench to provide him the opportunity to present his case. Here assessee prays that assessee is a Bonafide businessman dealing in sale and purchase of bullion.

Assessee prays that as the ITAT benches have given judgments in the case

of **Income Tax Officer Vs. Saliana Jewellery, Kashi Nath Saraf(P)Ltd Vs. ACIT, RS Diamonds India Pvt Ltd Vs. ACIT, Fine Gujranwala Jewellers vs ITO Ward 51(3), DCIT Vs. Manuvel Malabar, ACIT vs Hirapanna Jewellers, Income Tax Officer Vs. Sunita Gold and Diamonds Pvt Ltd.** Where it was observed that 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 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.

We here pray that we have previously complied with all the notices and queries by department in this case and further assure our compliance with the Hon'ble ITAT bench and hereby request the bench that we have provided all the necessary documents we hereby request you to kindly decide our case on merit and provide the necessary relief by closing these assessment proceedings in the interest of natural justice.

STATEMENT OF FACTS:

The assessee is dealing in business of hallmarking from 2014, having Bureau of Indian Standards (BIS) no. CRO/RHMS/R-110065 dated 26.12.2014. As the assessee wish to start bullion business also, so he obtained VAT no. 0767692541 also, but due to low personal funds with assessee. Assessee was not able to start the bullion business in 2014 and thus his VAT no was cancelled w.e.f. 19-12-2014. From 2014 to 2016 assessee has achieved a goodwill and trust of more than 1500 customers who transact with assessee annually in the market. In two years from his hallmarking business assessee has received much funds to start his gold bullion trading business. In 2016 during November starting assessee informed his customers that he has started his bullion business and November being a festival month assessee has received trade advances from many of his customers to purchase bullion and suddenly on 08/11/2016 our Hon'ble Prime Minister has announced demonetization. The assessee who has received trade advances days before 08/11/2016 in the old notes which have become void from 09-11-2016, the assessee deposited the trade advances received in his bank account and purchase bullion and give the bullion to his customers.

Thus, the deposits in the assessee account were trade advances from customers and not his personal funds and it is the business practice in bullion market that funds are first transferred to creditors and after five days assessee receive bullion from SS Bullion which were further given to debtors who have placed purchase orders with assessee. For the same reason assessee gives 10 days period to his customers to take bullion from assessee.

Due to market raids after demonetization from Income Tax department, assessee goodwill was affected and thus resulted in low sales in January to March quarter in FY-2016-17. Within few months GST registration was announced in 2017. Thus, assessee has obtained GST no, with his personal efforts and God's grace he has again able to achieve the market trust and customer base and have now reached turnover of upto Rs.100cr.

For the Hon'ble Bench perusal year wise turnover details are provided below:

S.NO.	ASSESSMENT YEAR	TURNOVER (IN Rs.)
1.	2015-16	13,50,619
2.	2016-17	15,63,200
3.	2017-18	5,72,08,861
4.	2018-19	22,45,415
5.	2019-20	22,21,681
6.	2020-21	31,29,370
7.	2021-22	30,40,27,370
8.	2022-23	97,65,78,691
9.	2023-24	56,43,62,398
10.	2024-25	84,83,44,25 8
11.	2025-26	85,01,50,973

Assessee being a genuine person has not fled away after raids and notices from Income Tax department and have also not changed his place of business from 2014 and also filling his Income Tax Return regularly. Assessee filed his ITR of assessment year 2017-2018 on 21-03-2018 declaring gross total income of Rs 9,98,513/- and Net Income of Rs 8,47,920/- after taking deductions under chapter VI of Income Tax Act. The case has been selected for scrutiny and notice has been issued on various dates under section 142 (1) and under section 143 (3) of Income Tax Act and reply has been filed electronically on 25.11.2019, 28.11.2019, 06.12.2019 and 25.12.2019 for above sections. The assessee has made audit report under section 44AB of income Tax Act where accounts are duly certified by chartered accountant declaring sales of Rs.572,08,861/- and having net profit of Rs.998513/- which is declared already in return of income and taxes are already paid on it at the time of filing of return of Income. The assessee has paid the taxes of Rs.97424/- on above profits at the time of filing return of income. The assessee has started the business of hallmarking from December 2014 and has started business of bullion in October 2016; he had taken the advances from various persons in cash before 8 NOV 2016 and purchase the gold during the period of demonetization and had given delivery of gold to various customers on his shop by purchasing gold and making payment to SS BULLION (purchaser) through banking mode of RTGS. It is matter of coincidence that the assessee has taken cash and demonetization had started. The assessee had to deposit such cash in his current account and purchase gold by depositing cash and

