

IN THE INCOME TAX APPELLATE TRIBUNAL, MUMBAI BENCH "B", MUMBAI

**BEFORE HON'BLE JUSTICE (RETD.) C.V. BHADANG, PRESIDENT
AND SHRI AMARJIT SINGH, ACCOUNTANT MEMBER**

ITA No. 6493/Mum/2024 (A.Y. 2012-13)
ITA No. 6494/Mum/2024 (A.Y. 2013-14)
ITA No. 6495/Mum/2024 (A.Y. 2014-15)
ITA No. 6496/Mum/2024 (A.Y. 2015-16)
ITA No. 6497/Mum/2024 (A.Y. 2016-17)
ITA No. 6498/Mum/2024 (A.Y. 2017-18)
ITA No. 6499/Mum/2024 (A.Y. 2018-19)

Shri Bipin Dahyalal Savla 17, Tambe Building, 36-A, Dr. Ambedkar Road, Matunga, Mumbai-400019, Maharashtra. PAN: AAGPS 4679 H (Appellant)	Vs.	DCIT, Central Circle- 4(1), Mumbai (Respondent)
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Present for:

Assessee by : Shri Rakesh Joshi.
Revenue by : Shri Byomakesh Pradipta Kumar Panda, CIR/DR
& Ms. Monika H. Pande, Sr. DR

Date of Hearing : 21.02.2025
Date of Pronouncement : 21.03.2025

ORDER

PER AMARJIT SINGH, ACCOUNTANT MEMBER:

All these seven appeals filed by the assessee for the A.Y. 2012-13 to 2018-19 are directed against the common order of First Appellate Authority passed u/s 250 of the I.T. Act on 18.10.2024. Since common issue on identical facts are involved in all these appeal filed by the assessee, therefore, for the sake of convenience, these appeals are adjudicated by this common order by taking the ITA 6493/M/2024 for A.Y. 2012-13 as lead case and its finding will be applied to the other appeals wherever these are applicable.

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

“1. On the facts and circumstances of the case as well as in law, the Learned CIT(A) has erred in confirming the action of the Learned Assessing Officer in passing the Assessment Order u/s.143(3) r.w.s 153A of the Income Tax Act, 1961, which is bad in law and null and void as the same is passed in violation of the provisions of the Income Tax Act, 1961.

2. That order passed by Ld. AO dated 29/12/2019 and further order passed by Ld. CIT (A) dated 18/10/2014 are bad in law in as much as while passing the impugned orders material/statement found/taken from/during search at Sunshine Group are applied against the assessee u/s 153A whereas admittedly from assessee's own search u/s 132 no document much less any incriminating document was found where law does not allow use of such document/statement etc. not found from assessee's search u/s 153A, thereby vitiating the entire exercise being against the mandate of law.

3. On the facts and circumstances of the case as well as in law, the Learned CIT(A) has erred in confirming the action of the Learned Assessing Officer in making an addition in the Assessment Order passed u/s. 143(3) r.w.s 153A of the Income Tax Act, 1961, without any incriminating documents were found during the course of search.

4. That order passed by Ld. AO dated 29/12/2019 and further order passed by Ld. CIT(A) dated 18/10/2024 are bad in law in as much as reliance on statement of Nilesh Bharani & his staff 4 members is absolutely bad as there is no independent/valid rational connect in form of any tangible material found from stated search on Sunshine Group in absence of which we pray for deletion of additions made.

5. On the facts and circumstances of the case as well as in law, the Learned CIT(A) has erred in confirming the action of the Learned Assessing officer in making an addition of Rs.1,03,00,000/-u/s.69 of the Income Tax Act, 1961 by treating the alleged cash loan given to Shri Nilesh Bharani as Undisclosed investment, without considering the facts and circumstances of the case.

6. On the facts and circumstances of the case as well as in law, the Learned CIT(A) as well as the Learned Assessing officer has erred in not

appreciating the fact that no addition can be made on the basis of the retracted statement.

7. On the facts and circumstances of the case as well as in law, the ld. CIT(A) has erred in confirming the action of the Learned Assessing Officer in making an addition of Rs. 9,67,617/- as alleged interest income earned on cash loan given to Shri Nilesh Bharani without considering the facts and circumstances of the case.

8. The appellant craves leave to add, amend, alter or delete the said ground of appeal.”

3. Fact in brief is that return of income declaring total income of Rs. 4,89,530/- was filed on 30.07.2012. The assessment u/s 143(3) of the Act was completed on 29.01.2015 assessing the total income at Rs. 5,11,870/-. Subsequently a search/survey action u/s 132/133A was carried out on 07.10.2017 in the cases of Sunshine Group. The search action unearthed evidences about the involvement of this Group in providing accommodation entries in the form of unsecured loans, bogus purchases and bogus long term capital gain etc. During the said search action at the premises of M/s. Evergreen Enterprises it was found that Mr. Nilesh Bharani was involved in undisclosed activity of money lending in unaccounted cash from the said premises. On the basis of cash loan ledger found and seized at the premises of Evergreen Enterprises and statement recorded u/s 132(4) of the Act it was found that assessee Shri Bipin D Savla had lent cash loans to Nilesh Bharani. Thereafter, a notice u/s 153A of the Act has been issued on 03.12.2018 to the assessee after another search action carried on 18.12.2017 in the case of Shri Bipin D. Savla. In response to the notice, the assessee filed return of income on 05.01.2019 declaring total income at Rs. 5,11,870/-.

4. During the course of assessment proceedings u/s 143(3) r.w.s. 153A of the Act, the assessing officer stated that from the search action carried out u/s 132 of the Act in the case of Mr. Nilesh Bharani and M/s. Evergreen Enterprises at Sharda Sadan, Dadar (East), Mumbai on 06.10.2017, incriminating evidences relating to undisclosed money lending activity carried out by Mr. Nilesh Shamji Bharani were found and seized. The AO further stated that the ledger of the lender seized contained the information relating to code of the lender, name of the lender, cash amount lent by the lender and interest calculation etc. The AO has also mentioned the statement of various employees who were working and assisting Shri Nilesh Bharani in the business of unaccounted borrowing and lending activity. The assessing officer has also reproduced the content of the statement made by Shri Nilesh Bharani u/s 132(4) of the Act in the assessment order and statement of other employee i.e. Mr. Ashwin Amrit Lal Rathod, Mrs. Vibha Sachin Rawate, Shri Shankar G Jadhav Ramani and Shri Nilesh Ramesh Chandra Shah. In the statement, they have explained maintenance of books of account containing lenders details and interest calculation and code of the lender, name and address of the borrower etc. On the basis of incriminating evidences in the form of lenders ledger seized from the premises of Shri Nilesh Bharani the assessing officer has determined the total cash loan of Rs. 13,59,00,000/- provided by the assessee Shri Bipin D Savla to Shri Nilesh Bharni. During the course of search action at the premises of the assessee on 18.12.2017 the assessee had admitted of providing cash loans through Mr. Nilesh Bharani.

However, vide affidavit dated 09.01.2018 the assessee categorically denied of having given any cash loan or through Shri Nilesh Bharani. The assessee further submitted that he had not given any cash loans therefore question for providing year-wise details of cash loans and explaining the source of the same did not arise.

5. In response to the show cause notice making the aforesaid proposed addition assessee also stated that the records and proceedings of the search action was taken place at the premises of Shri Nilesh Bharani for which he was neither a witness nor fully aware of the proceedings taken place there. The assessee further stated that he had not given any cash loan to Mr. Nilesh Bharani or M/s. Evergreen Enterprises. The assessee also submitted that no incriminating material or evidences were found to show / prove that he had advanced cash loan to Mr. Nilesh Bharani during search action at his premises. However, the assessing officer has not agreed with the submission of the assessee and referred the statement of Mr. Nilesh Bharani and employees of Evergreen Enterprises wherein they have admitted the modus operandi of cash loan lending and borrowing. The AO has also not accepted the assessee's retraction of the statement and stated that assessee failed to prove that he had made original statement under mistaken belief of fact or law. Therefore, the assessing officer has treated the cash loan amounting to Rs. 13,59,00,000/- given to Shri Nilesh Bharani for A.Y. 2012-13 to A.Y. 2018-19 as unexplained cash loan given outside the books of account and

added to the total income of the assessee u/s 69 of the Act as under:

Assessment Year	Opening Balance	Cash loan given during the year	Cash loan received back during the year	Balance outstanding cash loan
	Amt in 000	Amt in 000	Amt in 000	Amt in 000
2012-13	0	10300		10300
2013-14	10300	38200		48500
2014-15	48500	18400		66900
2015-16	66900	10700		77600
2016-17	77600			77600
2017-18	77600	58300*		135900
2018-19	135900			135900
Total		135900	0	

6. The AO has also determined the interest amount earned/receivable on cash loan lent by the assessee amounting to Rs. 6,97,32,530/- for A.Y. 2012-13 to 2018-19 as under:

Assessment Year	Interest of current year loans	Interest of earlier year loans	Total interest for the year
	Amt in 000	Amt in 000	Amt in 000
	A	B	C
2012-13	9,67,617	0	9,67,617
2013-14	29,80,083	14,28,975	44,09,058
2014-15	18,89,900	61,77,017	80,66,917
2015-16	8,23,183	88,74,975	96,98,158
2016-17		1,05,63,100	1,05,63,100
2017-18	63,89,680	1,05,63,100	1,69,52,780
2018-19		1,90,74,900	1,90,74,900
Total	1,30,50,463	5,66,82,067	6,97,32,530

7. The assessee filed appeal before the Id. CIT(A). The Id. CIT(A) has dismissed the appeal of the assessee reiterating the fact discussed by the assessing officer.

8. During the course of appellate proceedings before us, the Id. Counsel has discussed the validity of assessment order passed by the assessing officer u/s 143(3) r.w.s. 153A of the Act as referred in ground no. 1 to 4 of the appeal filed by the assessee. The Id. Counsel submitted that admission made by the assessee in the statement recorded u/s 132(4) of the Act was retracted vide affidavit dated 09.01.2018. He also submitted that Shri Nilesh Bharani had also retracted the statement and during the course of cross examination he categorically denied of receiving any such loan. The Id. Counsel vehemently contended that there was no incriminating documents found during the course of search action carried out in the case of the assessee hence no addition can be made in the assessment order passed u/s 153A of the Act in the case of the assessee. He also pointed out that no proceedings has been initiated u/s 153C of the Act since the alleged documents was found and seized from the separate search action carried out at the premises of the third party, M/s. Evergreen Enterprises. The Id. Counsel has also referred the decision of Jurisdictional Bombay High Court in the case of Sejal Jewellery & Ans. Vs Union of India and Ors. Writ Petition No. 3057 of 2019. The Id. Counsel has also referred the various judicial pronouncements as filed in the paper book.

9. On the other hand, Id. DR submitted that admission has been made by the assessee on the basis of seized material which has been confronted to the assessee in the course of search. The Id. DR also submitted that retraction made by the assessee has

not been supported with evidences and the retraction made was an afterthought. The ld. DR has also referred the case law of B. Kishore Kumar vs DCIT, Central Circle-IV(1), Chennai (2014) 52 taxmann.com 449 and in the case of Bannalal Jat Constructions (P) Ltd. vs ACIT (2019) 106 taxmann.com 128 and the case of PCIT, New Delhi vs Avinash Kumar Setia (2017) 81 taxmann.com 476, the High Court of Delhi.

