

IN THE INCOME TAX APPELLATE TRIBUNAL, 'D' BENCH MUMBAI

**BEFORE: SHRI SANDEEP GOSAIN, JUDICIAL MEMBER &
SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER**

ITA (SS) No.	AY	Assessee/ Assessee	Respondent
795/Mum/2025	2013-14	Dodhia Filaments Pvt	DCIT, CC -3 Room No. 12, A wing, 6 th Floor, Ashar IT Park, Thane (W)
796/Mum/2025	2014-15	Ltd.,	
797/Mum/2025	2015-16	69/100, New Mavji	
798/Mum/2025	2016-17	compound, Narpoli	
799/Mum/2025	2017-18	Behind Ratan Talkies Bhiwandi.	
2189/Mum/2025	2013-14	Dodhia Synthetics Ltd.,	DCIT, CC -3 Room No. 12, A wing, 6 th Floor, Ashar IT Park, Thane (W)
2190/Mum/2025	2013-14	House No. 98/2,	
2200/Mum/2025	2019-20	Dodhia House, Behind	
2201/Mum/2025	2014-15	Ratan Talkies, narpoli	
2202/Mum/2025	2016-17	New Mavji compound	
2203/Mum/2025	2017-18		
2204/Mum/2025	2020-21		
2205/Mum/2025	2018-19		
2206/Mum/2025	2015-16		
2105/Mum/2025	2014-15	DCIT, CC -3	Dodhia Synthetics Ltd., House No. 98/2, Dodhia House, Behind Ratan Talkies, narpoli New Mavji compound
2106/Mum/2025	2015-16	Room No. 12, A wing, 6 th Floor, Ashar IT Park, Thane (W)	
2227/Mum/2025	2016-17	Ritesh Mansukhlal Dodhia 104, New Mavji Vompad, Dodhia House, Narpoli	DCIT – CC-3 Room No. 12, A Wing, 6 th Floor, Ashar IT Park, Thane(W)

Assessee by	Ms. Simran Dhawan
Revenue by	Shri Umashankar Prasad, CIT DR
Date of Hearing	22/07/2025 & 05.08.2025
Date of Pronouncement	17/09/2025

आदेश / O R D E R

PER BENCH:

The present appeals have been filed by the assessee as well as revenue challenging the different impugned orders passed u/s 250 of the Income Tax Act, 1961 ('the Act'), by the National Faceless Appeal Centre, Delhi (NFAC) for the A.Ys 2013-14 to 2019-20.

2. Since all the issues involved in these appeals are belongs to one group, therefore, they have been clubbed, heard together and a consolidated order is being passed for the sake of convenience and brevity.
3. We shall take up the appeals filed by the assessee i.e Dodhia Synthetics Ltd In which 09 appeals have been preferred by the assessee and two appeals have been preferred by the revenue, against the common order of Ld. CIT(A) dated 30.01.2025 and one separate order for pre search assessment for A.Y 2013-14 dated 29.01.2025.
4. Since the major issues and material relied upon being common, therefore all these grounds are being adjudicated together. For the sake of discussion and arguments, the A.Y. 2013-14 has been taken as the lead year. The assessee has raised the following grounds of appeal for A.Y. 2013-14:
 5. "On the facts and in the circumstances of the assessee's case and in law, the Ld. Commissioner of Income Tax (Appeals) erred in not treating the re-opening of assessment as bad-in-law being entirely based on borrowed satisfaction from Investigation Wing to which the assessee in particular was not a insinuated/indicted or confronted party and the Ld. Assessing Officer without

application of mind, without providing copies of signed reasons and approval as they existed on record, without conducting any independent enquiries and without demonstrating as to how there was failure on the part of assessee to make disclosure of material facts, given that the case was earlier assessed u/s 143(3) and therefore reopening is impermissible under proviso to section 147 of the Act .

1. *On the facts and in the circumstances of the assessee's case and in law, the Ld. Commissioner of Income Tax (Appeals) erred in not quashing the assessment order and deleting the addition of Rs 1,50,00,000/- made, even when the Ld. Assessing Officer causing prejudice by not following the basic principles of natural justice by:*
 - a) *supplying the assessee with materials collected at its back ,*
 - b) *supplying copies of all relevant statements of third parties,*
 - c) *supplying copies of reports of Investigation and*
 - d) *affording opportunity to cross examine the third parties whose generic statements was relied upon to draw inference against the assessee in particular, despite specific request made by the assessee in response to show cause notice.*
2. *On the facts and in the circumstances of the assessee's case and in law, the Ld. Commissioner of Income Tax (Appeals) erred in upholding the addition of Rs 1,50,00,000/- u/s 68 of the Act made by the Ld. Assessing Officer in the impugned assessment order on account of share application money received by the assessee from M/s Agomoni Commercial P Ltd, M/s Bagdevi Suppliers P Ltd, M/s Prayagpou Vyapar P Ltd and M/s Value Added Merchants P Ltd, that was treated as unexplained cash credits, though the assessee had duly discharged its onus under section 68, by submitting all the relevant documentary evidences to prove identity and creditworthiness of the share applicant companies and genuineness of the transactions.*
3. *On the facts and in the circumstances of the assessee's case and in law, the Ld. Commissioner of Income Tax*

(Appeals) erred in upholding the addition u/s 68 of share application money of Rs 1,50,00,000/-:

- a) *by holding share application money as accommodation entries, without there being any evidence of cash paid at the time of receipt of alleged non-genuine share application money from the above four companies either directly or through any perceived and unknown entry providers.*
 - b) *by holding the shareholder companies as paper /shell/non-genuine entity, even though these companies were MCA Active and ITR filers at the time of receipt of share application money and amounts were received through banking channels duly confirmed.*
 - c) *in absence of any incriminating material whatsoever found during the course of search & seizure action, pertaining to the assessee and the year under consideration.*
 - d) *by justifying undue insistence on assessee placed by Assessing Officer to produce directors of shareholders, where as the primary onus on assessee stood discharged and ignoring the fact the Assessing Officer did not conduct any independent enquiries specifically as regards assessee to shift the onus back on to the assessee even as per case laws quoted in para 23 of the impugned order.*
4. *On the facts and in the circumstances of the assessee's case and in law, the Ld. Commissioner of Income Tax (Appeals) erred in making addition of Rs 2,76,73,383/- on account of alleged undisclosed cash receipts u/s 69A and Rs 27,15,548/- u/s 69C of the Act being the peak of negative cash balance, by deleting the protective additions in the hands of Shri Mansukhlal Dodhia (who claimed vague and partial ownership of the seized material as belonging to Dodhia Group and not to assessee company in particular) and adding substantively in the hands of the assessee company, without the material seized from a third party explicitly indicating that the assessee company was a party to the transactions therein.*
5. *On the facts and in the circumstances of the assessee's case and in law, the Ld. Commissioner of Income Tax (Appeals) erred in upholding the invocation of provisions of section 69A of the Act for AY 2013-14, despite the fact that the assessee was not 'found to be the owner' of any*

unaccounted money, bullion, jewellery or any other valuable article during the search or during the year under consideration as alleged assets remained non-existent.

6. *On the facts and in the circumstances of the assessee's case and in law, the Ld. Commissioner of Income Tax (Appeals) erred in upholding the recomputed addition of Rs 2,76,73,383/- and Rs 27,15,548/- on account of alleged unaccounted cash receipts and peak of negative cash balance respectively, by relying on 'dumb documents' as the nature of transactions whether capital or revenue was not clear and without any explicit involvement of assessee company as a party to transactions and thereafter erred in arbitrarily adopting 'transaction-wise selective approaches' i.e. applying the peak theory on some transactions and denying on the others, applying an arbitrary net profit rate on some transactions and denying on others and taxing entire receipts regarding rest of the transactions, against the concept of taxability of real income and accounting principles, even as none of the referred material and transactions pertained to or belonged to assessee company.*
7. *On the facts and in the circumstances of the assessee's case and in law, the Ld. Commissioner of Income Tax (Appeals) erred in ignoring the fact that the Assessing Officer had sent a 'deviation report' to Investigation Wing seeking their approval to make addition at a much lesser figure than mentioned in Investigation Report, that reflected a bonafide opinion of the Assessing Officer, that albeit could not translate into Assessment order in the absence of reply from the Wing and therefore applying the ratio of the decision of Hon'ble High Court of Delhi in the case of PCIT vs. Agson Global Pvt. Ltd. (2022) 134 taxmann.com 256 (Delhi), the assessment order should have been held as void.*
8. *On the facts and in the circumstances of the assessee's case and in law, the Ld. Commissioner of Income Tax (Appeals) erred in upholding the levy of interest u/s 234A, 234B and 234C of the Income Tax Act, 1961.*
9. *On the facts and in the circumstances of the assessee's case and in law, the Ld. Commissioner of Income Tax (Appeals) erred in upholding the initiation of penalty u/s 271(1)(c) of the Income Tax Act, 1961."*

6. Now we would deal with specific facts of the case pertaining to A.Y 2013-14. As per the background of the

present case, the original return of income was filed u/s 139(1) on 26/09/2013 declaring total income at Rs. 4,58,58,270/-. Subsequently the case was selected for scrutiny and assessment order u/s 143(3) was passed on 14.03.2016 by accepting the returned income. Thereafter, on the basis of an information received from DDIT (Inv.), Unit-2(1), Kolkata, the case was reopened for the first time and a notice u/s. 148 of the Act was issued on 27.09.2018. The assessment u/s. 143(3) r.w.s. 147 was completed on 27.12.2019, wherein, an addition of Rs. 1,25,00,000/- was made on account of bogus share application money raised by the assessee.

7. A Search and seizure operations u/s 132 were carried out on the business as well as residential premises of the Dodhia Group of cases, including the assessee on 27.11.2019. The Assessing Officer, after receipt of seized material and other documents from the Investigation wing, issued another notice u/s 148 of the Act on 27.03.2021. The assessee vide letter dated 09.02.2022 filed objections regarding reopening of case. These objections were disposed by the AO vide order dated 07.03.2022.

8. The assessment u/s. 147 r.w.s. 144 of the Act was completed by making following additions to totalling to **Rs. 1,58,96,000/-**:

i. Addition of Rs.1,50,00,000/- u/s. 68 of the Act on account of accommodation entries obtained in the form of share application money.

ii. Addition of Rs.8,00,000/- u/s. 69D on account of Hundi loans taken by the assessee.

iii. Addition of Rs.96,000/- u/s. 69C for interest paid on Hundi loans.

9. From the records, we noticed that Ld. CIT(A) had passed two separate orders in respect of two separate appeals against these two re-assessment orders for A.Y. 2013-14, the first on 29.03.2025 and second on 30.03.2025(second being post search and common with remaining years) dismissing the appeal against both orders for A.Y. 2013-14. Before the Ld. CIT(A), assessee has challenged the validity of impugned assessment order by contending that the AO did not provide the exact copy of reasons recorded, the copy of proposal sent to PCIT for seeking approval and without providing the copy of approval u/s. 151 of the Act granted by the PCIT. It has also been contended that the AO has not dealt with all the contentions raised by it in the objection letter filed by it. In support of these contentions, the assessee has relied on the decision of Hon'ble Delhi High Court in the case of **Sabh Infrastructure Ltd. 99 taxmann.com 409 (Delhi)**. The Ld. CIT(A), in para 13 to 18 of his order dated 30.03.2025, had dismissed these grounds and other contentions. Similarly grounds in respect of old assessment order dated 27.12.2019 were also dismissed in para 6 to 12 of appellate order dated 29.03.2025.

10. Now after analysing the entire order and facts of the case, we noticed that at para 44.1 of the appellate order, the Ld. CIT(A) has observed that during the search operation, bundle number 8 and 9 being dairies, were seized from the residence of Shri Divyesh Dhanani

(premises MN-5). These diaries as per assessee allegedly contain day wise cash transactions undertaken by Dodhia Group. On the basis of entries in these diaries, the AO made additions in the hands of the assessee on substantive basis in AY 2014-15 and AY 2015-16. Simultaneously, the AO made additions in the hands of Shri Mansukhlal Dodhia on protective basis as well.

11. Ld. CIT(A) further noticed that the findings of the AO had that there are certain cash transactions for A.Y. 2013-14 in the said bundle number 8 and 9, however, no addition is made in the hands of the assessee. On the other hand, the AO made following additions on protective basis in the hands of Shri Mansukhlal Dodhia:

- i. *Addition of Rs 2,92,94,418/- u/s 69A of the Act being the total of cash receipts for the year under consideration.*
- ii. *Addition of Rs 10,38,501/- u/s 69C of the Act being the excess of cash payments over the cash receipts for the year under consideration.*

12. The Ld. CIT(A) in its order further held that the AO made protective addition in the hands of Shri Mansukhlal Dodhia on this issue but mistakenly did not make any addition in the hands of the assessee while completing the assessment u/s 143(3) r.w.s. 147 of the Act for A.Y. 2013-14. The Ld. CIT(A) further stated that since the appeal of the assessee company and that of Shri Mansukhlal Dodhia were adjudicated simultaneously. Thus the Ld. CIT(A) held that the undisclosed income as above is assessable in the hands of the assessee company (Dodhia Synthetics Limited) therefore a notice u/s 251(1)(a) of the Act was

issued to the assessee on 24.01.2025 for enhancement of income on account of alleged cash receipts for AY 2013-14 and accordingly addition(enhancement) was made by the Ld. CIT(A), substantively in the case of assessee corresponding to the protective addition in the hands of Shri Mansukhlal Dodhia, as under:

- i. Addition on account of undisclosed income of Rs 2,76,73,383/- u/s 69A of the Act on account of undisclosed cash receipts.*
- ii. Addition on account of undisclosed income of Rs 27,15,548/- being peak of excess of cash payments over the cash receipts as per reply filed by Shri Mansukhlal Dodhia u/s 69C of the Act.*

13. Ld. CIT(A), while adjudicating the assessee's appeal for AY 2014-15 discussed in detail the enhancement for A.Y 2013-14 and corresponding additions made for other years. Although according to assessee, the Ld. CIT(A) had adopted wrong approach purely based on presumptions and conjectures for different set of unclear entries on the said material and worked out the additions (although giving partial relief on quantum worked out by the AO) and rejecting various alternative methods submitted by the assessee.

