IN THE INCOME TAX APPELLATE TRIBUNAL
"A" BENCH, MUMBAI
BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER&
MS. PADMAVATHY S, ACCOUNTANT MEMBER
ITA No. 5553/MUM/2025 (AY: 2019-20)
ITA No. 5555/MUM/2025 (AY: 2020-21)

(*Physical hearing*)

Akhraj Pukhraj Chopra 18, Mahela Patel, Grant Road, S.O. Mumbai – 400007. [PAN: AAEPC3365N]	Vs	DCIT Central Circle – 4(2), Mumbai Kautilya Bhawan, BKC, Bandra East, Mumbai – 400051.
Appellant / Assessee		Respondent / Revenue

ITA No. 5554/MUM/2025 (AY: 2019-20)
ITA No. 5557/MUM/2025 (AY: 2020-21)

(*Physical hearing*)

Lilaram 2nd Floor, Shop No. 774, City Centre, Billasis Road, Mumbai Central Mumbai – 400008. [PAN: DHFPP9978F]	Vs	DCIT Central Circle – 4(2), Mumbai Kautilya Bhawan, BKC, Bandra East, Mumbai – 400051.

Assessee by	Shri Bharat Kumar, AR
Revenue by	Shri Rajesh Kumar Yadav, CIT-DR
Date of hearing	10.11.2025
Date of pronouncement	12.11.2025

Order under section 254(1) of Income Tax Act

PER BENCH;

1. These four appeals by two different assesses are directed against the separate orders of ld. CIT(A) for A.Y. 2019-20 and 2020-21 respectively. In all the appeals, both the assessee has raised certain common grounds of appeal, facts in all the appeals are common except variation of addition on account of unexplained investment, therefore, with the consent of parties all the appeals were clubbed, heard together and are decided by common order to avoid the conflicting decision. With the consent of parties facts in Akhraj

Pukhraj Chopra in A.Y. 2019-20 in ITA 5553/M/2025 is treated as lead case. The assessee has raised following grounds of appeal:

> *"1. The Ld. CIT(A) erred in confirming the stand of the A.O. regarding the assessment order passed u/s 153C of the Income Tax Act, 1961. The order is bad-in-law, vitiated by procedural lapses, and violates the principles of natural justice, as the materials and statements relied upon in issuing notice u/s 1530 were not furnished to the appellant, and no opportunity for cross examination was provided. The order ought to be quashed on these grounds.*
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> *2. The Ld. CIT(A) erred in upholding the addition of Rs. 2,00,000/- u/s 69 as unexplained investment allegedly paid in cash towards the purchase of shop premises over and above the agreement value. The addition is bad-in-law, arbitrary, and based on surmises, conjectures, and unreliable evidence with no concrete material to substantiate the alleged cash payment. There is no corroborative evidence of actual cash payment made by the appellant.*
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> *3. The authorities failed to appreciate that there is no material on record proving that the appellant paid cash of Rs. 2,00,000/- in respect of the shop premises purchase. Reliance solely on statements or third-party documents, without independent verification or opportunity for rebuttal, renders the addition unsustainable.*
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> *4. The CIT(A) erred in confirming the addition of Rs. Rs.2,00,000/- in the assessment year 2019-20, without any material or document conclusively demonstrating payment during that year. The absence of date of linkage to the relevant assessment year makes the addition illegal and contrary to provisions of law.*
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> *5. The appellant reserves the right to add, alter, modify, or delete any of the grounds of appeal before or at the time of hearing."*

2. Rival submissions of both the parties have been heard and record perused. The learned Authorised Representative (ld. AR) of the assessee submits that grounds of appeal raised by assessee is squarely covered by the decision of Mumbai Tribunal in case of Pravin Khetaramm Purohit vs DCIT in ITA No. 4742/M/2025 to 4744/M/2025 dated 15.10.2025. The ld. AR of the assessee submits that assessee has good case on legal issue as well as on merit. While explaining the fact, the ld. AR of the assessee submits that a search action

under section 132 was carried out in case of Rubberwala group, Mumbai on 17.03.2021. During the search action, statement of key person of Rubberwala group was recorded. In the statement, one of the key person namely Imran Ansari allegedly that they have developed Platinum Mall and while making booking of various units / shops the said group calculated 'on-money'. On the basis of such statement, case of assessee was reopened after recording satisfaction under section 153C. The assessing officer made addition on the basis of alleged statement of key person of Rubberwala group. There is no corroborative evidence for payment of on-money. The addition in the assessment order is solely based on third party information. On similar fact, similar addition was made in case of Pravin Khetaramm Purohit and the same was deleted in a detailed order by Tribunal in ITA No. 4742/M/2025 to 4744/M/2025 dated 15.10.2025. The case of assessee is exactly same. The ld. AR of the assessee vide referring the statement of key person of Rubberwala group would submit that such person vaguely stated that around Rs. 50,000/- to Rs. 2,00,000/- were collected from buyers of shops / units in Mall. There is no evidence of payment of such on-money. In fact, the assessee has not paid any such on-money. The key person has not specifically taken the name of assessee. The addition is based merely on presumption basis. Even otherwise, of such facts were considered by co-ordinate bench of this Tribunal in case of Pravin Khetaramm Purohit. The ld. AR, further, submits that copy of statement or material gathered during the search action was not shared with the assessee. There is no corroborative

evidence except the vague statement of key person against the assessee. There is no evidence for making such addition against the assessee.

3. On the other hand, the learned Commissioner of Departmental Representative – Departmental Representative (CIT-DR) for the revenue submits that all the material including statement of key person of Rubberwala group were provided to the assessee along with the show cause notice. All reference of statement and incriminating material was mentioned in the show cause notice itself. Once all the material information was mentioned in the show cause notice, it was a sufficient compliance. The key person of Rubberwala group accepted in their statement recorded under section 132(4) that on-money was received from various persons. On accepting such on-money Rubberwala group offered 8.00% of on-money while filing of return of income after searched action. Thus, the statement recorded during search action is supported by their action in accepting such on-money and offered the same to tax.
4. In the rejoinder submission, the ld. AR of the assessee submits that acceptance of third party cannot be made basis of addition against the assessee unless corroborative evidence or evidence of actual payment of alleged on-money is found during the search action. Neither any key person has specified the name of assessee nor the assessee was summoned either during search action or during post search investigation. Entire addition is based on presumption basis.
5. We have considered the rival submissions of both the parties and have gone through the orders of lower authorities carefully. We have also deliberated on

the decision of co-ordinate bench in Pravin Khetaramm Purohit vs DCIT (supra). We find that case of assessee is exactly similar to that of Pravin Khetaramm Purohit. We find that on similar allegation of similar statement, similar addition was made against Pravin Khetaramm Purohit and on appeal the co-ordinate bench of Tribunal vide order dated 15.10.2025 after details deliberation deleted the similar addition by passing following order;

"8. We have heard the arguments for both the parties and have also perused the material placed on record, judgements cited before me and the orders passed by the revenue authorities. From the records, we noticed that the assessment was completed u/s 153C on account of the fact that a search and seizure action was conducted on 17.03.2021 on Rubberwala group. In search action, premises of M/s. Rubberwala Housing & Infrastructure Ltd (RHIL), its promoter and director-Shri Tabrez Shaikh, and a key employee of Rubberwala group Shri Imran Ansari, who was handling sale & registration of shops in "Platinum Mall" project of RHIL were covered. Among others, statement of these persons were recorded on oath on various dates during the course of search as well as post search proceedings. The employee of Rubberwala group confirmed that the cash has been collected from the respective buyers of the shops. However, on the other hand, the assessee denied payment of cash. We noticed that during the search a pendrive with the details of cash transactions with respect to Rubberwala group was found, which was confirmed through statement of Shri Imran Ansari recorded U/s 132(4) of the Act and on this basis, 153C order was framed and the same was upheld by the Ld.CIT(A).

9. We noticed that Ld. CIT(A) although referred the decision of the coordinate bench in case of Rajesh Jain on identical issue but misplace its reliance. After having gone through the basic facts of Rajesh Jain case which is mentioned by Ld. CIT(A) in its order and the same is reproduced as under:

5.1. On 17.03.2021, the residential premise of the assessee was also covered by way of search action u/s 132 of the IT Act, 1961. Search action was also initiated on Rubberwala group on 17.03.2021. In such action along with premises (offices/sites/others) of Rubberwala group entities, residences of various key persons including its promoter and director Shri Tabrez Shaikh, and Shri Imran Ansari - a key employee of Rubberwala group handling sale & registration of shops in "Platinum Mall" project of RHIL were covered under section 132 of the Act. Among others,

statement of these persons were recorded on oath on various dates during search as well as post search proceedings.

5.2. During the action on Rubberwala Group, among other, residence (at 109, 2nd Floor, Prabhat Sadan, 109/120 RBC Marg, Agripada, Mumbai Central - 400011) of Shri Imran Ashfaque Ansari was covered under section 132 of the I.T. Act, 1961. His statement was also recorded on oath at his residence. Vide question no. 11 of the said statement dt. 17.03.2021, Shri Imran Ansari was questioned about his roles and responsibilities in M/s. Rubberwala Housing & Infrastructure Ltd (RHIL). In response, Shri Imran Ansari stated that he has been working with Rubberwala group of entities since 2010 and inter-alia handling sale and registration of the shops in "PlatinumMall" Project of M/s. Rubberwala Housing & Infrastructure Ltd (RHIL).

5.3. Shri Imran Ansari in his response to question no. 13 & 14 of the said statement explained the complete procedure of the of the sale of shops in the "Platinum Mall" project. While explaining further about the price structure of the shops, Shri Imran Ansari in response to Q. no. 15 categorically revealed that the total price of the shops contains cash component and banking channel component, and these components are decided by Shri Tabrez Shaikh (Director/CMD of RHIL and Promoter of Rubberwala Group). On probing further, Shri Imran Ansari, in response to Q. no. 16, stated that these prices, as decided by Shri Tabrez Shaikh, are communicated to him orally. He also revealed in response to Q. no. 17 of the said statement that data related to shops is maintained by him in excel sheets. Corroborating to the fact that data is being maintained by Shri Imran Ansari in excel sheet, during search proceedings at the residence of Shri Imran Ansari, a 16GB Pendrive was retrieved from his possession. The said pen drive is accepted by Shri Imran Ansari belonging to him and he also accepted that this pen drive is containing data maintained for the sale of shops in Platinum Mall. Shri Imran Ansari explained that this data is prepared by him. Shri Imran Ansari's this acceptance also corroborates with the fact that the said data was retrieved from the residential premises of Shri Imran Ansari and not from any office of Rubberwala Group.

5.4. It was ascertained that the data is being maintained by Shri Imran Ansari in an excel file namely "consolidated 1 2 3 balance". In the said file sheets with different name viz "Master", "Payment" and "Cheque" etc. are found to be maintained. It is also found out that in respect of the sale of shops in the said project, comprehensive data is being maintained in these excel sheets, and in this regard, it is 4742, 4743 & 4744/Mum/2025 Pravin Khetaramm Purohit 12 important to mention that the sheet "Master" is so elaborate that the data in the said sheet is spread across 98 columns. Shri Imran Ansari has explained all 98 columns of "Master" sheet and such explanation of each and every column by Shri Imran Ansari further support the fact that the he was maintaining the said data and therefore could explain all these columns with relevance and purpose. Shri Imran Ansari in response to Question no. 22, 23 and 24, has explained in detail the meaning and relevant of each and every column. In

column B, against the name of 'Raj Bhai Jain'/'Raj BhaiJain(I.S)', total 27 shops have been entered. Further, these 27 shops are stated (by Shri Imran Ansari) to be booked by the assessee only. Also, ShriTabrez Ahmed Shaikh, Director and Promoter of the RHIL, while deposing statement during post search proceedings on 19.08.2021 categorically confirmed the admission made by Shri Imran Ansari, and has confirmed the data of the said excel to be true byconfirming facts stated by Shri Imran Ansari in his statement. It is also important to note here that the phone number mentioned above i.e., 9892196071 against all 27 shops, is of Shri Rajesh Jain.