10. Heard both the sides and perused the material on record in respect of the ground no. 1 to 4 on the validity of the assessment proceedings made u/s 143(3) r.w.s. 153A of the Act. It is undisputed fact that incriminating material in the form of ledger of lenders account was found and seized from the search action carried out in the case of Sunshine Group. The seized cash loan lenders ledger showed that assessee, Shri Bipin D. Savla had lent money to the amount of Rs. 13,59,00,000/- to Shri Nilesh Bharani who was operating from the premises of Evergreen Enterprises. During the course of search action in the case of M/s. Evergreen Enterprises on 07.10.2017 Shri Nilesh Bharani has admitted that he was involved in the business of unaccounted borrowing and lending. He has also used the employee's of firm M/s. Evergreen Enterprises for the purpose of carrying out the money lending activity. Subsequently on 18.12.2017 search action was also carried out in the case of the assessee wherein in his statement was recorded u/s 132(4) of the Act and assessee had accepted of lending loan amount to Shri Nilesh Bharani. Subsequently, Shri Nilesh Bharani has retracted his statement, thereafter the

assessee has also retracted his statement of providing any loan amount to the said party. During the course of appellate proceedings before us the ld. Counsel has contended that no incrimination evidences relating to the undisclosed money to Shri Nilesh Bharani was found and seized from the search action carried out in the case of the assessee. The ld. Counsel submitted that since the incriminating document was found from the premises of the third party on the different search action which was carried out on 07.10.2017 at the premises of M/s. Evergreen Enterprises, therefore, the proceedings in the case of the assessee should have been initiated u/s 153C of the Act not u/s 153A of the Act. We find that nowhere the assessing officer has discussed any seized document found at the premises of the assessee. The assessment u/s 153A of the Act was made on the basis of incriminating document found and seized on 07.10.2017 from the search action carried out in the case of the Sunshine Group. Even the notice u/s 142(1) issued to the assessee has referred the material found and seized from the premises of M/s. Evergreen Enterprises from the search action taken place on 07.10.2017. The AO should have initiated the proceedings in the case of the assessee u/s 153C of the Act not u/s 153A of the Act since in the case of the assessee no incriminating material was found and seized during the course of search action carried out in the case of the assessee and merely the statement recorded u/s 132(4) of the Act does not constitute incriminating material. The judicial pronouncements referred by the ld. DR are distinguishable from

the facts and issue raised in the case of the assessee about the applicability of provision of section 153C of the Act.

11. We have also perused the decision of Hon'ble Delhi High Court in the case of PCIT vs Anand Kumar Jain 432 ITR 384 (Delhi) wherein held that if no incriminating material is found during search in the case of assessee then no addition could be made on the basis of search action conducted in the case of third party and under such circumstances, it is mandatory to make assessment u/s 153C of the Act. We have also perused the various judicial pronouncements in the case of PCIT(Central) & Ors. Vs Anand Kumar Jain (HUF) & Ors., Rajeshkumar Rameshchandra Shah vs DCIT, Mayur Kanjibhai Shah vs ITO, Parag Motilal Savla vs ITO, DCIT CC vs Vipul Dilipbhai Shah, Nilesh Shamji Bharani vs DCIT and PCIT vs Abhisar Buildwell (P) Ltd. as referred in the paper book filed by the Id. Counsel. The ITAT Mumbai in the case of DCIT vs Bharat Girdharlal Rughani vide ITA No. 1511/M/2023 dated 31.10.2023 on the similar issue of seized material found/seized from search action carried out in the case of Nilesh Bharani held that addition made u/s 153A of the Act was unsustainable since incriminating material was found and seized from the search action of the third party and not from the premises of the assessee in that case. The relevant extract of the decision of the ITAT is reproduced as under:

“12. First of all we have noticed that there is no incriminating material in order to fasten the liability of the assessee. The AO has proceeded against the assessee under section 153A of the Act. When there is no incriminating material then how the assessee can be proceeded against

under section 153A of the Act. For argument sake even if it is assumed that there is incriminating material against the assessee then assessment ought to be framed under section 153C of the Act. Furthermore, it is admitted fact on record that the evidence relied upon by the AO in this case was collected in case of search of a third party.

