$~31, 32, 33 & 34

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ ITA 675/2025
\+ ITA 676/2025
\+ ITA 677/2025
\+ ITA 678/2025

PR. COMMISSIONER OF INCOME TAX -4 .....Appellant
Through: Mr. Gaurav Gupta, SSC with Mr. Shivendra Singh, JSC, Mr. Yojit Pareek, JSC and Mr. Surya Jindal, Advs.

versus

KROSS DIAMONDS PVT. LTD. .....Respondent
Through: Mr. M P.Rastogi, Ms. Kaushik, Mr. Ram Naresh, Mr. Deepak Malik and Mr. Shivam Malik, Advs.

CORAM:
HON'BLE MR. JUSTICE DINESH MEHTA
HON'BLE MR. JUSTICE VINOD KUMAR

O R D E R

% **04.05.2026**

1. All these appeals involve common facts and propose identical questions of law, for which we are deciding them by a common order. For the purpose of clarity and convenience, facts of ITA No. 675/2025 are however, being taken into consideration.

2. The respondent/assessee deals in diamonds, which he imports from various countries in accordance with the provision of Customs Act, 1962 and other relevant law. During the course of assessment proceedings, the Assessing Officer (AO) found that the assessee had issued 6,358 bills of cash sales (each being less than Rs.2 lacs in value), amounting to total of Rs.

97,12,70,670/-. This being the position, the AO was of the view that since the source of purchase was the cash received from these sales, the purchases amounting to Rs.97,13,70,670/-, (being the amount of cash sales) was not properly explained and made addition under Section 69C of the Income Tax Act, 1961 (*hereinafter referred to as 'the Act of 1961'*).

3. While passing the assessment order the AO clearly stated that he has no doubt so far as the genuineness of purchase is concerned and accepted the factum of purchase as such, but has taken recourse to Section 69 C of the Act of 1961 to disallow the expenses relating to such purchase, as according to him, the source of expenditure (being cash) not duly explained.

4. Against the assessment order so passed by the AO on 19.12.2016, the assessee preferred an appeal before the Commissioner of Income Tax (Appeals) (*hereinafter referred to as 'CIT(A)'*), which was allowed by the Appellate Authority vide its order dated 10.01.2017.

5. Against the order of the Appellant Authority, the Income Tax Department preferred an appeal before the Income Tax Appellate Tribunal (*hereinafter referred to as 'Tribunal'*), which was rejected by the Tribunal by its impugned order dated 18.12.2024.

6. While rejecting the appeal, the Tribunal has observed that all the purchases made by the assessee were made through proper banking channels and after paying applicable duties in accordance with provision of The Customs Act 1962 and other applicable rules. The Tribunal has also recorded that all the purchases were duly supported by bills/vouchers, import bills, bills of entry, airlines bills and custom documents etc. and such purchase cannot be disallowed. The Tribunal held that the AO has proceeded on mere assumption and conjuncture.

7. Having observed so, the Tribunal has also expressed its concern that when the AO had found the purchases to be genuine, how could he take the sale to be bogus without rejecting the books of account.

8. Mr. Guarav Gupta, learned Senior Standing Counsel for the appellants submitted that the Tribunal and the CIT(A) have erred in deleting the addition made by the AO, simply because the purchases were found to be through proper banking channels and supported by documents. He argued that it is an admitted case of the AO that purchases were genuine but what he had disallowed is the expenditure of the purchase itself, because source of purchase was unexplained. Explaining the arguments, Mr. Gaurav Gupta submitted that the amount in the bank account had come from the cash sales out of the transactions (6358) which were cash bills for less than Rs.2 lacs each. He read the order of the AO and showed that all the transactions have been made only in the span of 44 days with only 8 to 10 employees were engaged, which raises a doubt about the sales affected by petitioner.

9. Learned counsel for respondent/assessee, on the other hand, submitted that the assessee had an opening stock of Rs.114.62 crores to begin with and such stock has not been disputed by AO. He further submitted that all the purchases were from abroad and all the documents, bills, payment slips, bill of entry, courier receipts etc. have been produced and as a matter of fact, the purchases have been found to be genuine by the AO. He submitted that simply because the invoices were issued to the retailers and the sales were made in cash, which cash from time to time was deposited in the bank, it does not mean that the deposits were unexplained and hence, the source of purchase was not properly explained.

10. Heard learned counsel for the parties.

11. Both the Appellant Authorities namely the CIT(A) and Tribunal have concurrently held that the AO has erred in disallowing the purchases and making addition under Section 69C of the Act of 1961. Not only the Appellate Authority even the AO himself had accepted the fact that the purchases are genuine.

12. We fail to comprehend that when the purchases have been accepted to be genuine and those purchases have been executed through proper documents and banking channels, how its source can be said to be unexplained. The AO's stand that the money in bank accounts had come through the cash deposited out of retail sale is unexplained, is misconceived. If an assessee is allowed or permitted to sell goods in cash and there is no non-compliance of any statutory provision, the purchase cannot be disallowed. In any event, the respondent/assessee had an opening stock of Rs.114.62 crores and had imported diamonds worth Rs.97 crores. Meaning thereby, he has sold the diamonds, which he had purchased obviously for business reasons. The best case, which the AO can frame against the assessee was that identity of the sellers is not known or the persons to whom sales were made is not verifiable, but that by itself does not fall foul to any of the statutory provisions.

13. We, therefore, hardly find any substance and merit in the present appeals. The appeals are, therefore, dismissed.

DINESH MEHTA, J

VINOD KUMAR, J

MAY 4, 2026/_dd_