5.5. Regarding the frequency of updating the said excel file/sheet, Shri Imran Ansari, in response to Q. no. 25, stated that this sheet is updated on the same day when a payment is received either in cash or cheque (or banking channel). The column A to AR of the sheet "Master" are stated to be updated till 16.03.2021 and other sheets of the said excel file are also stated to be updated till 16.03.2021. It is revealed in the above response that he takes the parties to ShriAbrar Ahmed (who during the search established to be a person handing cash for the Rubberwala Group). ShriAbrar Ahmed, after receiving the cash confirms to Shri Imran Ansari who update the diariesand the said excel file. Such detailed mechanism in place further upholds the facts stated by Shri Imran Ansari on oath. It is also important to note here that Shri Imran Ansari also used to call and follow up with the buyers on the numbers saved in his data. As aforementioned, the number, for the shops for which the assessee has paid the cash component, is mentioned as 9892196071, which is the assessee's own number. Thus, it makes clear that for the cash payment part, for all the above mentioned 27 shops, Shri Imran Ansari used to follow up with Shri Rajesh Jain/assessee only.....

10. We also noticed that the decision of the Coordinate Bench of ITAT in the case of Rajesh Jain in ITA No. 3842& 3841 & ITA No. 3954,3952,3951 and 3950/Mum/2023 on the identical facts is reproduced herein below:

12. The appeal filed by the revenue for AY 2020-21 is with regard to the relief granted by Ld CIT(A) holding that the cash payments relating to the shops purchased by others cannot be assessed in the hands of the assessee. The decision rendered by us in AY 2018-19 and 2019-20 on an identical issue on merits in the earlier paragraphs would apply in this year also. Following the same, we affirm the order passed by LdCIT(A) on this issue.

13. In the appeal filed by the assessee, the addition of alleged cash payment of Rs.18,64,200/- in respect of purchase of shop confirmed by Ld CIT(A) is being assailed. 14. We noticed earlier that the assessee had purchased a shop in the commercial premises developed by Rubberwala

group. During the course of search conducted in their hands, incriminating documents containing details of cash collected on sale of various shops were found. The employee of Rubberwala group confirmed that the cash has been collected from the buyers of shops. However, the assessee denied payment of cash. However, the AO relied upon the materials found in the case of Rubberwala group and accordingly made addition of Rs.18,64,200/- in AY 2020-21. The LdCIT(A) also confirmed the same.

15. The ld A.R submitted that the addition was made on the basis of third party statement and documents found from the premises of third party. As per the deposition made by the employee of Rubberwala group, the buyers were given a diary, in which, the details of cash received were acknowledged. The Ld A.R submitted the search officials did not find any such diary with the assessee during the course of search operation conducted in his hands. Hence the statement so given by the employee stands disproved. He submitted that the AO has simply relied upon third party statement without bringing any independent material to support the same. The AO also did not provide the opportunity of cross examination despite being asked by the assessee. Accordingly, by placing reliance on various case laws, the Ld A.R submitted that this addition should be deleted. 16. We heard Ld D.R and perused the record. We notice that the AO has made the addition on the basis of evidence found in the premises of third party and also on the basis of deposition made by the employee of the third party. No corroborative material was brought on record to support the statement so given, which is mandatory when the assessee denies any such payment. Further, the AO also did not provide opportunity of cross examination to the assessee, even after the said request was made by the assessee. Under these set of facts, we are of the view that the impugned addition of Rs.18,64,200/- cannot be sustained. In this regard, we may take support from the decision rendered by SMC bench of Mumbai Tribunal in the case of Naren Premchang Nagda vs. ITO (IT Appeal No.3265/Mum/2015 dated 08-07-2016), wherein an identical issue was decided as under:-

17. We also notice that the AO did not provide opportunity to cross examine the persons from Rubberwala group, on whose statements the AO had placed reliance upon. The Hon"ble Supreme Court has held in the case of Andaman Timber Industries vs. Commissioner of Central Excise (2015)(62 taxmann.com 3)(SC) that not providing opportunity to cross examine is a serious flaw and it will make the order nullity, as it amounts to violation of principle of natural justice. We are of the view that the above said decision of Hon"ble Supreme Court shall apply to the facts of the present case.

11. From the above we find that the Coordinate bench has consider the same facts and rightly decided the issue in favour of the assessee and since the facts of the present case are also identical with the facts of Rajesh Jain's (supra) case, therefore the said decision will be application on the facts of the present case as well. Moreover, the

assessee categorically denied having paid any amount in cash over and above the agreement value. The AO has neither confronted assessee with any of the material found during the search on Rubberwala group and even no evidence or seized document has been referred to where any name of the assessee has been explicitly mentioned on account of paying any 'on-money'.