13. No doubt subsequent search was conducted at the premises of the assessee on 18.12.2017 but no material was found or seized. Para 5.14 of the assessment order apparently proves that the alleged incriminating materials viz. promissory note etc. brought on record as Annexure A-16 and A-17 was seized in case of search on a third party and not the assessee and in these circumstances assessment proceedings were required to be initiated under section 153C and not 153A as has been done in this case.

13. Furthermore, when we examine para 5.18 of the assessment order the AO has discussed the documentary evidence seized and statement obtained during search at the premises of one Mr. Nilesh Bharani on 06.10.2017 wherein one document showing Bharani was coded as R/08/B, which is assessee. Mr. Nilesh Bharani has stated that "the list of lenders consisting the details of code, name,

outstanding amount, contact person and contact number, address which belongs to the assessee" and is extracted as under:

Statement of Sh. Nilesh Bharani

ANNEXURE-1 LIST OF LENDER									
Sl. No.	Code	Name	Outstanding Amount (Rs. '000)	CONTACT PERSON	CONTACT NUMBER	ADDRESS	REMARKS		
1	679 R/08/B	SHARAT RUGHANI	117500	SHARAT RUGHANI	9322595201	MANAK, LEVEL 3, ARVOR LORD KRISHNA BANK, LINK ROAD, SALAD WEST			

14. Aforesaid extract is prepared during the statement of Mr. Nilesh Bharani on the basis of coded Number R/08/B. We fail to crack the code R/08/B even with the assistance of the Ld. D.R. if it refers to the assessee.

15. Copy of ledger extracted in para 5.18 of the assessment order also does not bear any name. Moreover, these documents were seized from

the premises of one Mr. Nilesh Bharani. For argument sake even if it belongs to the assessee then assessment under section 153C was required to be initiated.

16. So we are of the considered view that when the assessment in this case has been framed on the basis of search conducted at the premises of assessee himself wherein no incriminating material was found/seized rather the entire evidence discussed in this case was seized in the case of search on the third party and in these circumstances assessment was required to be framed under section 143C and not under section 153A of the Act and as such not sustainable in the eyes of law.

17. Moreover, the entire assessment order has been framed by the AO on the basis of one excel sheet found in possession of Mr. Dipak Padia and his statement who has referred to the transaction as discussed by the Ld. CIT(A) by thrashing the facts which further support the case of the assessee that these transactions referred to by the assessee belong to Mr. Nilesh Bharani and not the assessee. Moreover, Mr. Dipak Padia whose statement has been referred in para 5.19 of the assessment order has named one Mr. Rashmin Rughani and has not named assessee as his boss. Moreover, liability of addition cannot be fasten on the basis of statement only without any corroborative evidence.

18. Furthermore, when the AO has provided an opportunity of cross examination of one Mr. Nilesh Bharani to the assessee it has proved on record in the cross examination that the transactions between them (Mr. Nilesh Bharani and the assessee) were through banking channel and TDS and brokerage were deducted as is evident from question No.6 of the statement of Mr. Nilesh Bharani recorded by the AO. Moreover, during the recording of statement and cross examination of Mr. Nilesh Bharani parties have confirmed that they had transactions with banking channel only.

19. In view of what has been discussed above there is no incriminating evidence against the assessee from the material seized from the premises of Mr. Nilesh Bharani and in these circumstances the Ld. CIT(A) has validly and legally deleted the addition made by the AO under section 69 & 56 of the Act. So the appeals filed by the Revenue for A.Y. 2012-13 to 2017-18 are dismissed.