14. We have heard the counsels for both the parties, perused the material placed on record, judgements cited before us and also the orders passed by the revenue authorities. From the records we noticed that regarding the additions made by the AO u/s. 68 of the Act are concerned, the Ld. CIT(A) has observed that various entities of Dodhia Group had taken accommodation entries in the form of unsecured loans/share capital from

various shell entities as per information received from Investigation Wing Kolkata.

15. During the assessment proceedings, the AO had issued the commission u/s. 131(1)(d) of the Act to Investigation Wing, Kolkata. The DDIT, Investigation Unit- 2(4), Kolkata reported that the Inspector deputed to verify the existence of these companies, reported that the no such company was found at the given address. Similarly, the summons issued to the companies remained unserved. Therefore with the above background, the AO required the assessee to substantiate the genuineness of these loans taken during the year.

16. We noticed that the details of share application for **AY 2013-14** (in the pre-search assessment u/s 147 of the Act) along with the documents submitted before the AO to prove the identity, genuineness and creditworthiness of loan taken is as under:

Applicant	Share Application (In Rs)	Documents submitted before Assessing Officer	Pg No in Factual PB	Total Own Funds (in Rs)
Index Tie Up P Limited	1,25,00,000	Copy of PAN card	55	16,21,31,082
		MCA Active Compliant Status	56	
		Acknowledgement of Return of Income for AY 2013-14	57	
		Audited Balance Sheet for the year ended 31.03.2013 of the lender party.	58	
		Copy of ledger account of the assessee company in the books of the lender party.	59	
		Copy of account confirmation letter from the party duly signed by the assessee company	60	
		Copy of bank statement of lender party showing payments made to assessee company.	61 – 62	
		Copy of bank statement of assessee company showing receipts from the party.	63 – 67	

Applicant	Share Application (In Rs)	Documents submitted before Assessing Officer	Pg No in Factual PB	Total Own Funds (in Rs)
		Copy of ledger account of the party in the books of the assessee company.	68	

17. The Details of Share Application for AY 2013-14 (in the post-search assessment u/s 147 of the Act) along with the documents submitted before the AO to prove the identity, genuineness and creditworthiness of loans taken are as under:

S No	Applicant	Share Application (in Rs)	Documents submitted before Assessing Officer	Pg Non Factual PB	Total Own Funds (in Rs)
1	Agomoni Commercials P Limited	60,00,000	Copy of PAN	86	15,10,85,095
			Certificate of Incorporation, Memorandum of Association and Articles of Association	87-103	
			MCA Active Compliant status	104-105	
			Audited Financial Statements for the year ended on 31 st March, 2013 of applicant party.	106-119	
			Copy of ledger account of applicant company in the books of the assessee company	120-124	
			Copy of bank statement showing the transaction of share application money received by the assessee	124A-124C	
2	BagDevi Suppliers P Limited	35,00,000	Copy of PAN	125	6,66,50,528
			Certificate of Incorporation	126	
			MCA Active Compliant status	127-128	
			Audited Financial Statements for the year ended on 31 st March, 2013 relevant to the assessment year 2013-14.	129-143	
			Copy of ledger account of applicant company in the books of the assessee company	144	
3	Payagpour Vyapaar P Limited	50,00,000	Certificate of Incorporation, Memorandum of Association and Articles of Association	145-163	9,70,68,194
			Copy of ledger account of applicant company in the books of the assessee company	164	
			Copy of bank statement showing the transaction of share application money received by the assessee	164A	

S No	Applicant	Share Application (in Rs)	Documents submitted before Assessing Officer	Pg Non Factual PB	Total Own Funds (in Rs)
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4	Value Added Merchants P Limited	5,00,000	Copy of PAN	165	10,91,83,286
			Certificate of Incorporation, Memorandum of Association and Articles of Association	166-183	
			MCA Active Compliant Status	184-185	
			Audited Financial Statements for the year ended on 31 st March, 2013 relevant to the assessment year 2013-14.	186-200	
			Copy of ledger account of applicant company in the books of the assessee company	201	

18. The details of share application and loan received for AY 2014-15 along with the documents submitted before the AO to prove the identity, genuineness and creditworthiness of loans taken are as under:

S No	Party Name	Share Application (in Rs)	Loan Amount	Date of Loan Repayment	Documents submitted before Assessing Officer	Pg No in Factual PB	Total Own Funds (in Rs)
1	Agomoni Commercial P Limited	60,00,000	1,00,00,000	27.03.2014	PAN, Certificate of Incorporation, Memorandum of Association and Articles of Association	109-126	15,11,48,933
					MCA Active Compliant status	127-128	
				27.07.2013	Acknowledgement of Return of Income for AY 2014-15	129	
					Audited Financial Statements for the year ended on 31 st March, 2014	130-133	
					Copy of Form 2 filed with Registrar of Companies for allotments of shares to the applicants	134-141	
For Share Application	142-145						

S No	Party Name	Share Application (in Rs)	Loan Amount	Date of Loan Repayment	Documents submitted before Assessing Officer	Pg No in Factual PB	Total Own Funds (in Rs)
					Money- Copy of ledger account		
					For Loans - Copy of confirmation letter of loan received and repaid subsequently		
					Copy of bank statement of the assessee showing the transaction of loans and share application money	146-153	

2	Bagdevi Suppliers P Limited	35,00,000	25,00,000	27.03.2014	PAN, Certificate of Incorporation	154-155	6,66,81,538
					Audited Financial Statements for the year ended on 31st March, 2014	156-166	
					Acknowledgement of Return of Income for AY 2014-15	167	
					Copy of Form 2 filed with Registrar of Companies for allotments of shares to the applicants	168-175	
					For Share Application Money - Copy of ledger account	176-177	
					MCA Active Compliant status	178-179	
					For Loans - Copy of confirmation letter of loan received and repaid subsequently	180-181	
					Copy of bank statement of the assessee showing the transaction of loans and share application money	182-186	

3	Jalsagar Merchantile Pvt. Ltd.	75,00,000	25,00,000	26.03.2014	Certificate of Incorporation, Memorandum of Association and Articles of Association	187-206	2,81,05,836
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S No	Party Name	Share Application (in Rs)	Loan Amount	Date of Loan Repayment	Documents submitted before Assessing Officer	Pg No in Factual PB	Total Own Funds (in Rs)
					MCA Active Compliant status	206A-206B	
					Acknowledgement of Return of Income for AY 2014-15	207	
					Audited Financial Statements for the year ended on 31st March, 2014	208-219	
					Copy of confirmation letter lender in the books of assessee company	220	
					Copy of bank statement of assessee showing the loan transactions	221-224	

4	Jatadhari Commercials Pvt. Ltd.	-	1,10,00,000	26.03.2014	Certificate of Incorporation, Memorandum of Association and Articles of Association	225-244	6,41,09,607
				27.03.2014	MCA Active Compliant status	245-246	
					Acknowledgement of Return of Income for AY 2014-15	247	
					Audited Financial Statements for the year ended on 31st March, 2014	248-259	
					Copy of confirmation letter lender in the books of assessee company	260	
					Copy of bank statement of assessee and lender showing the loan transactions	261-268	

5	Pushapdhan Merchandise Pvt. Ltd.	-	1,00,00,000	25.07.2013	Memorandum of Association and Articles of Association	269-287	3,26,08,522
				26.07.2013	MCA Active Compliant status	288	
				27.07.2013	Acknowledgement	289	

S N o	Party Name	Share Application (in Rs)	Loan Amount	Date of Loan Repayment	Documents submitted before Assessing Officer	Pg No in Factual PB	Total Own Funds (in Rs)
					of Return of Income for AY 2014-15		
				26.03.2014	Audited Financial Statements for the year ended on 31st March, 2014	290-300	
					Copy of confirmation letter lender in the books of assessee company	301	
					Copy of bank statement of assessee and lender showing the loan transactions	302-311	

6	Value Added Merchants Pvt. Ltd.	5,00,000	20,00,000	27.03.2014	PAN, Certificate of Incorporation, Memorandum of Association and Articles of Association	312-329	10,92,43,537
					MCA Active Compliant status	330-331	
					Acknowledgement of Return of Income for AY 2014-15	332	
					Audited Financial Statements for the year ended on 31st March, 2014	333-345	
					Copy of Form 2 filed with Registrar of Companies for allotments of shares to the applicants	346-353	
					Copy of ledger account of lender in the books of assessee company	354-355	
					Copy of confirmation letter lender in the books of assessee company	356-357	
					Copy of bank statement of assessee showing the loan transactions	358-361	

S No	Party Name	Share Application (in Rs)	Loan Amount	Date of Loan Repayment	Documents submitted before Assessing Officer	Pg No in Factual PB	Total Own Funds (in Rs)
6	Lona Mercantile Pvt. Ltd.	-	20,00,000	01.09.2015	PAN, Certificate of Incorporation, Memorandum of Association and Articles of Association	362-374	15,79,21,646
					Acknowledgement of Return of Income for AY 2014-15	375	
					Audited Financial Statements for the year ended on 31st March, 2014	376-378	
					Copy of ledger account of lender in the books of assessee company	379-381	
					Copy of confirmation letter lender in the books of assessee company	382	
					Copy of bank statement of assessee showing the loan transactions	383-386	
7	Index Tie-Up P Limited	1,25,00,000	-	-	Certificate of Incorporation, Memorandum of Association and Articles of Association	387-403	16,21,82,321
					MCA Active Compliant status	404-405	
					Audited Financial Statements for the year ended on 31st March, 2014	406-417	
					Acknowledgement of Return of Income for AY 2014-15	418	
					Copy of Form 2 filed with Registrar of Companies for allotments of shares to the applicants	419-426	
					Copy of ledger account of lender in the books of assessee company	427-428	

S No	Party Name	Share Application (in Rs)	Loan Amount	Date of Loan Repayment	Documents submitted before Assessing Officer	Pg No in Factual PB	Total Own Funds (in Rs)
					Copy of bank statement of assessee showing the loan transactions	429-433	
8	Payagpour Vyapaar P Limited	50,00,000	-	-	Certificate of Incorporation, Memorandum of Association and Articles of Association	434-452	9,71,06,964
					Audited Financial Statements for the year ended on 31st March, 2014	453-472	
					Copy of Form 2 filed with Registrar of Companies for allotments of shares to the applicants	473-480	
					Copy of ledger account of lender in the books of assessee company	481-482	
					Copy of bank statement of assessee showing the loan transactions	483	
9	Mascot Multitrade P Limited	75,00,000	-	-	Certificate of Incorporation, Memorandum of Association and Articles of Association	484-503	7,07,19,120
					MCA Active Compliant status	504	
					Audited Financial Statements for the year ended on 31st March, 2014	505-511	
					Copy of Form 2 filed with Registrar of Companies for allotments of shares to the applicants	512-519	
					Copy of ledger account of applicant company in the books of assessee company	520-521	

S N o	Party Name	Share Application (in Rs)	Loan Amount	Date of Loan Repayment	Documents submitted before Assessing Officer	Pg No in Factual PB	Total Own Funds (in Rs)
10	Season Multitrade P Limited	1,00,00,000	-	-	PAN, Certificate of Incorporation, Memorandum of Association and Articles of Association	522-545	20,99,37,161
					Audited Financial Statements for the year ended on 31st March, 2014	546-555	
					Copy of Form 2 filed with Registrar of Companies for allotments of shares to the applicants	556-563	
					Copy of ledger account of applicant company in the books of assessee company	564-565	
11	Virgo Mercantile P Limited	50,00,000	-	-	PAN, Certificate of Incorporation, Memorandum of Association and Articles of Association	566-582	-
					Copy of Form 2 filed with Registrar of Companies for allotments of shares to the applicants	583-590	
					Copy of ledger account of applicant company in the books of assessee company	591-592	

19. The details of share application for **AY 2015-16** along with the documents submitted before the AO to prove the identity, genuineness and creditworthiness of loans taken are as under:

Sr No	Party Name	Share Application (in Rs)	Documents submitted before Assessing Officer	Pg No in Factual PB	Total Own Funds (in Rs)
1	Crabel Distributors P Limited	75,00,000	Certificate of Incorporation, Memorandum of Association and Articles of Association	105-121	29,86,28,066
			Audited Financial Statements for the year ended on 31 st March, 2013 of applicnat.	122-139	
			Copy of Form PAS-3 filed with Registrar of Companies for allotments of shares to the applicants	140-146	
			Copy of ledger account of applicant company in the books of the assessee company	147-148	
			Copy of bank statement of assessee showing the receipt for purchase of shares.	149-150	
2	Lemonmint Commercial P Limited	75,00,000	Memorandum of Association and Articles of Association	151-160	24,73,33,206
			Audited Financial Statements for the year ended on 31 st March, 2013 of applicant.	161-166	
			Copy of Form PAS-3 filed with Registrar of Companies for allotments of shares to the applicants	167-173	
			Copy of ledger account of applicant company in the books of the assessee company	174-175	
			Copy of bank statement of assessee showing the receipt for purchase of shares.	176	

20. The details of share application and loan received from M/s Vinam Finance P Limited for **AY 2016-17** along with the documents submitted before the AO to prove the identity,

genuineness and creditworthiness of loans taken are as under:

Share Application (in Rs)	Loan Amt (in Rs)	Date of Loan Repayment	Loan repayment amount	Documents submitted before Assessing Officer	Pg No in Factual PB	Total Own Funds (in Rs)		
12,80,00,000	3,00,00,000	17.05.2016	50,00,000	Copy of PAN card	98	44,37,97,616		
		31.03.2017	50,00,000	Certificate of Incorporation	99			
		15.12.2018	9,55,096	Memorandum of Association and Article of Association	100-121			
		11.01.2019	5,00,000	Audited Financial Statements for the year ended 31.03.2017.	122-126			
		11.02.2019	2,00,000	Acknowledgement of Return of Income e-filed u/s 139(1) on 17.10.2016 vide e-filing acknowledgement number 509904341171016 for Assessment Year 2016-17.	127			
		15.06.2019	3,00,000	Copy of Return of Allotment in Form No. PAS -3 filed with the Registrar of Companies alongwith copy of Table A and Board Resolution.	128-142			
		27.08.2019	3,00,000	Copy of ledger account of the lender company in the books of the assessee company for the period under consideration.	143-145			
		26.03.2020	28,63,477				Copy of bank statements of the assessee company showing loan transactions with the lender company.	146-152
							Copy of ledger accounts of the assessee company in the books of the lender company.	153-157
							Copy of Account Confirmations in the books of the lender company	158-162
				Copy of bank statements of the lender company showing loan	163-167			

Share Application (in Rs)	Loan Amt (in Rs)	Date of Loan Repayment	Loan repayment amount	Documents submitted before Assessing Officer	Pg No in Factual PB	Total Own Funds (in Rs)
				transactions with the assessee company.		

21. The details of loan received from M/s Vinam Finance P Limited for **AY 2017-18** along with the documents submitted before the AO to prove the identity, genuineness and creditworthiness of loan taken is as under:

Loan Amt (in Rs)	Documents submitted before Assessing Officer	Pg No in Factual PB	Total Own Funds (in Rs)
48,00,000	Copy of PAN card	60	44,98,51,776
	Certificate of Incorporation	61	
	Memorandum of Association and Article of Association	62-78	
	Annual Report for the year ended on 31.03.2017.	79-93	
	Acknowledgement of Return of Income e-filed u/s 139(1) on 31.10.2017 vide e-filing acknowledgement number 279904071311017 for Assessment Year 2017-18.	94	
	Copy of ledger account of the lender company in the books of the assessee company for the period under consideration.	95	
	Copy of bank statements of the assessee company showing loan transactions with the lender company.	96-98	
	Copy of ledger accounts of the assessee company in the books of the lender company.	99-103	
	Copy of Account Confirmations in the books of the lender company	104-108	
	Copy of bank statements of the lender company showing loan transactions with the assessee company.	109-113	

22. The details of loan taken from M/s Vinam Finance P Limited for **AY 2019-20** along with the documents submitted

before the AO to prove the identity, genuineness and creditworthiness of loan taken is as under:

Loan Amt (in Rs)	Documents submitted before Assessing Officer	Pg No in Factual PB	Total Own Funds (in Rs)
3,00,00,000	Copy of PAN card	66	47,61,14,992
	Certificate of Incorporation	67	
	Memorandum of Association and Article of Association	68-84	
	Audited Financial Statements for the year ended 31.03.2019.	85-96	
	Acknowledgement of Return of Income e-filed u/s 139(1) on 31.10.2019 vide e-filing acknowledgement number 245988001311019 for Assessment Year 2019-20.	97	
	Copy of ledger account of the lender company in the books of the assessee company for the period under consideration.	98	
	Copy of bank statements of the assessee company showing loan receipts and payments transactions to the lender company.	99-102	
	Copy of ledger account of the assessee company in the books of the lender company.	103- 107	
	Copy of Account Confirmation in the book of the lender company	108- 112	
	Copy of bank statements of the lender company showing loan transactions with the assessee company.	113- 117	

23. Thus relying upon the above evidences/details, the assessee contended that the identity of the lenders had been established on the basis of the PAN, return of income, account confirmation of above-mentioned parties. As per the assessee, the genuineness of the transactions had also been established on the basis of account confirmation & bank statements filed before the Assessing Officer, where all the loans taken from above mentioned parties by account payee cheques are reflected in the bank statements. As per assessee

the creditworthiness of the lenders was established on the basis of balance sheet of above-mentioned parties filed before the AO. The assessee further contended that from the balance sheets, it can be seen that the above lenders had surplus funds (figures in the tables above), while carrying out their trading business activity & these funds were loaned against interest and these loans were repaid in subsequent year(s). Therefore, as per Ld. AR the assessee has discharged his onus as required u/s. 68 of the Act by filing the necessary documentary evidences. The assessee further contends that on the contrary, the AO has violated the principle of natural justice by not providing the copies of enquiry reports conducted at the back of the assessee and the opportunity of cross examination of so-called accommodation entry operators was not provided by the AO. Further, *no incriminating material*, say in the form of any cash trail has been found during the search or even after the Search through any independent enquiries by the AO, to enable the AO to shift the onus back onto the assessee.

24. We found that the Ld. CIT(A) after relying on various case-laws described in para 22 to 33 of the appellate order and facts of the case, upheld the addition u/s. 68 of the Act, in respect of these share applications/loans. The disallowance of interest on unsecured loans was consequentially confirmed. The Ld. CIT(A) based his finding on the ground that the creditors were not found existing at the given addresses and the assessee failed to produce the directors of these companies as required by the Assessing Officer. Whereas on the contrary the assessee argued that the lenders

are MCA active companies and are on compliance record of Income Tax Department through compliances before their respective jurisdictional PAN-AO. If these are not found on their addresses, years after the transactions with the assessee, the onus of finding them cannot be foisted onto the assessee. Further, the insistence by both the Assessing Officer as well as the Ld. CIT(A) to produce the directors of a third-party legal entity is well beyond the control of anybody much less the assessee. It is on the contrary, well within the powers of the revenue authorities to ensure their attendance, if they so required. Nevertheless, as contended by the assessee, these aspects are not enough to shift the onus back on to the assessee after the assessee had submitted all possible details to discharge the onus and the Assessing Officer neither carried out any independent enquiry through banking channels or through the lender's jurisdictional AOs or directly through lenders, to disprove any of the documents submitted by the assessee in discharge of the onus.

25. As per assessee, it is an undisputed fact that majority of the loans that were treated as unexplained cash credit, have already been **repaid** much before the initiation of the re-opening proceedings. Such repayment has not been doubted by the Assessing Officer in the year(s) of repayment. Therefore, the alleged addition on account of unsecured loans u/s 68 of the Act is liable to be deleted. In this regard reliance is placed on an identical issue on the same material in a group case, in the recent decision of Income Tax Appellate Tribunal, Mumbai in the matter of **Bhadresh Mansukhlal Dodhia vs DCIT – CC-3, Thane, ITA No. 2218/MUM/2025**

(AY: 2013-14), dated 22.07.2025. The relevant portion is reproduced hereunder:

“6. Even on merit, I find that alleged loan which was treated as unexplained cash credit has already been repaid when reassessment proceeding was initiated. The loan was repaid on 03.03.2026, copy of bank statement is placed on record at page no.80 of paper book. Such repayment is not doubted by the revenue authorities.

7. I find that Hon’ble Gujarat High Court in case of CIT vs. Ayachi Chandrashekhar Narsangji (2024) 41 taxmann.com 250 (Guj) held that where department has accepted repayment of loan in subsequent year, no addition was to be made in the current year for such credit. Such, decision has been followed by Surat Bench in case of Rajhans Construction Private Ltd. in ITA No.1450/Ahd/2016 dated 14.03.2022. I find that assessee has placed on record copy their bank statement showing the repayment of loan in subsequent year, which is not doubted by assessing officer, hence addition under section 68 and interest expenses are not justifiable. Thus, the assessee succeed on legal issue as well as on merit.

8. In the result, the appeal of the assessee is allowed.”

26. Further, as regards extensive discussion on various case laws cited by the Ld. CIT(A), the assessee contended that these will come into picture only when there are some adverse facts brought on record against the assessee in the first place and accordingly these are distinguishable in facts of this case

and in support of its grounds, the assessee relies upon various judgments of Hon'ble Supreme Court, Jurisdictional High Court and Jurisdictional Tribunal as under, which create binding precedents for all the authorities under their Jurisdiction. These Judgments are regarding additions u/s 68 of the Act in respect of either Share Capital or Unsecured loans. Nevertheless, the *ratio* equally applies to the facts of assessee's case:

- i) *Decision of Hon'ble Supreme Court in the case of PCIT vs. Hi-Tech Residency Pvt. Ltd. (2018) 257 Taxman 335(SC).*
- ii) *Decision of Hon'ble Supreme Court in the case of CIT vs. Lovely Exports (P) Ltd (2008) 216 CTR 195 (SC).*
- iii) *Decision of Hon'ble Supreme Court in the case of CIT vs. Steller Investment Ltd (2001) 251 ITR 263 (SC).*
- iv) *Judgment of Hon'ble Supreme Court in the case of Commissioner of Income Tax, Orissa Vs Orissa Corporation P. Ltd. [1986] 159 ITR 78 (SC).*
- v) *Decision of the Hon'ble Supreme Court in the case of Earth Metal Electric Pvt. Ltd., vs. CIT dated 30th July, 2010 in Appeal No.21073 of 1999.*
- vi) *Decision of Bombay High Court in the case of Principal Commissioner of Income-tax-2, Thane v. Shree Rajlakshmi Textile Park (P.) Ltd. [2020] 113 taxmann.com 2 (Bombay).*
- vii) *Decision of Bombay High Court in the case of Commissioner of Income tax vs. Orchid Industries (P.) Ltd. [2017] 88 taxmann.com 502.*

- viii) *Decision of Bombay High Court in the case of Commissioner of Income tax vs. Creative World Telefilms Ltd. [2011] 15 taxmann.com 183.*
- ix) *Decision of Bombay High Court in the case of CIT vs. Goa Sponge and Power Ltd (13/02/2012) Tax Appeal No. 16 of 2012.*
- x) *Reliance Corporation, vide order in I.T.A. No.4946/MUM/2016 dated 12.04.2017*
- xi) *Vikram Muktilal Vora vide order dated 23.05.2017 in ITA No. 842/Mum/2017.*
- xii) *Sumit Jain in ITA No. 145/MUM/2017.*
- xiii) *Keynote Fincorp Ltd in ITA No. 1643 & 1647/MUM/2018.*
- xiv) *Gujarat Construction in ITA No. 7040/M/2016.*
- xv) *Vashu Bhagnani in ITA No. 5648/M/2016.*
- xvi) *Jainam Investments in ITA No. 6099/M/2016.*
- xvii) *Pabal Housing P Ltd ITA No. 2687/2688/2689/M/2018.*
- xviii) *Smt. Pratima Ashar, [2019] 107 taxmann.com 135 (Mumbai - Trib.),*
- xix) *Hetal Nitin Shah, [2024] 159 taxmann.com 1618 (Mumbai - Trib.).*
- xx) *Chemicon Engineering Consultant (P.) Ltd. v. ACIT, [2022] 142 taxmann.com 297 (Mumbai - Trib.).*

27. On the other hand Ld. DR, while referring to the seized material, statement of various persons recorded during the search and the reports of the Investigation Wing, drew our

attention to extensive discussion on various case laws cited by the Ld. CIT(A) and relying upon the orders of both the lower authorities, argued for dismissal of grounds raised by assessee on merits against additions made u/s 68 on account of loans and share application money.

28. Therefore considering the totality of the facts and circumstances as discussed by us in detail, we are inclined to follow the decisions of Hon'ble Supreme Court, Jurisdictional High Court and Jurisdictional Tribunal including the judgments of this Tribunal on *identical issue on same material in group cases*, that create binding precedents as regards their *ratio decidendi* and thus we are of the view that when once majority of loans that were treated as unexplained cash credit, have already been prepaid much before initiation of reopening proceedings and such repayment has not been doubted by the AO in the year of repayment, therefore additions on account of unsecured loan u/s 68 of the Act are not sustainable and accordingly we direct the same to be deleted. Consequently, this ground raised by the assessee stands allowed.

29. Now we shall decide the grounds raised by assessee with regard to additions made by AO on account of cash receipts u/s 69A of the Act, which are relevant for A.Y 2013-14, 2014-15 and 2015-16.

30. In this regard, we have heard the counsels for both the parties, perused the material placed on record, judgements cited before us and also the orders passed by the revenue authorities.

31. Ld. AR outrightly submitted that material and statements relied upon by the AO while making the addition are not 'evidence' under the provisions of law. Therefore we noticed that while dealing with AY 2014-15 at para 77 (page 67) of the appellate order, the Ld. CIT(A) has observed that the Assessing Officer made an addition of Rs 24,97,51,535/- for unaccounted cash receipts as found recorded in the bundle number 8 and 9 seized from the residence of Shri Divyesh Dhanani an employee of Dodhia Group. Further, the Ld. CIT(A) has placed reliance on the statements of Shri Divyesh Dhanani (para 77; page 67 of the appellate order), statement of Shri Pradeep Dodhia (para 78; page 68 of the appellate order), Shri Bhadresh Dodhia (para 79, page number 68 of the appellate order) and letter dated 27.08.2021 filed by Shri Manukhlal Dodhia (para 82.1; page number 69 of the appellate order) to conclude that the cash receipts belongs to the assessee company, which is being objected by the assessee.

32. However on the contrary Ld. AR had relied upon the Board's Instructions in respect of admissions during the search that are not backed by credible evidence (Instruction F.No. 286/2/2003-IT (INV.II), Dated 10.03.2003 and Letter F.No. 286/98/2013-IT(INV.II) , Dated 18-12-2014). The assessee also relies upon the decision of the decision of Hon'ble Delhi High Court in the case of **Harjeev Aggarwal [2016] 70 taxmann.com 95 (Delhi)** delivered on 10.03.2016, *inter alia*, relying on **CIT v. Shri Ramdas Motor Transport [1999] 238 ITR 177/102 Taxman 300** (AP) wherein, it is held that the statements recorded u/s 132(4) of the Act, do

not by themselves, constitute incriminating material ***unless***, such statement relates to any incriminating evidence of undisclosed income unearthed during search and seizure. The assessee also places reliance on the judgement of Jurisdictional Tribunal, Mumbai in the case of ***Deepchand and Co. v. ACIT (1995) 51 TTJ 421 (Mum)***.

33. Now for reaching to conclusion, it is necessary and imperative to analyse the statement of Shri Divyesh Dhanani, Shri Pardeep Dodhia and Shri Bhadresh Dodhia it can be observed that it is nowhere alleged that the said cash receipts belong to the assessee company namely Dodhia Synthetics Limited. In fact, the letter dated 27.09.2021 filed by the Shri Mansukhlal Dodhia also nowhere mentions that the said cash receipts belong to Dodhia Synthetics Limited.

34. Therefore, now the moot question before us is that is to be answered is not what has been stated in the statements but the nature of material seized and if that is held as *incriminating*, then only the contents of the statements will have a bearing against the assessee. As regards, contents of the bundle number 8 and 9 as relied upon by the Assessing Officer and CIT(A) for A.Y. 2014-15, the assessee drew our attention to following aspects thereof:

- i. *The name of the assessee company namely Dodhia Synthetics Limited is not mentioned in the alleged noting/s.*
- ii. *It is nowhere mentioned that the assessee company, namely Dodhia Synthetics Limited was a party to the said transaction/s, if any.*
- iii. *The noting/s does not indicate any clarity on the nature of transaction either on receipt side or on payment side even at gross level whether these are 'capital' or 'revenue' in nature, much less*

the granular nature thereof and whether any of these actually materialised.

- iv. The identity of the parties mentioned in cryptic manner can not be deciphered in the absence of full name and address are neither revealed prima facie nor corroborated through any independent enquiries.*
- v. If the transaction indeed took place, it is nowhere mentioned that it was a 'Cash' transaction; even for the sake of academic discussion, if it is 'Cash', nowhere it is mentioned as to who is receiving or paying cash on behalf of the assessee company or any other entity for that matter.*
- vi. The said noting does not contain any implicating or damning words like 'cash paid' or 'cash received' either.*
- vii. The statements recorded during the search nowhere mention that the said entries belong to the assessee being Dodhia Synthetics Limited, in particular, being a separate and independent legal entity within Dodhia Group per se.*
- viii. Therefore, these documents together with the vague and generic statements recorded during the search fail the test of 'evidence' much less against the assessee company in particular and are therefore prima facie dumb documents.*

35. The assessee further argued that it is a well settled law that in order to prove that the assessee had undertaken unaccounted cash transactions or made any cash payments, *a live link or a cash trail* corroborating the alleged incriminating document as conclusive evidence should have been established. In absence of the same, noting /jottings cannot be considered as an incriminating material and no additions can be proposed in this regard on the basis of a mere 'dumb documents'. Reliance is placed on the decision of Hon'ble Delhi High Court in the case of **Commissioner of Income-tax, Delhi (Central)-II vs. D.K. Gupta [2008] 174 Taxman 476 (Delhi)/[2009] 308 ITR 230 (Delhi High**

Court). The reliance is also placed on the decision of Hon'ble Jurisdictional ITAT Mumbai Bench in the case of **Ms. Chhaya P. Gangar v. Deputy Commissioner of Income-tax [2017] 82 taxmann.com 315 (Mumbai)/[2016] 47 ITR(T) 328 (Mumbai - Trib.)**.

36. Our attention has also been drawn to para 91 of the appellate order (page 77), wherein the Ld. CIT(A) noted that during the assessment proceedings the Assessing Officer tried to correlate certain entities regarding the cash received from M/s V.V. Dyechem P Limited. Therefore, the Ld. CIT(A) summarily concluded that since most of the entries in the seized diary belong to the assessee company therefore it will be fair to assess the undisclosed income (in respect of all entries in the diaries) in the hands of the assessee company. In this regard it was submitted that although the assessee/assessee had objected to these sweeping assumptions that, without any basis have led to high-pitched additions, thereby causing grave prejudice to the assessee.
37. Thus, according to assessee, the Assessing Officer or the Ld. CIT(A) have failed to prove that the said cash receipt belong to the assessee company and further since no unaccounted cash were found at the time of search and seizure from the assessee company, the seized documents (i.e., bundle number 8 and 9 seized from the residence of Shri Divyesh Dhanani) are therefore only a bunch of 'dumb documents' and no addition whatsoever ought to have been made by the Assessing Officer or the Ld. CIT(A) on the basis of such dumb documents for A.Y. 2013-14 onwards.

38. In this regard, reliance is being placed on the following judicial pronouncements placed in the legal paper book:

- i. *Decision of Hon'ble High Court of Bombay in the case of PCIT vs. Umesh Ishrani (2019) [(108 taxmann.com 437) (Bombay)].*
- ii. *Decision of Hon'ble High Court of Punjab & Haryana in the case of CIT vs. Ravi Kumar (2008) (168 Taxman 150).*
- iii. *Decision of Hon'ble High Court of Delhi in the case of CIT, Delhi (Central)-II vs. D.K. Gupta (2008) [(174 taxman 476) (Del.)].*
- iv. *Decision of Hon'ble High Court of Punjab & Haryana in the case of CIT vs. Atam Valves (P.) Ltd (2009) (184 Taxman 6).*
- v. *Decision of Hon'ble ITAT, Mumbai Bench in the case of M/s Riveria Properties Pvt. Ltd. vs. ITO (I.T.A No. 250/MUM/2013 & I.T.A No. 2748/MUM/2016).*
- vi. *Decision of Hon'ble ITAT, Mumbai Bench in the case of ITO vs. Shri Parvez Mohommed Hussain Ghaswala (I.T.A No. 3318/MUM/2013 & I.T.A No. 819/MUM/2012).*
- vii. *Decision of Hon'ble ITAT, Mumbai Bench in the case of ACIT vs. Layer Exports P. Ltd. (2017) [(184 TTJ 469) (Mum.)].*
- viii. *Decision of Hon'ble ITAT, Mumbai Bench in the case of Amarjit Singh Bakshi (HUF) vs. ACIT (2003) [(86 ITD 13) (Delhi)].*
- ix. *Decision of Hon'ble ITAT, Mumbai Bench in the case of ITO vs. Kranti Impex Pvt. Ltd. (I.T.A No. 1229/MUM/2013).*
- x. *Decision of Hon'ble ITAT, Delhi Bench in the case of Ashwani Kumar vs. ITO (39 ITD 183) (Delhi).*
- xi. *Decision of Hon'ble ITAT, Bangalore Bench in the case of Additional ITO vs. T. Mudduveerappa Sons (1993) [(45 ITD 12) (Bang.)].*
- xii. *Decision of Hon'ble ITAT, Calcutta Bench in the case of T. S. Venkatesan vs. ACIT (2000) [(74 ITD 298) (Cal.)].*

39. The assessee further contended that since the assessee company has not been '*found to be the owner of any cash*' or '*money*', during the financial year relevant to assessment year(s) under consideration. As a matter of fact, despite search & seizure and seizure operations, no unexplained cash was found. It is clear that onus is on the AO to give a finding that the assessee is the owner of any money, bullion, jeweler, valuable article not recorded in books of accounts. Certain figures scribbled on loose that alone do not fall under purview of language of the said section. It is also not clear to which concern the scribblings pertain. Besides, there is no material or incriminating material unearthed during search & seizure to hold that cash was being generated out of books. No material has been found or no enquiries have been conducted to corroborate such bald conclusions made by AO. The addition is based on mere conjectures and surmises. Therefore, once no money or cash has been found in the possession of the assessee, no addition is permissible u/s 69A of the Act. Therefore, according to assessee, the addition being not legally tenable is liable to be deleted.
40. Whereas the Ld. DR on the other hand referring to the seized material, statement of various persons recorded during the search and relying upon the orders of both the lower authorities, argued for dismissal of grounds raised by assessee on merits against additions made u/s 69A on account of alleged cash receipts u/s 69A.
41. Meticulously gone through the facts, documents & legal proposition of the case, we noticed that the hand written notings in the seized material as bundle no. 8 and 9, which

nowhere indicate that notings represent materialised transactions that too by the assessee under consideration. We also find that no attempts have been made by the department to identify and segregate the entries attributable to the assessee vis-à-vis other entities of the Group. The AO has made additions of entries one side of these papers and taxed as unexplained receipts 'in cash' by the 'assessee', whereas, the bare contents of the seized material do not give rise to such presumption. Nevertheless, the presumption, if any is rebuttable and is, otherwise, to be duly supported by corroborative statements and independent enquiries, which have not been conducted with any of the transacting parties as being deciphered. The Ld. CIT(A), also has treated the dumb documents as materialised transactions without giving a clear finding as to the 'entity' and 'nature of transactions' and lastly whether they have materialised or not. The Ld. CIT(A) has arbitrarily adopted 'transaction-wise selective approaches' *i.e.* applying the peak theory on some transactions and denying on the others, applying an arbitrary net profit rate on some transactions and denying on others and taxing entire receipts regarding rest of the transactions is against the concept of taxability of real income and accounting principles, even as none of the referred material and transactions pertained to or belonged to assessee company, in particular. Therefore, in view of the facts and circumstances, arguments of the Ld. AR, written submissions and judicial precedents including those of jurisdictional High Court and Jurisdictional Tribunal, we are inclined to **Allow the ground(s)** relating to additions u/s 69A in respect of alleged receipts based on this seized material

and direct the AO to delete the corresponding additions in various years above. As the relief is being granted on the primary arguments of the assessee, we do not consider it necessary to deal with and adjudicate on the alternate grounds raised by the assessee in the written submissions before us or before lower authorities.

Disallowance u/s 37(1) of the Act on account of bogus purchases. [Relevant for AY 2014-15 and AY 2015-16]

42. On this issue, ***both the parties*** have filed ***cross appeals***. We noted that on the basis of the seized bundle number 3,8 and 9 from the premises of Shri Divesh Dhanani, the Assessing Officer has made an addition on account of bogus purchases by assessee from V.V. Dyechem P Limited. It is submitted by the assessee that during the assessment proceedings to prove the genuineness of the said purchases the assessee company filed the following documents:

- i. Copy of PAN of seller company.***
- ii. Copy of GST registration certificate.***
- iii. Acknowledgment of return of income for AY 2014-15.***
- iv. Copy of invoices.***
- v. Copy of ledger account of the assessee company in the books of seller company.***

43. From the records, we noticed that AO also issued summons u/s. 131 of the Act to M/s. V. V. Dyechem Pvt. Ltd. But the summons remained uncompiled with. Therefore, since the assessee failed to substantiate the genuineness of purchases made from M/s. V. V. Dyechem Pvt. Ltd., therefore the AO held that these purchases are bogus and the disallowance was made u/s. 37 of the Act.

44. Further the Ld. CIT(A) has held that on the basis of various decisions of the Hon'ble High Court and Tribunal, where sales are not doubted by the assessing officer and no discrepancy is found in the quantitative details, only the profit element embedded in alleging bogus purchases would be subjected to disallowance and not the entire amount of bogus purchase. Further at para 119 (page 160) of the impugned order, the Ld. CIT(A) held that the estimation of profit embedded in bogus purchase have not been prescribed by various Courts, so therefore, the Ld. CIT(A) has taken an estimate profit of 20% on the alleged bogus purchases.

45. In this regard the Ld. AR argued that the Ld. CIT(A) has held that there is no discrepancy with regard to the purchases. Therefore, the alleged addition on account of 20% of profit on bogus purchases, without even demonstrating as to how the said 20% is worked out or legitimately based upon, deserves to be deleted. The assessee placed reliance on the recent judicial pronouncement of Jurisdictional Bombay High Court in the matter of ***Ashok Kumar Rungta v. Income-tax Officer, [2024] 167 taxmann.com 429 (Bombay), dated October 15, 2024***, wherein the Hon'ble Bombay High Court held that *where Assessing Officer disallowed 100 per cent of purchases from certain entities on ground that same was bogus and Tribunal restricted disallowance to extent of 10 per cent of total purchases alleged to be bogus, since Tribunal simply adopted a 10 per cent margin for disallowance, despite returning a firm finding that Assessing Officer's order was untenable, not being backed by cogent and convincing evidence, impugned order of Tribunal deserved to be set aside.*

46. The Ld. DR on the other hand referring to the seized material and relying upon the Assessment order, argued for **dismissal of grounds raised by assessee** on merits against profit of **20% estimated** by Ld. CIT(A) and pressed for **100% of disallowance** of purchases made by the AO u/s 37(1) on account of bogus purchases.
47. We have heard counsels for both the parties, perused the material placed on record, judgments cited before us and also the orders passed by the revenue authorities on this ground. The rival submissions and issues raised in the cross appeals have also been considered. From the records we noticed that Ld. CIT(A) has not given any counter to the assessee's contention that Quantity purchased from M/s. V. V. Dyechem has been duly recorded in the stock register and no discrepancy in the stock was found during the search as well as during the assessment proceedings. It has also been contended by the assessee that the AO has not doubted the total sales declared in the regular books of account, which are duly audited. Further, after the assessee has discharged the onus by producing various documents, the AO, after assuming the onus, had issued summons to the said supplier u/s 131, which remained uncompiled. We are of the opinion that the non-compliance to summons cannot be interpreted against the assessee, as it was well within the powers of the revenue authorities to ensure their compliance and fact of non-compliance by a third party, after the assessee has discharged the onus, is not sufficient to turn back the onus onto the assessee. Further, the unfounded estimation of 20% profit on purchases by Ld. CIT(A), in the absence of any

adverse finding against the genuineness of purchases is also not in accordance with law. Accordingly, we **dismiss** the **revenue's appeals** on this issue and **allow the corresponding grounds in the assessee's appeal and direct the AO to delete the addition** on account of bogus purchases or the associated estimated profit as sustained by the Ld. CIT(A).

Addition made by the AO on account of Hundi Loans u/s 69D[Relevant to AY 2014-15]

48. The AO has made an alleged addition of Rs 5,00,000/- on the basis of page number 30 of bundle number 5, party number MN-5, namely the residential premises of Shri Divyesh Dhanani. The said page is re-produced by the Ld. CIT(A) at page number 65 of the appellate order. The Ld. CIT(A) has confirmed the addition made by the AO.

49. It is submitted by the assessee that the primary requirement for invoking the provisions of section 69D of the Act as inserted by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-4-1976, w.e.f. 1-4-1977, is that the document must be a Hundi and it is only thereafter that the deeming provisions would come into play. In the present case the document under consideration has following characteristics, which **negate** the existence of a 'Hundi' transaction in this case:

- a) It is a bilateral transaction.
- b) It is not in vernacular language.

- c) It is not a 'Form' that word 'Hundi' is written on the stamped paper or not, but the 'Substance' has to be seen.
- d) It is a proposed transaction which did not materialize as the relevant document was not found in the custody of lender and thus, the document under consideration cannot be considered even as a 'promissory note' much less a 'Hundi'.
- e) On perusal of the seized paper, it can be observed that the said page has been cancelled by scribbling across it which further strengthens the contention of the assessee company that it was a proposed transaction which did not materialize.

50. The assessee placed reliance on the recent decision of Hon'ble Income Tax Appellate Tribunal, Mumbai Bench, in the matter of Kemox Corporation vs DCIT-CC-3, Thane, ITA No: 2019/Mum/2025, dated 06.03.2025, which has after relying on the decision of the Hon'ble Andhra Pradesh High Court in the case of Dexan Pharmaceuticals Private Limited, Decision of Coordinate Bench of Income Tax Appellate Tribunal, Mumbai Bench in the case Ravi B Jaising vs ACIT in ITA No 4592/Mum/2017 and the Hon'ble Delhi High Court in the case of CIT vs Ram Niwas [2008] 170 taxman 5 (Delhi), has held that the instrument under consideration is not a Hundi as it is English language and bilateral and not tripartite.

51. The Ld. DR on the other hand referring to the seized material and relying upon the orders of both the lower

authorities, argued for dismissal of grounds raised by assessee on merits against additions made u/s 69D on account of Hundi Loans.

52. We have considered the rival submissions. We are inclined to follow the recent decisions of Jurisdictional Tribunal, quoted by the assessee as above, wherein decisions of various High Courts and Jurisdictional Tribunal have been followed that create binding precedents as regards their *ratio decidendi* and accordingly delete the additions made u/s 69D in respect of alleged Hundi Loans and the assessee's appeal is accordingly **Allowed**.

53. The Ground relating to disallowances of interest on loans u/s 37/69C of the Act, wherever disallowed in years under appeal in connection with the additions made by the AO u/s 68 of the Act, that have been deleted as per decision above and are consequentially deleted and the appeal is accordingly **Allowed**. The carry forward and set off of losses of earlier years is also to be allowed by the Assessing Officer as per computation of total income of various years and in accordance with the law. Further, the grounds relating to initiation of penalty proceedings and consequential charging of interest are consequential and do not require separate adjudication.

Legal Contentions of the assessee for A.Y. 2014-15 to A.Y. 2019-20

54. The assessee has challenged the jurisdiction of the Assessing Officer in making the additions u/s 153A of the Act in AY 2014-15 to AY 2019-20, in the absence of any

incriminating material whatsoever, found during the course of search and in a completed/unabated assessment relying upon the decision of the Hon'ble Supreme Court in **Abhisar Buildwell Pvt. Ltd. v. PCIT** [(2023) 454 ITR 212 (SC)]. The assessment orders for the said appeals were passed u/s 153A of the Act and fell under the category of unbated assessment as limitation of issuance of notices u/s 143(2) had expired before the search.

55. It is submitted that during the appellate proceedings before Ld. CIT(A), the assessee company raised a ground that no addition could have been made by the AO in the absence of any incriminating material found during the search operation. However, the Ld. CIT(A) relied on the following documents/ statements:

- i. Alleged incriminating material seized from premises of Shri Divyesh Dhanani;
- ii. Pre-search Statements of third parties referred to in the report of Investigation Wing; and
- iii. Post-search investigation reports obtained from the Kolkata Investigation Wing.

56. Accordingly, the Ld. CIT(A) rejected the contention of the assessee that no incriminating material was found during the search and accordingly dismissed the ground no. 4, raised by the assessee before him. The Ld. DR relying upon the order of the Ld. CIT(A), accordingly argued that the said decision of the Hon'ble Supreme Court, is not applicable to the facts of the case.

57. The Ld. AR submitted that the Assessing Officer has nowhere referred to any incriminating material found from

‘the premises of the assessee’. The materials relied upon including pages 36-38 of Bundle No. 3 or for that matters bundle no. 8 and 9 , were not found from the searched premises of the assessee. Therefore, according to the Ld. AR, such documents, in the absence of invocation of Section 153C of the Act and specific satisfaction thereunder, cannot be utilized to make additions in the hands of the assessee under Section 153A. The Ld. AR further stated that the Ld. CIT(A) in his appellate order has stated that pages 37 and 38 of Bundle No. 3 were seized from Shri Divyesh Dhanani and confronted to Shri Bhadresh Dodhia, who could not explain the same. However, such a vague reply on some dumb documents cannot constitute the statutory requirement that some incriminating material has to be found ‘from the premises of and against warrant of authorisation in the name of the assessee’, in order to sustain additions u/s even u/s 153C much less u/s 153A in unabated assessments. Therefore, as argued by the Ld. AR that in absence of any incriminating material found from the ‘premises of the assessee’, no addition can be made for the year under consideration.

58. The Ld. AR placed reliance on the following recent judicial pronouncements by the coordinate bench, on identical seized material in group cases and identical issues:

- i. Decision of Hon’ble ITAT, Mumbai Bench in the matter of A One Sizing Works vs The Asst. CIT Central Circle 3, in ITA No. 6458/MUM/2024, dated 10.07.2025. The relevant portion of which is re-produced hereunder:

“4.12 In view of the above analysis, we hold that:

- *For the unabated assessment years viz. AYs 2014–15 to 2018–19, no addition could have been made under Section 153A of the Act in the absence of any incriminating material found during the course of search from the premises of the assessee.*
- *Statements of third parties, or material found from other premises, not being relatable to the assessee's premises, cannot form the basis for additions in a 153A proceeding in respect of completed assessments, unless proceedings under other provision are separately initiated — which has not been done in this case.*
- *Consequently, all additions made in respect of unsecured loans and disallowances of interest for the above assessment years are unsustainable in law.”*

ii. On identical facts, reliance is also placed by the Ld. AR on the decision of Hon'ble ITAT, Mumbai Bench in the matter of Arun Amber Silk Mills Private vs DCIT, CC-3, Thane, IT(SS)A Nos. 443/MUM/2025, dated 29.04.2025. Both these judgments are referring to the same seized material in the group cases, as is being referred to in the case of assessee. The reliance is further placed on the decision of Coordinate Bench in the matter of Pradeep Meghji Dodhia vs DCIT, CC-3, Thane, IT(SS)A No.1117/M/2025, dated 30.06.2025 and in the case of Chandrika Mansukhlal Dodhia vs DCIT, CC-3, Thane, IT(SS)A 199/MUM/2025, dated 15.04.2025 and in case of Shri Jinesh Mansukhlal Dodhia vs. DCIT Central Circle-3, Thane [IT(SS)A No. 789/MUM/2025].

59. The Ld. AR through written submissions, contended that there is no concept of using material seized from other person to be used against person covered by s.153A, as the same would render section 153C *otiose*. Thus, it is submitted by the Ld. AR that since the additions in the case of assessee have been made from seized documents found during the search of Shri Divyesh Dhanani, wherein, the warrant of authorization is only in the name of Shri Divyesh Dhanani and Smt Kunjal

Dhanani and the assessee company was not covered under such warrant, no additions could be made in the hands of the assessee company, unless the process of recording a satisfaction note u/s 153C and initiating separate proceedings u/s 153C are resorted to, in accordance with the law.

60. The Ld. AR placed reliance on the decision of Hon'ble High Court of Gujarat in the matter of Principal Commissioner of Income-tax (Central) v. Hitesh Ashok Vaswani, [2023] 156 taxmann.com 200 (Gujarat), wherein, the Hon'ble High Court in para 10.2 thereof and while affirming the order of Hon'ble Ahmedabad Tribunal, held that in case a search was carried out on an assessee, then search would give rise to proceedings under section 153A *qua* person searched and income has to be assessed on basis of material found during course of search; assessments based on material seized from premises of other persons (covered by simultaneous search) could not be used in hands of searched person. *The* excerpts from the said decision of the Hon'ble Gujarat High Court, as above, are as follows:

“Material found during the search of the third person cannot be used for the purposes of section 153A. The submission of the assessee was that the assessment orders under section 143 (3) read with section 153A have to be framed strictly on the basis of incriminating material found during the course of search carried out in the case of the assessee and no cognizance can be taken on any material which was not found during the course of search action. Material collected during the course of search action carried out in cases of third parties cannot be considered.”[Para 10]

“The Tribunal in detail analyzed the decisions of various High Courts and held that looking to the scheme of the Income-tax Act in case a search is carried out on an assessee then the search would give rise to proceedings under section 153A qua the person searched. The income has to be assessed on the basis of the material found during the course of the search.” [Para 10.2]

61. We have considered the rival submissions. In view of the facts and circumstances and judicial precedents including those of jurisdictional tribunal in group cases on the same set of material, we are of the considered opinion that for a seized material to be considered for the purposes of section 153A, the material seized against the warrant of authorisation in respect of assessee alone has to be considered and in case the material has been seized from the premises of some other person against a separate warrant of authorisation, not naming the assessee, the recourse to section 153C has to be made on fulfilment of certain conditions including incriminating nature of the material. Therefore, the additions made u/s 153A in the case of assessee are not sustainable on this ground and the additions stand deleted on this ground as well for the years, wherein, assessments were based on notices u/s 153A.
62. In the Result, all the appeals filed by the assessee stands allowed and cross appeals filed by the revenue stands dismissed with no order as to cost.

ITA Nos. 795, 796, 797, 798 & 799/Mum/2025, A.Ys. 2013-14 to 2017-18 pertains Dodhia Filmaments Pvt Ltd

63. The assessee has raised various legal grounds and on merits of additions confirmed by the Ld. CIT(A). The legal grounds of appeal differ according to the section under which assessments are framed. However, the grounds on merits being more or less common, are adjudicated by this common order. For the sake of discussion and arguments, the A.Y. 2013-14 has been taken as the lead year. The assessee has raised the following grounds of appeal for A.Y. 2013-14:

1. *“On the facts and in the circumstances of the assessee’s case and in law, the Ld. Commissioner of Income Tax (Appeals) erred in upholding the addition of Rs 54,00,000/- u/s 68 of the Act made by the Ld. Assessing Officer in the assessment order passed u/s 144 r.w.s 147 of the Income Tax Act dated 27.03.2022 on account of unsecured loans received by the assessee from the following three companies :*
 - (i) *M/s Lona Mercantile P. Ltd,*
 - (ii) *M/s Frank Mercantile P. Ltd and*
 - (iii) *M/s Season Multitrade P. Ltd.**which were treated as unexplained cash credits though the assessee had duly discharged its onus under section 68, by submitting all the relevant documentary evidences to prove identity and creditworthiness of the lender companies and genuineness of the transactions.*
2. *On the facts and in the circumstances of the assessee’s case and in law, the Ld. Commissioner of Income Tax (Appeals) erred in upholding the disallowance of Rs 2,53,845/- u/s 37 of the Act on account of interest on the unsecured loans taken from above three companies despite the fact that the assessee has proved that these loans are genuine.*
3. *On the facts and in the circumstances of the assessee’s case and in law, the Ld. Commissioner of Income Tax (Appeals) erred in upholding the addition aggregating to Rs 56,53,845/- ignoring the fact that the loans taken stood duly repaid in subsequent years and before the date of search which proves fact that loans taken were genuine.*
4. *On the facts and in the circumstances of the assessee’s case and in law, the Ld. Commissioner of Income Tax (Appeals) erred in upholding the addition aggregating to Rs 56,53,845/- on account of unsecured loans and interest thereon without there being any evidence of cash paid at the time of receipt of alleged non-genuine unsecured loans and without there being any evidence of cash*

received at the time of repayment of alleged non-genuine unsecured loans from / to these three companies.

5. *On the facts and in the circumstances of the assessee's case and in law, the Ld. Commissioner of Income Tax (Appeals) erred in upholding the addition aggregating to Rs. 56,53,845/- by holding the above three companies as paper /shell/non-genuine entities even though all these companies were MCA Active both at the time of taking of such loans and at the time of repayment of the loans.*
6. *On the facts and in the circumstances of the assessee's case and in law, the Ld. Commissioner of Income Tax (Appeals) erred in upholding the addition aggregating to Rs 56,53,845/- in absence of any incriminating material whatsoever found during the course of search & seizure action, pertaining to the year under consideration.*
7. *On the facts and in the circumstances of the assessee's case and in law, the Ld. Commissioner of Income Tax (Appeals) erred in not treating the re-opening of assessment as bad-in-law since the re-opening was entirely based on borrowed satisfaction and without application of mind on the part of the Ld. Assessing Officer.*
8. *On the facts and in the circumstances of the assessee's case and in law, the Ld. Commissioner of Income Tax (Appeals) erred in not quashing the assessment order and deleting the addition made even when the Ld. Assessing Officer did not follow the basic principles of natural justice by*
 - (i) *supplying the assessee with materials collected at its back ,*
 - (ii) *supplying copies of all relevant statements of third parties,*
 - (iii) *supplying copies of reports of Investigation and*
 - (iv) *affording opportunity to cross examine the third parties whose statement was relied upon to draw inference against the assessee, despite specific request made by the assessee in response to show cause notice filed by the Assessee.*
9. *On the facts and in the circumstances of the assessee's case and in law, the Ld. Commissioner of Income Tax (Appeals) erred in upholding the levy of interest u/s 234A, 234B and 234D of the Income Tax Act, 1961.*
10. *On the facts and in the circumstances of the assessee's case and in law, the Ld. Commissioner of Income Tax (Appeals) erred in upholding the initiation of penalty u/s 271(1)(c) of the Income Tax Act, 1961."*

64. The grounds with regard to the additions made u/s 68 of the Act for A.Y. 2013-14 to AY 2017-18 are concerned in this regard,

We have heard the counsels for both the parties, perused the material placed on record, judgments cited before us and also the orders passed by the revenue authorities. From the records we noticed that the statement of Shri Bhadresh M.Dodhia was recorded during the course of search on 29.11.2019. Shri Bhadresh M. Dodhia was confronted with pre-search statement of one Shri Sushil Kumar Goyal, based at Kolkata regarding unsecured loans/share application money received from various Kolkata based companies. The statements of various Kolkata based entry operators and dummy directors in shell companies as available at that time were confronted with Shri Bhadresh M.Dodhia and he stated that he has no comments to offer in this regard. In general terms, Shri Bhadresh Dodhia accepted that Dodhia Group was having cash available from various sources, which was routed to books of accounts of various entities, through M/s. Vinam Finance Pvt. Ltd. and accepted that amount of Rs.43 crores approximately was routed through the said company. However, as contended by the assessee, no incriminating material was found during the search action in the case of assessee as regards the referred unsecured loans/share application money, based on which the above statement can be said to have been given.

65. In the simultaneous search in the Group, page no. 36 to 38 of bundle no. 3 was found and seized at the residence of Shri Divyesh Dhanani, Director, wherein, details of certain loans taken from various companies, were mentioned. These documents were specifically confronted in question no. 60 of this statement of Shri Bhadresh Dodhia and in response to same, he stated that he is not able to explain the column 'return' as of now.

66. In this regard the assessee contended that the aforesaid statement u/s 132(4) of Shri Bhadresh M Dodhia is without any corroborative incriminating material found during the search and being full of ad-hoc and vague replies, cannot be held as *incriminating* against the assessee. It was pointed out that during the recording of his statement, Shri Bhadresh Dodhia was confronted with the material at pages 37 and 38 of bundle number 3 seized from Shri Divyesh Dhanani (Q. 35), wherein, Shri Bhadresh Dodhia stated that the pages contain the details of loan taken by various entities/ persons of Dodhia Group from various entities. However, Shri Bhadresh Dodhia had not stated that the loans are bogus and taken in lieu of cash particularly by the assessee. Further, during the statement of Shri Divyesh Dhanani(Q.31), he stated that the said seized material was provided to him by Shri Pradeep Dodhia and therefore only Pradeep Dodhia can explain the contents of the seized material. Further, while recording of the statement of Shri Pradeep Dodhia(Q.11), he stated that the seized documents belong to Dodhia Group and its family members (in general) and the contents of these papers may be explained by Shri Bhadresh Dodhia. Therefore, there is no statement brought on record alleging that the assessee company has taken alleged bogus loans from entry providers. The assessee further contended that the material seized from Shri Divyesh Dhanani is *prima facie* in the nature of 'dumb documents' and no cognizance thereof needs to be taken as 'evidence', as all the analysis and conclusions drawn by the lower authorities are conjectures that are 'presumptive' or 'inferential' in nature, not borne out from the bare contents of the said seized material, as such.

67. We noticed that during the appellate proceedings, the Ld. CIT(A) had observed that various entities of Dodhia Group had taken accommodation entries in the form of unsecured loans/share capital from various shell entities as per information received from Investigation Wing Kolkata. The AO had issued the commission u/s. 131(1)(d) of the Act to Investigation Wing, Kolkata. The DDIT, Investigation Unit- 2(4), Kolkata reported that the Inspector deputed to verify the existence of these companies, reported that the no such company was found at the given address. Similarly, the summons issued to the companies remained unserved. With above background, the AO required the assessee to substantiate the genuineness of these loans taken during the year.

68. Whereas the assessee claimed that various documents were submitted in respect of Loanstaken for **AY 2013-14** before the AO to prove the identity, genuineness and creditworthiness of loan taken as under:

S N o	Lender Party	Loan Amt (in Rs)	Date of Loan Repaymen t	Documents submitted before Assessing Officer	Pg No in Factual PB	Total Own Funds of lenders (in Rs)
1	Frank Mercantil e P Limited	14,00,00 0	27.01.201 6	Copy of PAN of lender party.	49	17,61,98,755
				Certificate of Incorporation, Memorandum of Association and Articles of Association of lender party.	50-66	
				Acknowledgeme nt of Return of Income for AY 2013-14 of lender party.	67	
				Audited Financial Statements for the year ended on 31st March, 2013 of lender party.	68-81	

S N o	Lender Party	Loan Amt (in Rs)	Date of Loan Repaymen t	Documents submitted before Assessing Officer	Pg No in Factual PB	Total Own Funds of lenders (in Rs)
				assessee company highlighting loan taken.		
				Copy of bank statement of assessee comapany highlighting loan re- payment.	116	
3	Season Multitrade P Limited	25,00,00 0	28.01.201 6	Copy of PAN of lender party.	117	
				Certificate of Incorporation, Memorandum of Association and Articles of Association of lender party.	118- 136	
				Audited Financial Statements for the year ended on 31st March of lender party.	137- 149	
				Confirmation letter signed by lender party for loan given.	150	
				Copy of ledger account of lender in the books of assessee company for loan taken.	151	20,98,79,464
				Copy of ledger account of lender in the books of assessee company for re- payment of loan.	152	
				Copy of bank statement of assessee company highlighting loan taken.	85	
				Copy of bank statement of assessee comapany highlighting loan re- payment.	153	

69. Similarly, following documents were submitted in respect of Share Application/ Loan Taken for **AY 2014-15** before the AO to prove the identity, genuineness and creditworthiness of the share application/ loan taken and likewise for other years:

Sr No	Applicants	Share Application (in Rs)	Documents submitted before Assessing Officer	Pg No in Factual PB	Total Own Funds of Applicants (in Rs)
1	Jalsagar Mercantile P Limited	25,00,000	Certificate of Incorporation, Memorandum of Association and Articles of Association.	53-72	2,81,05,836
			Acknowledgement of Return of Income for AY 2014-15.	73	
			Audited Financial Statements for the year ended on 31st March, 2014.	74-87	
			Copy of PAS-3 filed with registrar of companies for allotment of shares of the applicants alongwith payment of fee to MCA and copy of Board Resolution.	88-96	
			Ledger account of applicant company in the books of assessee company.	97-100	
			Copy of bank statement of assessee company highlighting receipt of application money.	101-103	

2	Pushpdhan Merchandise P Limited	25,00,000	Certificate of Incorporation, Memorandum of Association and Articles of Association.	104-124	2,58,97,958
			Audited Financial Statements for the year ended on 31st March, 2014.	125-138	
			Copy of PAS-3 filed with registrar of companies for allotment of shares of the applicants alongwith	88-93	

Sr No	Applicants	Share Application (in Rs)	Documents submitted before Assessing Officer	Pg No in Factual PB	Total Own Funds of Applicants (in Rs)
			payment of fee to MCA and copy of Board Resolution.		
			Ledger account of applicant company in the books of assessee company.	97-100	
			Copy of bank statement of assessee company highlighting receipt of application money.	101-103	
3	Value Added Merchants P Limited	1,50,00,000	Copy of PAN.	139	
			Certificate of Incorporation, Memorandum of Association and Articles of Association.	140-156	
			Acknowledgement of Return of Income for AY 2014-15.	157	
			Audited Financial Statements for the year ended on 31st March, 2014.	158-170	
			Copy of Form 2 filed with Registrar of Companies for allotment of shares to the applicants alongwith payment of fees to MCA and copy of Board Resolution.	171-184	10,92,43,537
			Ledger account of assessee company in the books of applicant company.	185	
			Ledger confirmation from applicant company.	186-188	
			Ledger account of applicant in the books of assessee company.	97-100	
			Copy of bank statement of assessee company highlighting receipt of application money.	101-103	
4	Agomini Commercial P Limited	1,40,00,000	Copy of PAN.	189	
			Certificate of Incorporation, Memorandum of Association and Articles of Association.	191-206	15,11,48,933
			Acknowledgement of	207	

Sr No	Applicants	Share Application (in Rs)	Documents submitted before Assessing Officer	Pg No in Factual PB	Total Own Funds of Applicants (in Rs)
			Return of Income for AY 2014-15.		
			Audited Financial Statements for the year ended on 31st March, 2014.	208-219	
			Copy of Form 2 filed with Registrar of Companies for allotment of shares to the applicants alongwith payment of fees to MCA.	171-184	
			Ledger account of assessee company in the books of applicant company.	220	
			Ledger confirmation from applicant company.	221-223	
			Ledger account of applicant in the books of assessee company.	97-100	
			Copy of bank statement of assessee company highlighting receipt of application money.	101-103	
5	Bridhi Marketing P Limited	25,00,000	Copy of PAN.	224	8,90,86,169
			Certificate of Incorporation, Memorandum of Association and Articles of Association.	225-241	
			Acknowledgement of Return of Income for AY 2014-15.	242	
			Audited Financial Statements for the year ended on 31st March, 2014.	243-251	
			Copy of Form 2 filed with Registrar of Companies for allotment of shares to the applicants alongwith payment of fees to MCA.	252-258	
			Ledger account of applicant in the books of assessee company.	97-100	
			Copy of bank statement of assessee company highlighting receipt of application money.	101-103	

S No	Party	Share Appl & Loan Taken	Date of Repayment of Loan	Documents submitted before Assessing Officer	Pg No in Factual PB	Total Own Funds of Party (in Rs)
6	Sarvada Suppliers P Limited	Share Application: 25,00,000 Loan Taken: 28,00,000	22.03.2016	Copy of PAN.	259	5,50,23,306
				Certificate of Incorporation, Memorandum of Association and Articles of Association.	260-276	
				Acknowledgement of Return of Income for AY 2014-15.	277	
				Audited Financial Statements for the year ended on 31st March, 2014.	278-289	
				Copy of Form 2 filed with Registrar of Companies for allotment of shares to the applicants alongwith payment of fees to MCA and copy of Board Resolution.	252-258	
				Ledger account of assessee company in the books of applicant/ lender company.	290	
				Ledger account of applicant and ledger account of lender for loan taken in the books of assessee company.	97-100 & 291-292	
Copy of bank statement of assessee company highlighting receipt of application money and receipt and payment of unsecured loans.	101-103 & 293					

70. Thus relying on the above evidences, the assessee contended that the identity of the lenders had been established on the basis of the PAN, return of income, account confirmation of above-mentioned parties. As per assessee the genuineness of the

transactions had also been established on the basis of account confirmation & bank statements filed before the AO, where all the loans taken from above mentioned parties by account payee cheques are reflected in the bank statements. As per assessee the creditworthiness of the lenders was established on the basis of balance sheet of above-mentioned parties filed before the AO. Assessee further contended from the balance sheets, it can be seen that the above parties had surplus funds (in the last column in the tables above), while carrying out their trading business activity & these funds were either invested as share application money or were loaned against interest. The loans were repaid in subsequent year(s) through banking channels. Therefore, as per Ld. AR the assessee has discharged his onus as required u/s. 68 of the Act. The assessee further contended that the AO has violated the principle of natural justice by not providing the copies of enquiry reports conducted at the back of the assessee and the opportunity of cross examination of so-called accommodation entry operators was not provided by the AO. Further, no incriminating material, say in the form of any cash trail has been found or any statement of so-called entry providers directly naming or insinuating the assessee in particular, has been even quoted during the search or even thereafter through any independent enquiries by the AO, to enable the AO to shift back the onus back onto the assessee.

71. The Ld. CIT(A) after relying on various case-laws described in para 21 to 33 of the appellate order dated 27.12.2024 and facts of the case, upheld the addition of Rs. 54,00,000/- made by the AO u/s. 68 of the Act in respect of these loans for A.Y. 2013-14. The disallowance of interest of Rs.2,53,845/- was

consequentially confirmed. Similar additions/disallowances were confirmed for subsequent years. The Ld. CIT(A) based his finding on the ground that the creditors were not found existing at the given addresses and the assessee failed to produce the directors of these companies as required by the Assessing Officer. The assessee has strongly objected to this requirement as illegal. Whereas on the contrary The assessee has contended that lenders are MCA active companies and are on compliance record of Income Tax Department through compliances before their respective jurisdictional PAN-AO. If these are not found on their addresses, years after the transactions with the assessee, the onus of finding them cannot be foisted onto the assessee. The assessee has further submitted that, the insistence by both the Assessing Officer as well as the Ld. CIT(A) to produce the directors of a third-party legal entity is well beyond the control of anybody much less the assessee. It is on the contrary, well within the powers of the revenue authorities to ensure their attendance, if they so required. The assessee finally concluded that after having submitted all possible details to discharge the onus and the Assessing Officer not carrying out any independent enquiry through banking channels or through the lender's jurisdictional AOs to disprove any of the documents submitted by the assessee, leads to conclusion that onus and burden of proof remained on the department.

72. As per the assessee, it is an undisputed fact for AY 2013-14 and AY 2015-16, that the loans which was treated as unexplained cash credit, have already been repaid much before the initiation of the reassessment proceedings. Such repayment has not been doubted by the Assessing Officer in the year(s) of

repayment. Therefore, the alleged addition on account of unsecured loans u/s 68 of the Act deserves to be deleted. The assessee placed reliance on the decision **of Mumbai Tribunal in the case of Bhadresh M.Dodhia vs DCIT – CC-3, Thane, ITA No. 2218/MUM/2025 (AY: 2013-14), dated 22.07.2025.** wherein, in a group case of assessee's group and relying upon decision of Hon'ble Gujarat High Court in case of *CIT vs. Ayachi Chandrashekhar Narsangji (2024) 41 taxmann.com 250 (Guj)*, it was held that the addition under section 68 and interest expenses are not justifiable.

73. On the other hand the Ld. DR while referring to the seized material, copies of which were submitted in the form of a paper book on 22.07.2025, statement of various persons recorded during the search and the reports of the Investigation Wing, drew our attention to extensive discussion on various case laws cited by the Ld. CIT(A) and relying upon the orders of both the lower authorities, argued for dismissal of these appeals on merits.

74. In this regard the assessee further contended that case laws cited by the Ld. CIT(A) will come into picture only when there are some adverse facts brought on record against the assessee in the first place and accordingly these are distinguishable in facts of this case and on the contrary, in support of its grounds, the assessee relied upon various judgments of Hon'ble Supreme Court, Jurisdictional High Court and Jurisdictional Tribunal as under:

xxi) *Decision of Hon'ble Supreme Court in the case of PCIT vs. Hi-Tech Residency Pvt. Ltd. (2018) 257 Taxman 335(SC).*

- xxii) *Decision of Hon'ble Supreme Court in the case of CIT vs. Lovely Exports (P) Ltd (2008) 216 CTR 195 (SC).*
- xxiii) *Decision of Hon'ble Supreme Court in the case of CIT vs. Steller Investment Ltd (2001) 251 ITR 263 (SC).*
- xxiv) *Judgment of Hon'ble Supreme Court in the case of Commissioner of Income Tax, Orissa Vs Orissa Corporation P. Ltd. [1986] 159 ITR 78 (SC).*
- xxv) *Decision of the Hon'ble Supreme Court in the case of Earth Metal Electric Pvt. Ltd., vs. CIT dated 30th July, 2010 in No.21073 of 1999.*
- xxvi) *Decision of Bombay High Court in the case of Principal Commissioner of Income-tax-2, Thane v. Shree Rajlakshmi Textile Park (P.) Ltd. [2020] 113 taxmann.com 2 (Bombay) .*
- xxvii) *Decision of Bombay High Court in the case of Commissioner of Income tax vs. Orchid Industries (P.) Ltd. [2017] 88 taxmann.com 502 (Bombay).*
- xxviii) *Decision of Bombay High Court in the case of Commissioner of Income tax vs. Creative World Telefilms Ltd. [2011] 15 taxmann.com 183 (Bombay)*
- xxix) *Decision of Bombay High Court in the case of CIT vs. Goa Sponge and Power Ltd (13/02/2012) Tax Appeal No. 16 of 2012 (Bombay).*
- xxx) *The assessee relied on various decisions of the Hon'ble Supreme Court and Hon'ble Jurisdictional High Court that have been followed Jurisdictional Tribunal in the context of alleged accommodation entries of LTCG in respect of certain stocks added by revenue u/s 68 of the Act and the ratio of these judgments also equally applies to the additions made in the case of assessee u/s 68 of the Act. However, we are avoiding their mention on account of different facts and circumstances.*

- i) *Reliance Corporation, vide order in I.T.A. No.4946/MUM/2016 dated 12.04.2017*
- ii) *Vikram Muktilal Vora vide order dated 23.05.2017 in ITA No. 842/Mum/2017.*
- iii) *Sumit Jain in ITA No. 145/MUM/2017.*
- iv) *Keynote Fincorp Ltd in ITA No. 1643 & 1647/MUM/2018.*
- v) *Gujarat Construction in ITA No. 7040/M/2016.*
- vi) *Vashu Bhagnani in ITA No. 5648/M/2016.*
- vii) *Jainam Investments in ITA No. 6099/M/2016.*
- viii) *Pabal Housing P Ltd ITA No. 2687/2688/ 2689/M/2018.*
- ix) *Smt. Pratima Ashar, [2019] 107 taxmann.com 135 (Mumbai - Trib.),*
- x) *Hetal Nitin Shah, [2024] 159 taxmann.com 1618 (Mumbai - Trib.).*
- xi) *Chemicon Engineering Consultant (P.) Ltd. v. ACIT, [2022] 142 taxmann.com 297 (Mumbai - Trib.).*

Therefore considering the totality of the facts and circumstances as discussed by us in detail, we are inclined to follow the decisions of Hon'ble Supreme Court, Jurisdictional High Court and Jurisdictional Tribunal including the judgments of this Tribunal on *identical issue on same material in group cases*, that create binding precedents as regards their *ratio decidendi* and thus we are of the view that when once majority of loans that were treated as unexplained cash credit, have already been prepaid much before initiation of reopening proceedings and such repayment has not been doubted by the AO in the year of repayment, therefore additions on account of unsecured loan u/s 68 of the Act are not sustainable and accordingly we direct the same to be deleted. Consequently, this ground raised by the assessee stands allowed.

75. The **Ground** relating to disallowance of interest on loans u/s 37/69C of the Act, wherever disallowed in years under appeal, is consequential and is accordingly **Allowed**. The carry forward and set off of losses of earlier years is also to be allowed by the Assessing Officer as per computation of total income of various years and in accordance with the law. Further, the grounds

relating to initiation of penalty proceedings and charging of interest being consequential in nature are not adjudicated separately.

76. As far as the legal contentions of the assessee for A.Y 2013-14 is concern in this regard we noticed that the AO after receipt of seized material and other documents from the DDIT (Inv.) issued notice u/s 148 of the Act on 25.03.2021. The assessee vide letter dated 09.02.2022 filed objections regarding reopening of case. These objections were disposed by the AO vide order dated 07.03.2022. Before the Ld. CIT(A), assessee has challenged the validity of impugned assessment order by contending that the AO did not provide the exact copy of reasons recorded, the copy of proposal sent to PCIT for seeking approval and without providing the copy of approval u/s. 151 of the Act granted by the PCIT. It has also been contended that the AO has not dealt with all the contentions raised by it in the objection letter filed by it. In support of these contentions, the assessee has relied on the decision of Hon'ble Delhi High Court in the case of **Sabh Infrastructure Ltd. 99 taxmann.com 409 (Delhi).The Ld. CIT(A)**, in para 14 to 17 of his order, has dismissed these grounds and associated contentions.

77. Since we have adjudicated and given relief to the assessee on merits of additions made in A.Y. 2013-14, therefore the legal ground relating to reopening would become academic in nature and hence that does not require specific adjudication.

78. Now with regard to Legal Contentions of the assessee for A.Y. 2014-15 to A.Y. 2017-18 are concerned in this regard after having heard both the parties, we found that the assessee had

challenged the jurisdiction of the Assessing Officer in making the additions u/s 153A of the Act in AY 2014-15 to AY 2017-18, in the absence of any incriminating material whatsoever, found during the course of search and in a completed/unabated assessment relying upon the decision of the Hon'ble Supreme Court in ***Abhisar Buildwell Pvt. Ltd. v. PCIT [(2023) 454 ITR 212 (SC)]***. The assessment orders for the said appeals were passed u/s 153A of the Act and fell under the category of unabated assessment as limitation of issuance of notices u/s 143(2) had expired before the search.

79. The assessee has submitted that during the appellate proceedings before Ld. CIT(A), the assessee company raised a ground that no addition could have been made by the AO in the absence of any incriminating material found during the search operation. However, the Ld. CIT(A) relied on the following documents/ statements:

- iv. Alleged incriminating material i.e. pages 37 and 38 of Bundle No. 3 seized from premises of Shri Divyesh Dhanani;*
- v. Pre-search Statements of third parties referred to in the report of Investigation Wing; and*
- vi. Post-search investigation reports obtained from the Kolkata Investigation Wing.*

80. Accordingly, the Ld. CIT(A) rejected the contention of the assessee that no incriminating material was found during the search and accordingly dismissed the ground no. 4, raised by the assessee before him. The Ld. DR relying upon the order of the Ld. CIT(A), accordingly argued that the said decision of the Hon'ble Supreme Court is not applicable to the facts of the case.

81. On the other hand the Ld. AR submitted that the Assessing Officer has nowhere referred to any incriminating material found from '*the premises of the assessee*'. The materials relied upon including pages 36-38 of Bundle No. 3, were not found from the searched premises of the assessee. Therefore, according to the Ld. AR, such documents, in the absence of invocation of Section 153C of the Act and specific satisfaction thereunder, cannot be utilized to make additions in the hands of the assessee under Section 153A. The Ld. AR further stated that the Ld. CIT(A) in his appellate order has stated that pages 37 and 38 of Bundle No. 3 were seized from Shri Divyesh Dhanani and confronted to Shri Bhadresh Dodhia, who could not explain the same. However, such a vague reply on some dumb documents cannot constitute the statutory requirement that some incriminating material has to be found '*from the premises of and against warrant of authorisation in the name of the assessee*', in order to sustain additions u/s even u/s 153C much less u/s 153A in unabated assessments. Therefore, as argued by the Ld. AR that in absence of any incriminating material found from the '*premises of the assessee*', no addition can be made for the year under consideration.

82. Further, the Ld. AR placed reliance on the following judicial pronouncements by the coordinate bench, on identical seized material in group cases and identical issues:

- iii. Decision of Hon'ble ITAT, Mumbai Bench in the matter of A One Sizing Works vs The Asst. CIT Central Circle 3, in **ITA No. 6458/MUM/2024, dated 10.07.2025**. The relevant portion of which is re-produced hereunder:

“4.12 In view of the above analysis, we hold that:

- *For the unabated assessment years viz. AYs 2014–15 to 2018–19, no addition could have been made under Section 153A of the Act in the absence of any incriminating material found during the course of search from the premises of the assessee.*
- *Statements of third parties, or material found from other premises, not being relatable to the assessee's premises, cannot form the basis for additions in a 153A proceeding in respect of completed assessments, unless proceedings under other provision are separately initiated — which has not been done in this case.*
- *Consequently, all additions made in respect of unsecured loans and disallowances of interest for the above assessment years are unsustainable in law.”*

iv. On identical facts, reliance is also being placed by the Ld. AR on the decision of Hon'ble ITAT, Mumbai Bench in the matter of ***Arun Amber Silk Mills Private vs DCIT, CC-3, Thane, IT(SS)A Nos. 443/MUM/2025***, dated 29.04.2025. Both these judgments are referring to the same seized material in the group cases, as is being referred to in the case of assessee.

83. On the contrary The Ld. DR, relied on the judgement of the Hon'ble Income Tax Appellate Tribunal, Rajkot Bench in the case of ***Ahir Salt and Allied Products, Gandhidham vs DCIT, Cent.Cir.1 Rajkot. IT(SS)A No 6 and 7/RJT/2022***. The Ld. DR, while relying upon the said order alleged that there is no requirement in law for the incriminating material to be found only in the premises of the assessee, for using against it in the proceedings u/s 153A. In a Group Search, since all entities and persons are inter-related, incriminating material can be found anywhere in the group.

84. The Ld. AR through subsequent written submissions, contended that a 'Group' is not an assessable entity under the Income Tax Act, but it is a 'person' defined u/s 2(31) of the Act, that is assessable and against whom the warrant of authorisation u/s 132 is executed. It may be usual practice on

the part of Income Tax Department to conduct simultaneous searches as per their own connotation of a 'Group', that may not only include functionaries of an entity but also sister concerns and all or any of the transacting parties including suppliers and customers. There is no concept of pooling up of all seized material and to be used against any entity in the Group u/s 153A, as the same would render section 153C *otiose*. Thus, it is submitted by the Ld. AR that since the additions in the case of assessee have been made from seized documents found during the search of Shri Divyesh Dhanani, wherein, the warrant of authorization is only in the name of Shri Divyesh Dhanani and SmtKunjali Dhanani and the assessee company was not covered under such warrant, no additions could be made in the hands of the assessee company, unless the process of recording a satisfaction note u/s 153C and initiating separate proceedings u/s 153C are resorted to, in accordance with the law. The Ld. AR accordingly opined that said judgment of Hon'ble non-jurisdictional ITAT cited by the Ld. DR does not give rise to a good law to follow.

85. On the contrary, the Ld. AR placed reliance on the decision of Hon'ble High Court of Gujarat in the matter ***of Principal Commissioner of Income-tax (Central) v. Hitesh Ashok Vaswani, [2023] 156 taxmann.com 200 (Gujarat)***, wherein, the Hon'ble High Court in para 10.2 thereof and while affirming the order of Hon'ble Ahmedabad Tribunal, held that in case a search was carried out on an assessee, then search would give rise to proceedings under section 153A *qua* person searched and income has to be assessed on basis of material found during course of search; assessments based on material seized from

premises of other persons (covered by simultaneous search) could not be used in hands of searched person. *The excerpts from the said decision of the Hon'ble Gujarat High Court, as above, are as follows:*

“Material found during the search of the third person cannot be used for the purposes of section 153A. The submission of the assessee was that the assessment orders under section 143 (3) read with section 153A have to be framed strictly on the basis of incriminating material found during the course of search carried out in the case of the assessee and no cognizance can be taken on any material which was not found during the course of search action. Material collected during the course of search action carried out in cases of third parties cannot be considered.”[Para 10]

“The Tribunal in detail analyzed the decisions of various High Courts and held that looking to the scheme of the Income-tax Act in case a search is carried out on an assessee then the search would give rise to proceedings under section 153A qua the person searched. The income has to be assessed on the basis of the material found during the course of the search.” [Para 10.2]

86. Therefore after having considered the rival submissions and in view of the facts and circumstances and judicial precedents including those of jurisdictional tribunal in group cases on the same set of material, we are of the considered opinion that to be considered for the purposes of section 153A, the material seized against the warrant of authorisation in respect of assessee alone has to be considered and in case the material has been seized from the premises of some other person against a separate warrant of authorisation, not naming the assessee, the recourse to section 153C has to be made on fulfilment of certain

conditions including incriminating nature of the material. Therefore, the additions made u/s 153A in the case of assessee are not sustainable on this ground and the additions stand deleted on this ground as well.

87. In the Result, all the appeals filed by the assessee stands allowed.

ITA No. 2227/Mum/2025, A.Y: 2016-17

88. The appeal filed by the assessee is directed against the order of Ld. CIT(A) passed on 11.02.2025 confirming the addition of Rs. 1,00,00,000/- made u/s 68 of the Act in the order u/s 153A of the Assessing officer dated 28.09.2021. As per the facts of the present case the original return of income in the case for the year under consideration was filed on 15.10.2016 and limitation for issue of notice u/s 143(2) of the Act had already expired before the date of search conducted on 27.11.2019. The assessee has challenged the jurisdiction of the Assessing Officer in making the additions u/s 153A of the Act, in the absence of any incriminating material whatsoever, found during the course of search and in a completed/unabated assessment relying upon the decision of the Hon'ble Supreme Court in **Abhisar Buildwell Pvt. Ltd. v. PCIT** [(2023) 454 ITR 212 (SC)].

89. The assessee contended that even the third-party statements recorded u/s 132(4) without any reference to seized and incriminating material cannot be held and used as evidence against the assessee, more so if they are retracted. The reliance is placed on the decision of the Hon'ble High Court of Andhra Pradesh in CIT v. Shri Ramdas Motor Transport [1999] 238 ITR

177/102 Taxman 300 (AP), have dealt with the relevance of statement recorded u/s 132(4) of the Income Tax Act, 1961 in the absence of supporting material found during the search and reaffirmed in para 22 of Shri Ramdas Motor Transport Ltd. [2015] 55 taxmann.com 176 (AP) on reference u/s 256(1) made by Hon'ble Income Tax Appellate Tribunal, Hyderabad. Further, the Hon'ble Delhi High Court in the case of Harjeev Aggarwal [2016] 70 taxmann.com 95 (Delhi) delivered on 10.03.2016, *interalia*, relying on decision of Hon'ble AP High Court in Shri Ramdas Motor Transport (*supra*) have explained in detail that the statements recorded u/s 132(4) of the Act do not themselves, by constitute incriminating material unless, such statement relates to any incriminating evidence of undisclosed income unearthed during search and seizure. The above detailed judgment is also referred in another judgment of Hon'ble Delhi High Court in the case of Best Infrastructure (India) (P.) Ltd [2017] 84 taxmann.com 287 /397 ITR 82 (Delhi).

90. Further, in the case of the assessee, the addition of Rs 1,00,00,000/- has been made u/s 68 of the Act in respect of unsecured loan received from M/s Vinam Finance P Limited. The Ld. CIT(A) and the Assessing Officer has heavily relied upon statements of certain persons namely Shri Minesh Dodhia, Shri Bhadresh Dodhia and Shri Bhavik Jhakhari are corded u/s 132(4) of the Act, which are not in the context of any incriminating corroborative material seized from the assessee. In any case, the said statements stood retracted later. Nevertheless, the lower authorities have not brought on record any incriminating material either from the premise of the assessee or any other person covered under the search in relation to the unsecured loan otherwise genuinely received by the assessee

from M/s Vinam Finance P Limited. Therefore, the said third party statements neither have evidentiary value nor have any relevance to be called incriminating to assessee and therefore, no additions could have been made u/s 153A read with section 132(4) of the Act in an unabated assessment without incriminating material as held by the Hon'ble Supreme Court in *Abhisar Buildwell P Limited (supra)*.

91. It is further submitted by the assessee that the impugned order passed by the Assessing Officer is in gross violation of the principles of natural justice as the Assessing Officer had failed to provide copies of the investigation reports; copies of reports of enquiries conducted through inspectors; copies of material and information received from investigation wing; and also failed to provide opportunity of cross examination of all the persons whose statements have been relied upon. It is a fact that none of the above were confronted to the assessee in the course of assessment proceedings. A quasi-judicial authority has to perform its functions as per law and in keeping with principles of natural justice. It is a fact that assessment proceedings were conducted close to the limitation date, and no effective or objective opportunity was granted to assessee to lawfully defend itself. The assessee relied upon the decision of the Hon'ble Supreme Court in the case of *Andaman Timbers Industries Vs CCE, (2015)[(127 DTR 241) (SC)]*, which has laid down the dictum that right of cross examination is an important right available to the assessee and not providing opportunity to cross examine will amount to violation of principles of natural justice, which is a serious flaw, rendering the order, a nullity.

92. The assessee further submitted that during the assessment proceedings, the assessee has vide reply dated 28.09.2021

submitted the following documents to prove the identity, genuineness and creditworthiness of the loans received from M/s Vinam Finance Private Limited to discharge the onus:

- i. A copy of PAN of lender party.
- ii. Certificate of Incorporation, Memorandum of Association and Articles of Association of lender party.
- iii. MCA Active Complaint Status of lender party.
- iv. Acknowledgement of Return of Income for AY 2016-17 of lender party.
- v. Audited financial statement for the year ended on 31st March, 2016, viz., Independent Auditor's report and annexures thereto, Audited balance sheet, audited profit and loss account, significant accounting policies and notes to account
- vi. Copy of ledger account of the assessee in the books of lender party along with copy of Account Confirmation duly signed by the lender party.
- vii. Copy of ledger account of lender in the books of assessee along with copy of Account Confirmation duly signed by the lender party.
- viii. Copy of bank statement of assessee showing the loan transaction with lender party.

93. It is accordingly submitted by the assessee that, from the above evidences/details, it can be seen that the identity of the lender party had been established on the basis of the PAN card, Computation of Income, return of income, Account confirmation of the lender party. The genuineness of the transactions had also been established on the basis of Account confirmation & bank statements filed before the Assessing Officer, where the loan taken from the lender party by account payee cheques are reflected in the bank statements. The credit worthiness of the creditor is established on the basis of balance sheet of the lender party filed before the Assessing Officer. From the balance sheet, it can be seen that the lender party had surplus funds, while carrying out its business activity, which was loaned to the assessee. The requirement of the Assessing Officer to produce

the directors of lender companies cannot be fastened on the assessee as rather than assessee, the Assessing Officer had all powers to issue summons and ensure their presence and recorded their statements after the onus was discharged by the assessee.

94. As regards extensive discussion on various case laws cited by the Ld. CIT(A), the assessee contended that these will come into picture only when there are some adverse facts brought on record against the assessee in the first place and accordingly these are distinguishable in facts of this case and in support of its grounds, the assessee relies upon various decisions of Jurisdictional Tribunal wherein, the judgments of Hon'ble Supreme Court, Jurisdictional High Court have been followed. The *ratio* equally applies to the facts of assessee's case:

- xii) Reliance Corporation, vide order in I.T.A. No.4946/MUM/2016 dated 12.04.2017
- xiii) Vikram Muktilal Vora vide order dated 23.05.2017 in ITA No. 842/Mum/2017.
- xiv) Sumit Jain in ITA No. 145/MUM/2017.
- xv) Keynote Fincorp Ltd in ITA No. 1643 & 1647/MUM/2018.
- xvi) Gujarat Construction in ITA No. 7040/M/2016.
- xvii) Vashu Bhagnani in ITA No. 5648/M/2016.
- xviii) Jainam Investments in ITA No. 6099/M/2016.
- xix) Pabal Housing P Ltd ITA No. 2687/2688/ 2689/M/2018.
- xx) Smt. Pratima Ashar, [2019] 107 taxmann.com 135 (Mumbai - Trib.),
- xxi) Hetal Nitin Shah, [2024] 159 taxmann.com 1618 (Mumbai - Trib.).
- xxii) Chemic on Engineering Consultant (P.) Ltd. v. ACIT, [2022] 142 taxmann.com 297 (Mumbai - Trib.).

95. The Ld. DR on the other hand referring to the statement of various persons recorded during the search and the reports of the Investigation Wing, drew our attention to extensive discussion on various case laws cited by the Ld. CIT(A) and relying upon the orders of both the lower authorities, argued for dismissal of these appeals on merits.
96. The assessee further contended that an identical addition has also been dealt with by the Hon'ble coordinate Bench in the case of Chandrika Mansukhlal Dodhia, {IT(SS) A no. 199/Mum/2025 decided on 15-04-2025} and while relying on the judgment in Abhisar Buildwell case (supra) has deleted the identical addition. The said decision has been followed in subsequent decision of Hon'ble coordinate Bench of this Tribunal in the case of Mr. Pradeep Meghji Dodhia vs. DCIT Central Circle-3, Thane [IT(SS)A No.1117/M/2025] dated 30.06.2025 on identical facts. We have considered the rival submissions. Since the facts of the present case are identical with the judgements cited in IT(SS) A no. 199/Mum/2025 and IT(SS)A No.1117/M/2025 above, we are inclined to follow these decisions of coordinate Benches of the Tribunal and accordingly, the appeal of the assessee is **Allowed** on the legal issue.
97. Even otherwise, the assessee has proved the identity, genuineness and creditworthiness as explained in para 5 and 6 above in connection with the loan taken from M/s Vinam Finance Private Limited as mandated u/s 68 of the Act. We have considered the rival submissions. We are inclined to follow the decisions of coordinate Benches of

the Tribunal as mentioned in para 7 above, wherein, the judgments of the Hon'ble Supreme Court, Jurisdictional High Court have been followed that create binding precedents as regards their ratio decidendi and accordingly delete the additions made u/s 68 in respect of unsecured loans of Rs. 1,00,00,000/- on merits as well and accordingly, the Appeal is **Allowed** on merits.

98. In the Result, the Appeal is **Allowed**.

Pronounced in the open Court on 17.09.2025.

Sd/-

Sd/-

(GIRISH AGRAWAL)
ACCOUNTANT MEMBER

(SANDEEP GOSAIN)
JUDICIAL MEMBER

Mumbai, Dated 17/09/2025

KRK, PS

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

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

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

1.

उप/सहायक पंजीकार (Asst. Registrar)
आयकर अपीलीय अधिकरण, मुम्बई / ITAT, Mumbai