

**IN THE INCOME TAX APPELLATE TRIBUNAL
DEHRADUN BENCH, DEHRADUN “SMC”
BEFORE SH. YOGESH KUMAR U.S., JUDICIAL MEMBER
&
SH. MANISH AGARWAL, ACCOUNTANT MEMBER
ITA No. 210/DDN/2025 :Asstt. Year : 2019-20**

Kanchan Verma 151, Kandoli Rajpur Road Dehradun-248001, Uttarakhand (APPELLANT)	Vs	DCIT Central Circle Dehradun, Uttarakhand (RESPONDENT)
PAN No. AGYPV1842K		

**Assessee by: Sh. K. Sampath, Adv
Revenue by: Sh. Amar Pal Singh, JCIT-DR**

Date of Hearing: 11.12.2025	Date of Pronouncement: 23.12.2025
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ORDER

PER YOGESH KUMAR U.S., JUDICIAL MEMBER:

The present appeal is filed by the Assessee against the order of the Commissioner of Income Tax (Appeals)-3[‘Ld. CIT(A)’ for short], Delhi dated 11/09/2025 for the Assessment Year 2019-20.

2. Brief facts of the case are that, pursuant to the search and seizure operation u/s 132 of the Income Tax Act, 1961 (‘Act’ for short) carried on 02/02/2022, assessment proceedings has been initiated against the Assessee and an assessment order came to be passed on 14/03/2024 u/s 147 of the Act by making addition of Rs. 4,50,000/- on account of undisclosed investment u/s 69B r.w. Section 115BBE of the Act. Aggrieved by the assessment

order dated 14/03/2024, the Assessee preferred an Appeal before the Ld. CIT(A). The Ld. CIT(A) vide order dated 11/09/2025, dismissed the Appeal of the Assessee. As against the order of the Ld. CIT(A), the Assessee preferred the present Appeal. The Ld. Assessee's Representative submitted that the issue involved in the present appeal is squarely covered in favour of the Assessee vide order dated 22/08/2025 passed in ITA No. 31/DDN/2025 (A.Y 2019-20) in the case of Bhagwani Devi Vs. DCIT, wherein the very same seized document which has been made basis for the addition has been considered by the Tribunal and deleted the addition. Thus, sought for allowing the present Appeal.

3. The Ld. Department's Representative relying on the order of the Ld. CIT(A) sought for dismissal of the Appeal.

4. We have heard both the parties and perused the material available on record. The Co-ordinate Bench of the Tribunal while deciding the Appeal in the case of Bhagwani Devi (supra), considered the very same seized documents and deleted the addition in following manner:-

“7. We have heard both the parties and perused the material available on record. The sole basis for making addition was the document seized in the premises of Sh. Krishna Sharma and Smt. Sheela Sharma during the search operation conducted u/s 132 of the Act on 02/02/2022, wherein in-front of Assessee’s name two figures have been mentioned. For the sake of ready reference, the seized documents i.e. page No. 74 of Annexure A-4 and Page No. 6 & 7 of Annexure A-2 are reproduced as under:-

Coys		A	B
16/10/2018 :-			
(3) Manisha Dhan	$\frac{492.5}{115.34}$	11,50,000	25,00,000 ⇒ 36,50,000/-
15/11/2018 :-			
(4) Kati Ram	$\frac{492.5}{85.34}$	13,86,000	7,14,000 ⇒ 21,00,000/-
20/11/2018 :-			
(8) Rajesh Rawat	$\frac{492.5}{91.94}$	14,00,000	7,80,000 ⇒ 21,80,000/-
6/12/2018			
(13) Sushila Chandra	$\frac{492.5}{86.21}$	13,00,000	7,60,000 ⇒ 20,60,000/-
10/12/2018			
(16) Gourav Kankaria	$\frac{492.5}{104.55}$	15,00,000	10,00,000 ⇒ 25,00,000/-
11/12/2018			
(19) Sushma Aswal	$\frac{492.5}{143.170}$	19,90,000	11,00,000 ⇒ 30,90,000/- 58,90,000/-
11/12/2018			
(18) Raghavni Devi	$\frac{492.5}{178.90}$	24,87,000	19,00,000 ⇒ 43,87,000/-
14/12/2018			
(21) Sanjay Vashishth	$\frac{492.5}{127.7}$	22,50,000	— ⇒ 22,50,000/-