20. So far as addition made by the AO in A.Y. 2018-19 is concerned, facts and evidence relied upon by the AO are same but in A.Y. 2018-19

the AO has made the addition on account of interest earned/received by the assessee to the tune of Rs.22,57,83,125/- from A.Y. 2012-13 to A.Y. 2018-19 on the undisclosed investment in loans amounting to Rs.50,25,00,000/- which is consequential, because when the addition made by the AO under section 69 of the Act for A.Y. 2012-13 to A.Y. 2017-18 is not sustainable the consequential addition on account of interest in A.Y. 2018-19 is also not sustainable, hence rightly deleted by the Ld. CIT(A). So appeal filed by the Revenue for A.Y. 2018-19 is also not sustainable, hence ordered to be dismissed. 21. In view of what has been discussed above, appeals filed by the Revenue for A.Y. 2012-13 to A.Y. 2018-19 are hereby dismissed. 22. Since the assessee has filed the cross objections just to support the findings returned by the Ld. CIT(A) cross objections filed by the assessee for A.Y. 2013-14, 2014-15, 2015-16 & 2016-17 are also dismissed.

12. As per section 153C of the Act, notwithstanding anything contained in section 139, 147, 148, 149, 151 and 153 where the assessing officer is satisfied that any money bullion, jewellery bullions, article or things seized or requisitioned belongs to or the books of accounts or documents seized or pertains or pertain or any other information contained therein relates to a person other than the person referred to in section 153A (searched person) then the assessing officer of the searched person handover the books of accounts, documents or valuable articles or things or documents or the assets to the officer having jurisdiction over such other person and issue notice and assess or reassess the income as per section 153C of the Act. As provided in section 153C once the conditions are satisfied for invoking the jurisdiction u/s 153C then the assessment must be made u/s 153C only. However, in the case of the assessee the AO has not applied his mind to initiate proceedings u/s 153C of the Act as the seized material was found and seized from the premises of the third party as discussed. It is

settled law that the recording of satisfaction by the assessing officer of the searched person is sine qua non to initiate proceedings u/s 153C of the Act even in case where the assessing officer of the searched person and the other person is the same. The CBDT vide Circular No. 7/2003 dated 05.09.2003 had also explained the procedure for making assessment u/s 153A and 153C of the Act. It is also clear from the provision of section 153C and section 153A of the Act that these are the separate independent provisions because of non-obstante clause begins with the said sections. In the case of the assessee, the AO incorrectly without application of mind has not issued notice u/s 153C of the Act and instead of complying with the provisions of section 153C of the Act, proceeded with assessment u/s 153A of the Act. The AO has initiated assessment u/s 153A of the Act merely on the basis of statement recorded u/s 132(4) at the premises of the assessee in a separate search action where no incriminating material was found and the incriminating material was found and seized from different search action carried on the third parties under the different warrant of authorization to search that premises. Under the circumstances, the assessing officer has to adhere to the provisions of section 153C while relying upon material seized during search in the case of third parties, therefore, the assessing officer was not justified to make addition in the absence of any incriminating material found during the course of search action at the premises of the assessee. Considering section 153C start with a non-obstante clause which provide that in case of a conflict between the provisions of section

153C and other section the special provision of section 153C will prevail over the other provisions. The Hon'ble Supreme Court in the case of PCIT vs Abhisar Buildwell (P) Ltd. (2023) 149 taxmann.com held that under the provisions of section 153A the AO was not justified to make addition in the absence of any incriminating material found and seized. Considering the fact findings and circumstances as discussed (supra) the action of the assessing officer to make addition u/s 153A of the Act on the basis of material found and seized from the search action conducted on the parties other than the assessee in a different search action was not justified. Since in the case of the assessee, it is evident that documents on the basis of which addition was made u/s 153A assessment was actually found and seized from the different search action carried out on 07.10.2017 at the premises of Evergreen Enterprises not from the premises of the assessee, therefore, the assessment on the basis of those documents should have been carried out u/s 153C of the Act and not u/s 153A of the Act. It is clearly evident that assessing officer has not applied his mind upon the material found and seized and no assessment proceedings has been initiated u/s 153C of the Act. Therefore, after following the judicial pronouncements as referred above, we find merit in the ground of appeal of the assessee that addition made u/s 153A of the Act is legally not valid accordingly, the ground no. 1 to 4 of the appeal of the assessee are allowed.