12. Although it has been claimed in the order of assessment that the assessee had paid on money, but again no such statement has been confronted, neither the seized material /documents /pendrive was confronted to the assessee nor the copy of statement of Key person was confronted.

13. Therefore, in our view, the information if any found in the pendrive etc., cannot be considered as 'credible evidence', unless they have been corroborated with any other evidence. Since the assessee was not provided with the adverse material, if any, based on which notice u/s 153 of the Act, was issued, in our view, it hampers the primary and fundamental requirement of natural justice.

14. As far as the information claimed in pendrive is concerned, the same was not found from the possession of the assessee but was found as per order of assessment, during the search and seizure conducted in the case of third party therefore, in the absence of corroborative evidence to establish that the contents of pendrive are correct and authenticated to the extent assessee paid 'onmoney' in cash, no addition can be made and even otherwise during the entire reassessment proceedings the veracity and reliability of the data recorded in the pendrive was not checked or tested. Therefore, in such a scenario no addition is warranted in the case of assessee. Reliance in this regard has been placed on the decision in case of **Heena Dashrath Jhanglani ITA no.1665/Mum./2018 (Assessment Year : 2007–08)** wherein the Coordinate Bench of ITAT had decided the issue in favour of assessee and the relevant portion is being reproduced herein below:

10. I have considered rival submissions and perused material on record. Undisputedly, the genesis of the addition made of ` 42 lakh on account of alleged payment of on–money in cash towards purchase of a flat lies in a search and seizure operation conducted in case of Hiranandani Group and related persons. Though, in the assessment order the Assessing Officer has not discussed in detail the nature of incriminating material / evidence available on record to indicate payment of on–money in cash by the assessee to M/s. Crescendo Associates, however, from the show cause notice dated 4th March 2015, which is reproduced by the Assessing Officer in the assessment order, it appears that the incriminating materials are in the form of pen drive found and seized from the residence of one of the employees of Hiranandani Group and a statement recorded under section 132(4) of the Act from Shri Niranjan Hiranandani, Director and Promoter of the Group, wherein, the details of on– money paid by buyers / prospective buyers to Hiranandani Group concerns are mentioned and further, in the statement recorded under section 132(4) of the Act on 14th March 2014, Shri Niranjan Hiranandani, has admitted receipt of on–money in cash towards sale of flats / shops. Thus, it is clear that except these two pieces of evidences the Assessing Officer had no other evidence on record which demonstrates that the assessee had paid on–money in cash for purchase of the flat. It is further relevant to observe, from the assessment stage itself the assessee has requested the Assessing Officer to provide him with all adverse materials and full text of the statement recorded under section 132(4) of the Act from Shri Niranjan Hiranandani. The assessee had also requested the Assessing Officer for allowing her to cross–examine Shri Niranjan Hiranandani and other parties whose statements were relied upon. Apparently, this request of the assessee was not acceded to by the Assessing Officer. When the assessee took up the aforesaid issue before the first appellate authority, the learned Commissioner (Appeals) in letter dated 18th July 2016, had clearly directed the Assessing Officer to provide the assessee all adverse materials / documentary evidences available with him indicating payment of on–money. However, on a perusal of the remand report dated 23th June 2017, a copy of which is at Page–53 of the paper book, it is very much clear that the Assessing Officer has completely avoided the issue and there is no mention whether the assessee was provided with all the adverse material and if, not so, whether he has provided them to the assessee as per the directions of the learned Commissioner (Appeals). Thus, from the aforesaid facts, it is patent and obvious that the addition of ` 42 lakh made on account of on–money payment in cash

is without complying with the primary and fundamental requirement of rules of natural justice. It is well settled proposition of law that if the Assessing Officer intends to utilize any adverse material for deciding an issue against the assessee he is required to not only confront such adverse materials to the assessee but also offer him a reasonable opportunity to rebut / contradict the contents of the adverse material. Further, the assessment order reveals that the Assessing Officer has heavily relied upon the statement recorded from Shri Niranjan Hiranandani, for making the disputed addition. However, it is the allegation of the assessee, which prima–facie appears to be correct, that the Assessing Officer has not provided the full text of such statement recorded and has also not allowed the assessee an opportunity to cross–examine Shri Niranjan Hiranandani, and other persons whose statements were relied upon. This, in my view, is in gross violation of rules of natural justice and against the basic principle of law. In this context, I may refer to the decision of the Tribunal, Mumbai Bench, in Nikhil Vinod Agarwal (supra). Thus, for the aforesaid reason, the addition made cannot be sustained.