8. From the plain reading of the above seized document it was found that there is no mentioning of the word 'cash'. Admittedly the documents, have been seized from the third party, however, the Assessee has not been provided with opportunity of cross

examination. The Assessee has specifically raised a Ground before the Ld. CIT(A) regarding violation of principals of natural justice on the ground that the Assessee has not been given opportunity of cross examination of the said Krishna Sharma. However, the Ld. CIT(A) held that the opportunity of cross examination is not a compulsory requirement before deciding the matter.

9. *The Hon'ble Supreme Court in the case of Andaman Timber Industries Vs. Commissioner of Central Excise (2015) 62 Taxmann.com (S.C) held as under:-*

“not allowing the assessee to cross-examine the witnesses by the Adjudicating Authority though the statements of those witnesses were made the basis of the impugned order is a serious flaw which makes the order nullity inasmuch as it amounted to violation of principles of natural justice because of which the assessee was adversely affected. It is to be borne in mind that the order of the Commissioner was based upon the statements given by the aforesaid two witnesses. Even when the assessee disputed the correctness of the statements and wanted to cross-examine, the Adjudicating Authority did not grant this opportunity to the assessee. It would be pertinent to note that in the impugned order passed by the Adjudicating Authority he has specifically mentioned that such an opportunity was sought by the assessee. However, no such opportunity was granted and the aforesaid plea is not even dealt with by the Adjudicating Authority. As far as the Tribunal is concerned, we find that rejection of this plea is totally untenable. The Tribunal has simply stated that cross-examination of the said dealers could not have brought out any material which would not be in possession of the appellant themselves to explain as to why their ex-factory prices remain static. It was not for the Tribunal to have guess work as to for what purposes the appellant wanted to cross-examine those dealers and what extraction the appellant wanted from them. As mentioned above, the appellant had contested the truthfulness of the statements of these two witnesses and wanted to discredit their testimony for which purpose it wanted to avail the opportunity of cross-examination. That apart, the Adjudicating Authority simply relied upon the price list as maintained at the depot to determine the price for the purpose of levy of excise duty. Whether the goods were, in fact, sold to the said dealers/witnesses at the price which is mentioned in the price list itself could be the subject matter of cross-examination. Therefore, it was not for the

Adjudicating Authority to presuppose as to what could be the subject matter of the cross-examination and make the remarks as mentioned above.”

10. As observed earlier, the seized document has no mention of the payment of cash and there is no corroborative statement recorded from the seized person i.e. Krishna Sharma. The assessment order came to be passed without providing opportunity of cross examination of the said Krishna Sharma, which is contrary to the ratio laid down by the Hon'ble Supreme Court in the case of Andaman Timber Industries (supra). Thus, the Ld. CIT(A) has committed error in upholding the impugned addition. In view of the above, we find no reason to uphold the addition sustained by the Ld. CIT(A), finding merits in the Ground No. 3 & 5 of the Assessee, we allow the same.”

5. By respectfully following the order of the Co-ordinate Bench of the Tribunal in the case of Bhagwani Devi (supra), we find no reason to uphold the addition sustained by the Ld. CIT(A). Finding merits in the Ground No. 2 of the Assessee, we allow the same.

6. In the result, Appeal of the Assessee is allowed.

Order Pronounced in the Open Court on 23/12/2025.

Sd/-

Sd/-

(MANISH AGARWAL)
ACCOUNTANT MEMBER

(YOGESH KUMAR US)
JUDICIAL MEMBER

Dated: 23/12/2025

R.N, Sr. PS

Copy forwarded to:

Appellant

1. Respondent

2. CIT

3. CIT(Appeals)

4. DR: ITAT

ASSISTANT REGISTRAR
ITAT, NEW DELHI