13. Since we have quashed the assessment proceedings made u/s 153A of the Act, therefore, other grounds raised by the

assessee on merits become academic not appropriate to discuss. In the result, the appeal of the assessee is allowed.

ITA No. 6494/M/2024 (A.Y. 2013-14)

14. Since the similar issue on identical fact, we have allowed the legal ground of appeal of the assessee that assessment made u/s 153A on the basis of incriminating document found and seized from the search action carried out at the premises of third party was not valid, therefore, applying the finding of ITA No. 6493/M/2024 mutatis mutandis the ground no. 1 to 4 of the appeal of the assessee are allowed. The other ground of appeal of the assessee 5 to 7 become infructuous and left open as discussed.

ITA No. 6495/M/2024 (A.Y. 2014-15)

15. Since the similar issue on identical fact, we have allowed the legal ground of appeal of the assessee that assessment made u/s 153A on the basis of incriminating document found and seized from the search action carried out at the premises of third party was not valid, therefore, applying the finding of ITA No. 6493/M/2024 mutatis mutandis the ground no. 1 to 4 of the appeal of the assessee are allowed. The other ground of appeal of the assessee 5 to 7 become infructuous and left open as discussed.

ITA No. 6496/M/2024 (A.Y. 2015-16)

16. Since the similar issue on identical fact, we have allowed the legal ground of appeal of the assessee that assessment made u/s 153A on the basis of incriminating document found and seized

from the search action carried out at the premises of third party was not valid, therefore, applying the finding of ITA No. 6493/M/2024 mutatis mutandis the ground no. 1 to 4 of the appeal of the assessee are allowed. The other ground of appeal of the assessee 5 to 7 become infructuous and left open as discussed.

ITA No. 6497/M/2024 (A.Y. 2016-17)

17. Since the similar issue on identical fact, we have allowed the legal ground of appeal of the assessee that assessment made u/s 153A on the basis of incriminating document found and seized from the search action carried out at the premises of third party was not valid, therefore, applying the finding of ITA No. 6493/M/2024 mutatis mutandis the ground no. 1 to 4 of the appeal of the assessee are allowed. The other ground of appeal of the assessee 5 to 7 become infructuous and left open as discussed.

ITA No. 6498/M/2024 (A.Y. 2017-18)

18. Since the similar issue on identical fact, we have allowed the legal ground of appeal of the assessee that assessment made u/s 153A on the basis of incriminating document found and seized from the search action carried out at the premises of third party was not valid, therefore, applying the finding of ITA No. 6493/M/2024 mutatis mutandis the ground no. 1 to 4 of the appeal of the assessee are allowed. The other ground of appeal of the assessee 5 to 7 become infructuous and left open as discussed.

ITA No. 6499/M/2024 (A.Y. 2018-19)

19. The assessing officer has made assessment u/s 143(3) of the Act and computed the interest amount of Rs. 1,90,74,900/- pertaining to the loan amount of Rs. 13,59,00,000/- advanced by the assessee for the various assessment year as discussed above in this order. Since we have quashed the assessment proceedings carried out u/s 153A of the Act in the case of the assessee therefore, the impugned addition on the basis of impugned loan amount is not valid. Therefore, this appeal of the assessee is also allowed.

20. In the result, all the appeals of the assessee are allowed.

Order pronounced in the open court on 21.03.2025.

Sd/-
JUSTICE (RETD.) C.V. BHADANG
PRESIDENT

Sd/-
AMARJIT SINGH
ACCOUNTANT MEMBER

Mumbai, Dated: 21.03.2025
Biswajit, Sr. P.S.

Copy to:

1. The Appellant
2. The Respondent
3. The CIT,
4. The DR

//True Copy//

By Order

Assistant Registrar
ITAT, Mumbai Benches, Mumbai