11. Even otherwise also, the addition made is unsustainable because of the following reasons. As discussed earlier in the order, the basis for addition on account of on–money is the information contained in the pen drive found during the search and seizure operation and the statement recorded under section 132(4) of the Act. As regards the information contained in the pen drive, it is the contention of the assessee that the said pen drive was not found from the possession of the assessee but in course of search and seizure operation conducted in case of a third party. Therefore, in absence of further corroborative evidence to establish that the contents of the pen drive are correct and authentic to the extent that the assessee paid on–money in cash, no addition can be made under section 69B of the Act. Further contention of the assessee is that in the statement recorded under section 132(4) of the Act, Shi Niranjan Hirandani has not made any reference to the assessee, therefore, in absence of any other corroborative evidence to establish that assessee has paid on–money in cash, no addition can be made. I find substantial merit in the aforesaid submissions of the assessee. In my view, neither the information contained in the pen drive nor the statement recorded under section 132(4) of the Act from Shri Niranjan Hiranandani are enough to conclusively establish the factum of payment of on–money by the assessee. At best, they can raise a doubt or suspicion against the conduct of the assessee triggering further enquiry / investigation to find out and bring on record the relevant fact and material to conclusively prove the payment of on–money by the assessee over and above the declared sale consideration. Apparently, the Assessing Officer has failed to bring any such evidence / material on record to prove the payment of on– money by the assessee. More so, when the assessee from the very beginning has stoutly denied payment of on–money in cash. Notably, while dealing with a case involving similar nature of dispute concerning similar transaction with another concern of

Hiranandani Group, the Tribunal in case of Shri Anil Jaggi v/s ACIT (supra) has held as under:-

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15. Reliance has also been placed in the case of Monika Anand Gupta I.T.A. No. 5561/Mum/2018 (A.Y. 2011-12) whereas coordinate bench held as under

> 6. I have heard both the parties and perused the record. I find that the addition for on-money payment has been done in this case without any corroborative material found from assessee. The addition is solely based upon some statement of the builder. Such additions are not sustainable on the touchstone of Hon'ble Supreme Court decision in the case of CIT vs P.V Kalyana sundasram 164 Taxman 78 (SC). Moreover there is nothing on record to suggest that so called electronic evidence collected by revenue at the builder's office is compliant with the requirement of section 65B of Evidence Act regarding admissibility of electronic evidence. Hence, I set aside the orders of the authority below and direct that the addition be deleted

16. In the case of Mrs. Mamta Sharad Gupta, ITA No.1553/M/2021 Assessment Year: 2011-12, wherein the coordinate bench has held as under:

> 9. Since the sole issue raised in this appeal is covered by the order (supra) passed by the co-ordinate Bench of the Tribunal addition made in this case is not sustainable. Because the addition is made merely on the basis of statement made by one Mr. Suraj Parmar, one of the promoters of Cosmos Group under section 132(4) of the Act without any corroboration. Moreover, statement or any material seized during the course of search under section 132(4) of the Act can only be used against Mr. Suraj Parmar of Cosmos Group and not against the assessee without any corroboration. Excel sheet alleged to have been recovered from the office of builders is also not admissible being not proved under section 65 of the Evidence Act. So in view of the matter, addition made by the AO and sustained by the Ld. CIT(A) is not sustainable in the eyes of law, hence ordered to be deleted. Consequently, appeal filed by the assessee is allowed.

17. For the above proposition, we place reliance upon the decision in the case of ITO Vs. Vinod Aggarwal, ITA No. 2573/Mum/2017, ITO Vs. Nikhil Vinod Aggarwal, ITA No. 2574/Mum/2017 Heena Dashrath Jhanglani Vs. ITO, ITA No.1665/M/2018, Padmashrree Dr. D.Y. Patil University Vs. DCIT, ITA Nos. 3264 to 3268/Mum/2022.

18. From the records we also noticed that no statement was provided to the assessee, and none of the persons, whose statements were relied upon were produced for cross-examination. Even the extract of the statement mentioned in the assessment order does not indicate the name of the assessee.

19. Apart, the AO during the course of assessment also failed to provide the opportunity to cross examine of the witnesses, whose statements were relied upon by the revenue which resulted in 'breach of principles of natural justice'. In this regard, reliance is being placed upon the decision of Hon'ble Supreme Court in the case of Andaman Timber Industries Vs. CCE reported in (2015)281 CTR 241 (SC) wherein it has been held that 'failure to give the assessee the opportunity to cross examine witness, whose statements are relied upon, results in breach of principles of Natural Justice. It is a serious flaw which renders the order a nullity'.

20.In the case of CIT Vs. Odeon Builders Pvt. ltd. (418ITR 315), it was held that the 'addition/disallowance made solely on third party information without subjecting it to further scrutiny and denying the opportunity of cross examination of the third party renders the addition/disallowance bad in law'.

21. In the case of H.R. Mehta v/s Assistant Commissioner of Income-tax, Mumbai 72 taxmann.com110 (Bombay) wherein it was held as under

> In the light of the fact that the money was advanced apparently by the account payee cheque and was repaid vide account payee cheque the least that the Assessing Officer should have done was to grant an opportunity to the assessee to meet the case against him by providing the material sought to be used against him in arriving before passing the order of assessment. This not having been done, the denial of such opportunity goes to root of the matter and strikes at the very foundation of the assessment and, therefore, renders the orders passed by the Commissioner (Appeals) and the Tribunal vulnerable. The assessee was bound to be provided with the material used against him apart from being permitting him to cross examine the deponents whose statements were relied upon by him. Despite the request seeking an opportunity to cross examine the deponents and furnish the assessee with copies of statements and disclose material, these were denied to him.

22. Taking into consideration the entire facts and circumstances and legal prepositions as discussed by us above, we direct the AO to delete the addition, consequently these grounds raised by the assessee are allowed.

ITA No. 4743 & 4744/Mum/2025, A.Y 2018-19 & 2020-21

23. As the facts and circumstances in these appeals are identical to ITA No. 4742/Mum/2025 for the A.Y 2017-18 (except variance in figures) and the decision rendered in above paragraph would apply mutatis mutandis for these appeals also. Accordingly, the grounds of appeal of the present appeals also stands allowed. In the result, all the appeals filed by the assessee stands allowed.

6. On comparison of fact of present case, we do not find any material difference, therefore, respectfully following the same, the ground no. 2 & 3 of the appeal are allowed.

7. We find that no specific submission was made against ground no. 1, which relates to validity of assessment order passed under section 153C. Therefore, such ground of appeal is treated as not pressed and dismissed. In the result, the appeal of the assesse is partly allowed.

ITA No. 5555/M/2025 (AY: 2020-21)
ITA No. 5554/M/2025 (AY: 2019-20)
ITA No. 5557/M/2025 (AY: 2020-21)

8. In all the three appeals, the assessee has raised similar ground of appeal against passing the assessment order under section 153C as well as addition on merit. Considering the fact that we have deleted the addition and dismissed the corresponding ground related with validity of assessment under section 153C, therefore, are finding in ITA No. 5553/M/2025 will be

applicable mutatis mutandis in all three appeals. In the result, all the three appeals are partly allowed.

9. In the result, all the four appeals of the assessee are allowed.

Order was pronounced in the open Court on 12/11/2025.

Sd/-	**Sd/-**
PADMAVATHY S **ACCOUNTANT MEMBER**	**PAWAN SINGH** **JUDICIAL MEMBER**

MUMBAI, Dated:12/11/2025
Biswajit

Copy of the order forwarded to:
(1) The Assessee;
(2) The Revenue;
(3) The PCIT / CIT (Judicial);
(4) The DR, ITAT, Mumbai; and
(5) Guard file.

By Order

Assistant Registrar
ITAT, Mumbai