had purchased gold from SS BULLION who is whole seller of gold during period of demonetization by RTGS mode. It is the practice of bullion industry to give advance and take delivery of gold in 8-10 days. The assessee has also purchased gold in this way and given advances on various dates before having been get delivery after 8-10 days from purchaser. The fact of purchase of gold which is suppressed by Assessing Officer in his order through RTGS/NEFT mode which is duly verified by submitting confirmation statements and assessing officer has duly verified the purchases by summoning the owner of M/S SS BULLION regarding purchase of gold by banking mode. The whole assessment order never mentions about purchase confirmation given to AO by SS Bullion personally. The assessee has supplied copies of sale and purchase ledger, purchase bills with confirmation, copy of audit report, copy of cash ledger, bank statements and other ledgers bifurcating sales and purchase details on various dates as demanded by assessing officer in electronic mode. The assessee has cooperated in providing details in electronic form which the AO never mentions in its order. The assessee has made sales to various retail customers in cash which is all owed during that period as most of the sales bills are less than Rs 2 lakhs for which proper address and details are not taken as most of the persons have taken the delivery from shop itself. The officer has issued notice for calling list of persons to whom sale are made on 25/12/2019 and issued order on 26/12/2019 with time of only few hours and not given enough time to provide him the required details and pass order hurriedly without giving thought to details required and not giving sufficient opportunity to assessee to provide details. The assessee has done all income tax compliance like depositing advance tax, filing income tax return, preparing books of accounts as guided by his consultant at that time. He has taken all purchase against genuine VAT paid bills from S.S BULLION and paid him through RTGS mode which is also confirmed by AO. The assessee has also maintained all the sales records like sale bills and other invoices like expenses etc. which is duly verified by chartered accountant in his audit report. The audit report is filed electronically and copy of it also given to assessing officer. The assessee has given all the documents to the best of his ability from time to time as demanded by assessing officer electronically at income tax portal. Hence, it is wrong to assume that assessee has not established the genuineness of his transactions and has provided proper proof to establish his business activity. He has discharged his onus as to prove genuineness of his transactions through all authentic documents time to time. The assessee has given sufficient explanation to establish his business activity. The assessee has submitted audit report, balance sheet, cash book. Other financials, ITR FORM, profit and loss account and other submissions on 26-11-2019 in reply to notice u/s 143 (3) of Income Tax Act. On other occasions he has given copy of submissions, sale and purchase, monthly summary, purchase confirmation report and details of gold sale in November and gold sale during December on 28.11.2019, 02.12.2019, 03.12.2019 in reply to notice u/s 142 (1) of Income Tax Act. He has also submitted month wise sales details from 1st April 2016 to 31 March 2017 along with various submissions on 06.12.2019. Thus, assessee has given replies on various dates to establish his genuineness of transactions which assessing officer has failed to consider while

writing order and making additions which is against facts and law as applicable to this case.”

8. On the other hand, Id. DR of the Revenue relied on the detailed findings of the lower authorities and particularly paras 4.1 & 4.2 of the order of first appellate authority.
9. Considered the rival submissions and material placed on record. We observed from the record that the assessee had deposited huge cash during the demonetization period, the source of the cash was claimed to be out of advances received from the customers, who paid to the assessee for the jewellery and it was claimed that the assessee had sold the jewellery to the parties who had paid the advances before the announcement of demonetization. It was also claimed that the customers who had paid the advances are for the value of less than 2 lakhs, the limit for which there was no requirement for the assessee to maintain or collect any PAN details. It was also claimed that the assessee had purchased relevant gold from SS Bullion, who had supplied the same with the authentic invoices and assessee had settled for the same by making payments through proper banking channel. It was also claimed that the assessee had maintained proper books of account, which was duly audited, it also maintained proper stock register. From the above submissions and documents, the assessee had carried as per business.

10. From the above submissions, we observed that the assessee had claimed to have purchased from SS Bullion and sold the jewellery made out of the above purchased gold. However, we noticed that assessee had submitted the details of purchase of gold from SS Bullion, however, not able to substantiate the sales through the relevant VAT records. There is no doubt that the assessee had maintained cash book and cash memos for sale of jewellery. In our view, the assessee had claimed that he has received cash advances from the various customers, the details are produced before us, and list was also submitted but these were relating to receipt of cash from the customers based on the cash memos. May be the assessee might have received the cash from the various customers, but the assessee had brought on record the sales to the customers who had purchased the jewellery for less than 2 lakhs, which are exempted for collecting PAN details. In the books, the assessee had declared the purchases which was purchased from SS Bullion and paid to them thru RTGS. At the same time, the assessee had declared the relevant sales in his books but failed to bring on record the details of collection of VAT or relevant sales bills.
11. In this regard, we observed that the Assessing Officer had considered the ROI filed by the assessee and also considered the income declared by the assessee in the head 'income from business'. One hand Assessing Officer

accepts genuineness of the business income declared by the assessee and on the other hand, doubt the cash deposited by the assessee out of the same sales.

12. In our view, the assessee had declared the sales made out of cash memo as income from business and Assessing Officer had stated that the assessee had vitiated the provisions of VAT, and hence assessee is not carrying on any business. In our considered opinion, if at all, there is any violation of provisions of VAT, it is for the VAT authorities to look into the same and the Revenue herein need not be concerned about it for determination of total income of the assessee.
13. As far as income-tax is concerned, the assessee had declared the sales and declared income earned. The Assessing Officer had determined the total income and computed the demand u/s 156 considering the income declared by the assessee in ROI. It is not in dispute that assessee had offered Rs.9.92 lakhs as business income. The Assessing Officer also has assessed the same as business income only which is evident from the computation sheet attached with assessment order.
14. The assessee has already brought on record the source of cash deposits as under :-

“Cash Receipts Bifurcation from 1st April to 8th November 2016

Total cash received between 31st Oct to 8 Nov 2016 from Individual person	5,32,41,800
OPENING CASH BALANCE	10,50,665
DIAMOND SALE	19,72,262
F-30 CASH RECEIPTS	2,22,975
F-41 CASH RECEIPTS	12,51,795
LESS : EXPENSES	- 10,98,084
 TOTAL	 <u>5,66,41,413</u>

15. From the above cash flow statement, the assessee had already proved the source of cash and already declared in the books of account, which is already audited. Therefore, the Assessing Officer had already considered the income declared by the assessee from the business and the income was determined based on the above cash movement and stock movement. Therefore, the addition under section 69A is unsustainable. Hence, the addition made u/s 69A is accordingly deleted.
16. In the result, appeal filed by the assessee is allowed.

Order pronounced in the open court on this 4th day of June, 2026.

Sd/-
**(MAHAVIR SINGH)
VICE PRESIDENT**

sd/-
**(S. RIFAUR RAHMAN)
ACCOUNTANT MEMBER**

Dated : 04.06.2026

TS

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI