

**IN THE INCOME TAX APPELLATE TRIBUNAL "C" BENCH,  
MUMBAI  
BEFORE SHRI SANDEEP GOSAIN, JUDICIAL MEMBER  
AND  
SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER  
ITA Nos. 2906, 2907, 2908, 2909 and 2910/MUM/2025  
(Assessment Years: 2017-18, 2015-16, 2013-14,  
2014-15 and 2016-17)**

Subhakaran & Sons 1 1, Pearl Mansion 91, Maharshi Karve Road, New Marine Lines, Mumbai - 400020  (PAN: AADFS1088B)	vs	Deputy Commissioner of Income Tax, Central Circle- 7(1), Mumbai
Appellant		Respondent

**ITA Nos. 3966, 3967, 3968, 3969 and 3986/MUM/2025  
(Assessment Years: 2013-14, 2016-17, 2017-18, 2015-16 and  
2014-15)**

Deputy Commissioner of Income Tax, Central Circle- 7(1), Mumbai	vs	Subhakaran & Sons 1 1, Pearl Mansion 91, Maharshi Karve Road, New Marine Lines, Mumbai - 400020  (PAN: AADFS1088B)
Appellant		Respondent

Present for:

Appellant by : Shri Snehal Shah, CA

Respondent by : Shri R A Dhyani, CIT DR

Date of Hearing : 13.10.2025

Date of Pronouncement : 06.01.2026

**ORDER**

**PER BENCH:**

All these 10 appeals filed by both, assessee and revenue are against the orders of Ld. CIT(A)-49, Mumbai passed against the

assessment orders by Central Circle 7(1), Mumbai. Consolidated details of these appeals are tabulated below:

Sr. No.	ITA No.	Order of CIT(A)		Assessment order			Assessment year	Appeal by
		No.	Date	Passed by	Date	Passed u/s.		
1.	2906/Mum/2025	ITBA/APL/S/250/2024-25/1073982911(1)	04.03.2025	Asst. Commissioner of Income-Tax, Central Circle-7(1), Mumbai	30.09.2021	153A r.w.s. 143(3)	2017-18	Assessee
2.	2907/Mum/2025	ITBA/APL/S/250/2024-25/1073984212(1)	04.03.2025	Asst. Commissioner of Income-Tax, Central Circle-7(1), Mumbai	23.07.2021	153A r.w.s. 143(3)	2015-16	Assessee
3.	2908/Mum/2025	ITBA/APL/S/250/2024-25/1073983388(1)	04.03.2025	Asst. Commissioner of Income-Tax, Central Circle-7(1), Mumbai	23.07.2021	153A r.w.s. 143(3)	2013-14	Assessee
4.	2909/Mum/2025	ITBA/APL/S/250/2024-25/1073983571(1)	04.03.2025	Asst. Commissioner of Income-Tax, Central Circle-7(1), Mumbai	23.07.2021	153A r.w.s. 143(3)	2014-15	Assessee
5.	2910/Mum/2025	ITBA/APL/S/250/2024-25/1073984539(1)	04.03.2025	Asst. Commissioner of Income-Tax, Central Circle-7(1), Mumbai	23.07.2021	153A r.w.s. 143(3)	2016-17	Assessee
6.	3966/Mum/2025	ITBA/APL/S/250/2024-25/1073984212(1)	04.03.2025	Asst. Commissioner of Income-Tax, Central Circle-7(1), Mumbai	23.07.2021	153A r.w.s. 143(3)	2013-14	Department
7.	3967/Mum/2025	ITBA/APL/S/250/2024-25/1073984212(1)	04.03.2025	Asst. Commissioner of Income-Tax, Central Circle-7(1), Mumbai	23.07.2021	153A r.w.s. 143(3)	2016-17	Department
8.	3968/Mum/2025	ITBA/APL/S/250/2024-25/1073984212(1)	04.03.2025	Asst. Commissioner of Income-Tax, Central Circle-7(1), Mumbai	30.09.2021	153A r.w.s. 143(3)	2017-18	Department

9.	3969/Mum/2025	ITBA/APL/S/250/2024-25/1073984212(1)	04.03.2025	Asst. Commissioner of Income-Tax, Central Circle-7(1), Mumbai	23.07.2021	153A r.w.s. 143(3)	2015-16	Department
10.	3986/Mum/2025	ITBA/APL/S/250/2024-25/1073984212(1)	04.03.2025	Asst. Commissioner of Income-Tax, Central Circle-7(1), Mumbai	23.07.2021	153A r.w.s. 143(3)	1014-15	Department

2. Since grounds of appeal by both, assessee and revenue are similar in all the respective appeals, for the sake of brevity, grounds of appeals only for Assessment Year 2013-14 are reproduced below:

Appeal by the assessee in ITA No. 2908/Mum/2025

*“1. The Learned DDIT(Inv.). Unit-1(2), Mumbai, erred in issuing search warrant No. MUM C/U-4/18-19/06 dated 17.04.2018, led by Team-JWO-6, without having any information in its possession on the basis of which reasonable belief can be founded that the appellant has omitted or failed to produce books of accounts or other documents before conducting search action u/s 132 of the Act or that the appellant was in possession of any money, bullion, jewellery or other valuable article which represents wholly or partly any income or property, which has not been disclosed by the appellant. In view of the same, the search warrant No. MUM C/U-4/18-19/06 dated 17.04.2018, led by Team-JWO-6, is clearly illegal, bad in law and ultra-vires the provisions of the Income tax Act 1961.*

*2. The Learned DDIT(Inv.). Unit-1(2), Mumbai, erred in issuing search warrant No. MUM C/U-4/18-19/06 dated 17.04.2018, led by Team-JWO-6, in the name of M/s. Asuti Trading Pvt. Ltd., without appreciating the facts that Asuti Trading Pvt. Ltd neither has an office at 1, Pearl Mansion [N], 91, M. Karve Road, Mumbai -400 020 nor Vinod Jatia group of Companies have any ownership in Asuti Trading Pvt Ltd.*

*3. The Learned DDIT(Inv.). Unit-1(2), Mumbai and The Learned Assessing Officer erred in alleging the appellant of being engaged in the practice of providing bogus Back-To-Back sales & purchases entries from the various paper companies and thereafter further erred in alleging the appellant of having arrangements with directors and promoters of Topworth Group, Lloyds Group and Uttam Galva Group without having any evidence whatsoever claimed to have been gathered during pre and post search investigation and even during the course of assessment proceedings as well.*

*4. The Learned DDIT(Inv.). Unit-1(2), Mumbai and The Learned Assessing Officer erred in alleging the appellant of framing Vinod Jatia Group of Companies by literally sending and addressing Notices to all suppliers and Customers of Vinod Jatia Group of Companies and thereby damaging his reputation and goodwill.*

5. *The Learned Assessing Officer erred in issuing notice u/s 153A of the Income Tax Act, 1961 without appreciating the fact that there are no incriminating documents in seized material suggesting that any income has escaped assessment. Hence, the notice issued u/s 153A of the Act is clearly Bad in Law, illegal and ultra-vires the provision of the Act.*

6. *The Learned CIT (A)-49 Mumbai has erred in estimating additional Income at the rate of 0.5% of sales of Rs. 105,51,20,243/- which come to Rs. 52,75,601/- without appreciating the facts of the case in the right perspective.*

7. *The ground of appeal is without prejudice to the other.*

8. *The appellant reserve the right to amend, alter or add to the grounds of appeal.”*

### Appeal by the revenue in ITA No. 3966/Mum/2025

*“1. On facts and circumstances of the case and in law, the Ld. CIT(A) erred in allowing the appeal of the assessee by disregarding the rejection of books of accounts under Section 145 of the Income Tax Act, 1961, by the AO, which was justified based on the non-genuineness of the transactions and lack of supporting documents.*

*2. On facts and circumstances of the case and in law. The Ld. CIT(A) failed to appreciate the fact that the AO had sufficient evidence, including statements recorded during the search operation, and corroborative material, which clearly established that the assessee company was involved in providing accommodation entries and the transactions recorded were not genuine.*

*3. On facts and circumstances of the case and in law. The Ld. CIT(A) erred in upholding the assessee's contention that the books of accounts were correct and complete despite the fact that the assessee failed to provide basic documents such as stock registers, purchase invoices, sales invoices, inward and outward movement of goods, and transport documents, which further supports the AO's conclusion regarding the rejection of the books under Section 145(3).*

*4. On facts and circumstances of the case and in law. The Ld. CIT(A) erred in reducing the additional income from 7% to 0.5% of the turnover when the facts and circumstances clearly indicate that the assessee, being involved in high-risk accommodation entry activities, earned additional commission income at a higher rate of 7%, which was rightly estimated by the AO.*

*5. On facts and circumstances of the case and in law. The Ld. CIT(A) failed to consider the high level of risk taken by the assessee in facilitating L/C funding and booking accommodation entries, and thus erred in reducing the estimated commission rate from 7% to 0.5% of turnover, which is inconsistent with the facts and the financial performance of similar entities involved in similar transactions.*

*6. On fact and circumstances of the case and in law. The Ld. CIT(A) failed to acknowledge the legal position that the Assessing Officer is the best judge to estimate the income when the books of accounts are rejected under Section*

*145(3), as per the judicial precedents in the case of CIT vs. State Trading Corporation of India Ltd. (2010) 328 ITR 257 (Delhi), WHERE it was held that the AO's estimation of income was valid in cases of rejection of books of accounts.*

*7. On facts and circumstances of the case and in law. The Ld. CIT(A) erred in holding that the expenses claimed by the assessee, including indirect expenses and depreciation, should be allowed as deductions, despite the clear evidence that the assessee was involved in bogus transactions and illegal activities.*

*8. On facts and circumstances of the case and in law. The Ld. CIT(A) failed to consider the fact that the assessee's business activities were based on false and fabricated transactions and therefore, any expenses claimed by the assessee in relation to these activities cannot be allowed as a deduction under Section 37 of the Income Tax Act, 1961.*

*9. On facts and circumstances of the case and in law. The Ld. CIT(A) erred in allowing the depreciation claim without properly considering the fact that the assessee had not carried out any genuine business activity, and as per established legal principles, depreciation can only be allowed on assets used for business activities.*

*10. On facts and circumstances of the case and in law. The Ld. CIT(A) erred in failing to appreciate that the assessee had contravened provisions of the RBI Act, Money Lenders Act, and the Income Tax Act by engaging in illegal activities involving the diversion of LC funds through paper transactions, and as such, any expenses related to these activities should not be allowed as deductions.*

*11. On facts and circumstances of the case and in law. The Ld. CIT(A) erred in deleting the addition made under Section 68 of the Income Tax Act, 1961. The CIT(A) failed to consider that the assessee did not discharge its onus of proving the genuineness of the loan transactions and the creditworthiness of the lending entities.*

*11. On facts and circumstances of the case and in law. The Ld. CIT(A) failed to appreciate the findings of the then AO, who had established that the lending companies were part of a network engaged in bogus circular trading. The CIT(A) did not consider the fact that the lending companies had no actual business activity, and the loans were merely accommodation entries. 13. The appellant craves leave to add to alter, amend, modify and/OR DELETE any OR all of the above said grounds of appeal. The appellant reserves its right to file further submission in the appeal."*

2.1. Issues involved in these ten appeals are common and identical, therefore, they have been clubbed, heard together and are being adjudicated by passing this consolidated order. To draw facts, we refer to the appeals for AY 2013-14, both by the assessee and revenue to give our observations and findings which shall apply mutatis mutandis to all the respective appeals of the assessee and revenue for other

assessment years. Details of original return filed by the assessee for the five assessment years under consideration along with details of sales, gross profit and GP ratio.

Sr. No	A.Y.	Returned Income	Sales	GP Ratio	Gross Profit
1	2013-14	1,18,94,840	1,05,51,20,243	2.49%	2,62,42,107
2	2014-15	1,15,54,370	1,00,39,75,595	3.03%	3,04,22,456
3	2015-16	99,99,470	1,07,72,86,503	2.42%	2,60,96,636
4	2016-17	61,85,760	1,06,17,57,099	1.52%	1,61,72,767
5	2017-18	-	90,61,24,093	0.72%	65,19,588
			5,10,42,63,533	2.04%	10,54,53,554

2.2. Details of addition made by the ld. Assessing Officer by applying GP ratio of 7% is tabulated below:

Sr. No	Assessment Year	Sales	GP%	GP Addition
1	2013-14	1,05,51,20,243	7%	7,38,58,417
2	2014-15	1,00,39,75,595	7%	7,02,78,292
3	2015-16	1,07,72,86,503	7%	7,54,10,055
4	2016-17	1,06,17,57,099	7%	7,43,22,997
5	2017-18	90,61,24,093	7%	6,34,28,687
		5,10,42,63,533		35,72,98,447

2.3. Ld. CIT(A) granted relief by restricting the addition to 0.50% instead of 7%, details of which is tabulated below:

Sr.No	Assessment Year	Sales	Additional GP	Addition
1	2013-14	1,05,51,20,243	0.50%	52,75,601
2	2014-15	1,00,39,75,595	0.50%	50,19,878
3	2015-16	1,07,72,86,503	0.50%	53,86,433
4	2016-17	1,06,17,57,099	0.50%	53,08,785
5	2017-18	90,61,24,093	0.50%	45,30,620
		5,10,42,63,533		2,55,21,318

3. Brief facts of the case are that assessee is engaged in the business of wholesale trading of metals and metal ores. For the assessment year 203-14, return of income was filed on 06.08.2013 reporting total income at Rs. 1,18,94,840/- which was assessed u/s. 143(3) vide order dated 29.02.2016 at total income of Rs. 1,19,46,690/-. Subsequently, a search and seizure action u/s. 132 of the Act was conducted on 17.4.2018 in the case of Jatiya group and other related groups at their business premises as well as at the residential premises of Directors/Partners. The search was concluded on 21.4.2018. Jatia group is primarily involved in the business of real estate and steel trading. Following the search action, proceedings u/s 153A of the Act were initiated against the assessee. Assessment order u/s. 153A r.w.s. 143(3) of the Act was passed on 23.07.2021, assessing total income at Rs.24,19,42,930/-.

3.1. Allegation of the ld. AO is that from the data / information gathered during the course of search proceedings and during the course of assessment proceedings, it is seen that assessee misused banking credit facilities availed by it. According to the ld. Assessing Officer,

assessee provided accommodation entries by doing bogus purchases from various paper / shell entities of Topworth, Uttam Galva and Lloyds group of companies. These shell entities discounted the bills in the banks. On behalf of Vinod Jatia Group of Companies, respective banks transferred fund to the account of paper/shell entities of Topworth, Uttam Galva and Lloyds group of companies by way of letter of credit (LC). These funds were further transferred by these paper/ shell entities to their group companies for actual utilization. It is pertinent to note here that all these transactions are backed / supported by LC payments only. Ld. Assessing Officer observed that during the year under consideration, various LCs were opened for payment of bogus purchases to alleged paper / shell entities.

3.2. He noted that as far as LC funding facility is concerned, assessee would have earned for providing the additional facility or feature of LC to various parties. Assessee did not receive any guarantee or LC from the parties to whom goods were allegedly sold by it. Vinod Jatia group family members and group entities used their goodwill and asset base to obtain LC facility from bank in the name of entities. This funding was passed on to Uttam / Topworth / Lloyds entities. By providing this facility to the creditors who in turn passed on this funding to their group companies, the risk was borne by the Vinod Jatia group.

3.3. After considering the overall facts and circumstances as well as submissions made by the assessee, Ld. Assessing Officer computed additional income @ 7% on the total sale turnover. He noted that assessee has reported bogus sales turnover of Rs.1,05,51,20,243/-. By applying 7% rate, income on this turnover was arrived at Rs.7,38,58,417/-. However, he gave credit for the income already

offered by the assessee @ 2.49% amounting to Rs. 2,62,42,1071-. Thus, the difference of Rs.4,76,16,310/- (Rs.7,38,58,417/- less Rs.2,62,42,107/-) was added to the total income of the assessee.

3.4. Aggrieved by the said order, assessee filed the first appeal. After considering the overall facts of the case, ld. CIT(A) while partly allowing the appeal, estimated the additional income at 0.5% of the sales as against 7% adopted by the ld. Assessing Officer.

3.5. Aggrieved by the order of ld. CIT(A), both the assessee as well as revenue filed their respective appeals contesting for their grievances. All the grounds raised by the revenue are interrelated and interconnected for challenging the order of ld. CIT(A) whereby the additional income was reduced from estimation of 7% to 0.50% of the total alleged bogus sales, including grounds for allowance given for indirect expenses and depreciation. Assessee in its appeal has contested on both jurisdictional issues as well as on the merits of the case. On the jurisdictional issues, assessee has challenged the validity of search and the search warrant issued in the name of Asuti Trading Pvt. Ltd., where assessee had no direct or indirect co-relationship in the said entity; and secondly, addition has been made without any incriminating material and therefore, the addition is beyond the scope of section 153A. After hearing the ld. Counsel on these grounds, we were prima facie of the opinion that validity of search cannot be looked into by this Tribunal especially, on the contention as to whether there was proper satisfaction or not or search in case of assessee was on some mistaken identity; and that the impugned addition made are based on findings of the search and statements. Thus, except for ground on merits, other grounds

raised by the assessee in its appeal vide ground nos. 01 to 05 are left open and not adjudicated upon.

4. We have heard both the parties, perused the material placed on record, judgments cited before us and also the orders passed by the authorities below. Findings of the assessment order, based on which addition was made are summarised by the ld. CIT(A) as under:-

- a) *The modus operandi followed by the group companies is that main company (Topworth Group, Uttam Group or Llyod Group) formed a shell company, which raises bogus sales invoices to the second company (Vinod Jatia group of companies). Second company made the payment to the shell company through the LC issued by the Bank. Thus, the shell company received the money without selling any goods, but only for generating bogus invoices.*
- b) *During the course of search, post search and assessment proceedings, assessee could not produce basic details such as the stock register, transportation details, communication with vendor & customers, weighment slips, Gate pass, Lorry receipt, inward and outward register in order to prove the genuineness of the transaction and involvement of actual goods. Assessee has maintained that transaction had been taken place on consignor-consignee model. If the reply provided is considered, then no one was able to provide any details or explanation or evidence on manufacturer of goods, place where goods are stored, godown details, entire supply chain of the transaction, ultimate customers, manner in which order was placed, which shows there were no underlying goods involved in the entire transaction and it was mere paper entries entered within shell / paper entities.*
- c) *It is seen from the money mapping that the payment received from one party is immediately transferred to other parties on same day. All the vendors and customers were potentially related amongst themselves on the basis of Common Key managerial person / common signatories / Common address. No credit guarantee / security obtained was from Topworth group of Companies and Uttam Galva Group of Companies. Entire purchases are backed by LC payment to vendors.*
- d) *The address of the party to whom the material had to be delivered is not available and in the absence of lorry receipts the actual movement of the goods could not be ascertained.*

- e) *There is no evidence to substantiate whether any communication in the form of e-mails, facsimile or letters sent through courier or registered post ever took place between the assessee company and its vendor and customer during the trade.*
- f) *While the assessee books a purchase of material from the concern, of say, Llyod group, then on the same day it books sale of equivalent amount of similar material from another entity of the Llyod group. While the payment for purchase is made immediately through Letter of credit and bill discounting, the sale proceeds are received after a gap of upto 180 days. Thus, the funds are allowed to be used by the Llyod group for that period.*
- g) *Survey actions u/s 133A, field visit by the inspectors and the analysis of the financial statements reveal that the parties with whom such transactions were booked are shell companies, created on paper.*
- h) *Directors, entry operators or key people of the parties with whom transactions were made have admitted during the search that no actual goods are delivered and only bills have issued against these bogus purchases.*
- i) *From the perusal of the debtor ledgers, it is seen that interest on delayed payments and trade discounts were offered on the same invoices.*
- j) *Interests on delayed payments were recovered at the time of receipts from parties and Trade Discounts were paid later. Further it is seen that, wherein the Trade Discounts were offered were at a higher percent as compared to the proportionate rate of interest on delayed payment.*
- k) *Other Findings: - One debtor paying of the debts of another debtor, Bill discounting and Bank Charges had been reimbursed to Vendors during the year under consideration, Service Charges / LC Assisting Charges charged to customer, Transactions incurred at a loss post accommodation of LC charges.*

4.1. Based on the findings listed above, ld. AO held that the books of accounts cannot be relied upon and thus, proceeded to reject the same u/s 145 of the Act, estimating income of the assessee @ 7% of the total sales turnover.

5. In the present case, the allegation is that assessee has booked back-to-back bogus sales and bogus purchases. Considering that both

sales and purchases have been inflated and duly accounted for in the books of accounts, it doesn't seem that the transactions were carried out for suppression of income as noted by the Id. CIT(A) who then listed three issues for his consideration while adjudicating on the impugned addition made by the Id. Assessing Officer. The three issues listed by the Id. CIT(A) as are as under:

- a) *What is the nature of transactions entered by the assessee?*
- b) *Whether the regular income generated from the transactions is disclosed?*
- c) *Whether any other income is earned by the assessee from these back-to-back transactions?*

5.1. On the first issue, the modus operandi of the transactions given in the assessment order is explained by way of an illustration, which is as under:

- a. First of all, company "A" (Uttam Group, Topworth Group & Llyod Group, etc.) creates a dummy company in the name of say "B"
- b. Now company B raises sales invoices to the company of Jatia Group (say company X)
- c. Company "X" made payment to company "B" through LC issued by the Bank
- d. Company "B" got money without selling any goods but only for generating invoices
- e. On the same day, Company "X" raises sale invoices (Purchase price + 2% to 4%/Rs. 100 to 150 + LC charges) to company "A" (i.e. main company Uttam Group or Topworth Group)
- f. Against this invoice, Company "A" makes payment to company "X" through cheque/RTGS

5.2. The transactions in question can be said to be in the nature of 'circular trading' carried out with the objective of increasing the turnover and availing bank credit facilities. Through such transactions, bank funds are made available to the entities of Llyod, Topworth and Uttam group for their use. Since the transactions are carried out using the funds of the banks and therefore, it is for the banks to judge whether their funds were misused or otherwise. The responsibility for action on misuse of funds, if any, lies with the bank. What is relevant from the point of view of income-tax under the Act is whether the income from such circular trading is disclosed by the assessee or not.

5.3. In this respect, it was observed that the assessee had duly reflected the profits earned from such circular transactions in its books of accounts, subjected to audit. Ld. CIT(A) gave his categorical fact-based finding in para 10.7 which is reproduced as under:

*"10.7. From the chart reproduced above, it is seen that in the first step, purchase is made by the appellant for which the payment is made through letter of credit facility. The funds are immediately transferred to the seller through bill discounting. This implies that two banks, i.e., bank of the buyer and bank of the seller are involved in the transaction. **The purchase transaction is, thus, duly accounted for in the books of respective concerns.** From the chart given above, it can be seen that the money transferred in the first step is returned to the appellant against the sale bill raised by it. **This sale value, as per the invoice, comprises of the Purchase price + 2% to 4%/Rs. 100 to 150 + LC charges. This shows that a profit has been booked on the final step.** As per the chart given above, **appellant is involved in the first and the last step of the cycle and both these steps are duly accounted for. The income generated out of the sale transaction gets accounted for in the books.** Appellant has provided a chart which shows that the GP and NP shown by it is higher than the GP and NP shown by many of the group concerns of Topworth, Llyod and Uttam group. Appellant has submitted that the sales made to the concerns of the three assessee groups have been accounted and some entities of these groups are listed as sundry debtors in its books. Some of these concerns are undergoing insolvency proceedings before the NCLT and the claim of Rs 41,98,50, 127/- of the appellant against them stands admitted by the NCLT. **In view of the discussion above, it can be said that the***

**regular income from the purchase and sale transactions has been accounted for by the appellant.**

[emphasis supplied by us by bold and underline]

5.4. Since Id. CIT(A) concluded that profits are estimated on sales, figures of sales should be adopted and hence negated the stance of Id. AO who adopted higher of sales and purchase values for the purpose of estimation. In this respect, assessee submitted that it had offered much higher gross profit ratio in its trading activity as is evident from other comparable cases of genuine traders forming part of the written submission before the learned CIT(A). The working in this respect is tabulated below:

<b>GROSS PROFIT OFFERED BY VINOD JATIA GROUP, TOPWORTH GROUP, LLOYDS GROUP AND UTTAM GALVA GROUP</b>						
<b>FINANCIAL YEAR IN RESPECTIVE YEARS</b>						
	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19
<b>NAME OF COMPANIES</b>						
<b>VINOD JATIA GROUP OF COMPANIES</b>						
Dilshad Trading Co. Pvt. Ltd	2.57%	1.46%	1.67%	0.39%	0.37%	0.00%
Makalu Trading Ltd	1.95%	1.44%	0.82%	0.58%	0.00%	0.00%
Shrilekha Trading Pvt. Ltd	1.42%	0.98%	0.76%	0.38%	0.40%	0.00%
Subhakaran & Sons	3.03%	2.42%	1.52%	0.72%	0.00%	0.00%
Superways Enterprises Pvt. Ltd	2.81%	2.13%	1.10%	0.79%	5.86%	0.00%
<b>TOPWORTH GROUP OF COMPANIES</b>						
Akshata Mercantile Pvt. Ltd	2.5%	2.4%	0.0%	0.0%	0.0%	0.0%
Asuti Trading Pvt. Ltd	2.1%	1.1%	0.4%	0.2%	0.8%	
Champalal Motilal Steel Co Pvt. Ltd	0.0%	1.6%	1.1%	0.0%	0.1%	0.0%
Harsh Steel Trade Pvt. Ltd	0.0%	0.0%	1.0%	0.0%	0.0%	0.0%
Maheep Marketing Pvt. Ltd	0.0%	0.0%	4.1%	0.0%	0.4%	0.0%
Navmi Steel Traders Pvt. Ltd	0.5%	0.0%	0.0%	1.0%	0.0%	0.1%
Phoenix Impex Pvt. Ltd	1.9%	1.4%	1.2%	0.0%	0.0%	0.0%
<b>LLOYDS GROUP OF COMPANIES</b>						
Duli Trade Comanodities Pvt. Ltd	0.4%	0.0%	1.5%	1.0%	1.7%	1.6%
Elecmec Engineeing & Project Pvt. Ltd	0.0%	0.0%	0.1%	0.0%	0.0%	0.0%
<b>UTTAM GALVA GROUP OF COMPNAIES</b>						
Blackstone Multi Trading Ltd	0.0%	0.0%	0.2%	1.2%	2.0%	1.8%
Palak Agency Pvt. LTd		0.6%	0.5%	0.0%	0.5%	1.2%
Uttam Value Steel Ltd		12.0%	6.8%	9.6%	12.2%	15.4%
<b>TOTAL [A]</b>	<b>19.13%</b>	<b>28.54%</b>	<b>22.72%</b>	<b>16.68%</b>	<b>24.42%</b>	<b>20.17%</b>

<b>AVERAGE GROSS PROFIT ASSUMED</b> (Since Financial Data not available)	1.28%	1.68%	1.34%	0.98%	1.44%	1.26%
<b>TOPWORTH/LLOYDS/UTTAM GROUP</b>						
InSCO Steel Pvt. Ltd	1.28%	1.68%	1.34%	0.98%	1.44%	1.26%
Lloyds Steel Industries Ltd	1.28%	1.68%	1.34%	0.98%	1.44%	1.26%
Maruti Strip's Ferro Alloys Pvt. Ltd.	1.28%	1.68%	1.34%	0.98%	1.44%	1.26%
Shree Global TradeFin Ltd	1.28%	1.68%	1.34%	0.98%	1.44%	1.26%
Brahmcharini Vyapaar Pvt. Ltd	1.28%	1.68%	1.34%	0.98%	1.44%	1.26%
Manojvaya Vintrade Pvt Ltd	1.28%	1.68%	1.34%	0.98%	1.44%	1.26%
Omicron Steel Traders Pvt. Ltd	1.28%	1.68%	1.34%	0.98%	1.44%	1.26%
Balalashwar Pipes & Tubes Pvt. Ltd.	1.28%	1.68%	1.34%	0.98%	1.44%	1.26%
Poscho Steels Pvt. Ltd.	1.28%	1.68%	1.34%	0.98%	1.44%	1.26%
<b>TOTAL [B]</b>	<b>11.52%</b>	<b>15.12%</b>	<b>12.06%</b>	<b>8.82%</b>	<b>12.96%</b>	<b>11.34%</b>
<b>TOTAL GP RATIO ALREDY OFFERED BY</b>						
<b>ALL GROUPS AS PER AUDITED</b>						
<b>BOOKS OF ACCOUNTS TOTAL [A] + [B]</b>	<b>30.65%</b>	<b>42.66%</b>	<b>34.78%</b>	<b>25.50%</b>	<b>37.38%</b>	<b>31.51%</b>

5.5. Assessee thus, asserted that the profit margin disclosed by it on alleged circular transactions comes to 2.49% for the year under consideration. Ld. Assessing Officer has given credit for this profit margin while making addition on estimation basis by reducing it from the ad hoc rate adopted by him of 7%. It is thus contended that the chart showing profit margin for the all the years with profit margin reflects the real picture hence, no further addition is warranted on this account. Despite the above factual position placed by the assessee on record, ld. CIT (A) estimated at 0.5% of the sales. The relevant portion from the order of ld. CIT(A) is reproduced herein below:

*"10.9. On the third issue of Whether any other income earned by the appellant from these back-to-back transactions, the AO has made an addition of Rs. 5,69,09,099/- to the income of the appellant. The addition is based on calculated at the rate of 7% of the turnover of Rs 90,61,24,093/- which comes to Rs 6,34,28,687/-. Since the appellant had offered the income of Rs 65,19,588/- in its books, the difference amount of Rs 5,69,09,099/- was added to the income. The additional income includes commission on accommodation entries of purchases and sales. The AO has made similar additions in the assesses of Llyod group which are before me in first appeal. The income in those cases has been*

estimated at the rate of 5% of sales or purchases, whichever is higher. AO has observed that the appellant has taken greater risk by using its goodwill and assets for the purpose of obtaining the Letter of credit facility from the banks and hence, it must have earned commission at a higher rate from the entities of the three group concerns. Therefore, in the case of the appellant, such commission income has been estimated at 7%. The question is whether the appellant has earned additional income other than the income shown in the books and if yes, whether the rate of 7% adopted by the AO is reasonably quantifies such income. As discussed in the paras above, the regular income arising out of the circular sale and purchase transactions gets automatically accounted for in the books. However it is unlikely that the any assessee would undertake this activity on such a large scale, unless there is some more added benefit in store for it. Surmise It is evident that the appellant group and the other three groups have mutually got benefitted by extensively using/misusing the L/C facility. In my view, the AO has rightly made the addition of such other income earned by the appellant on the circular transactions. **However, I do not agree with the rate of 7% adopted by the AO. It is seen that the rate of 7% has been applied in all assessment orders passed from AY 2013-14 to AY 2017-18, resulting in the total addition of Rs. 25,18,44,894/-, which in my view is unreasonable and excessive. It is much more than the profit shown by the appellant or its group and non- group concerns. Thus, the rate of 7% adopted by the AO is on the higher side. In the appellate order for Ms Duli Trade Commodities pvt. ltd, the additional income is estimated at the rate of 0.5% of total sales turnover. The addition in the said case comprises/covers the additional income earned by the appellant** by reinvesting the funds in the same business, the commission on accommodation entries of purchases and sales made/passed on to further the entries obtained from searched entities and any other unaccounted incomes like bill discounting income, interest received, discount income on account of suppression of GP etc."

"10.10 While the appellant has got the funds from the bank through the letter of credit facility, the three group concerns (Llyods, Topworth & Uttam) also were equally benefitted with the funds. These funds were either reinvested into their businesses or transferred within their group entities or to the outside group entities They got to use the funds upto 180 days at a stretch before returning the same to the appellant. As far as appellant is concerned, its role was to facilitate the transfer of funds from the bank through the letter of credit facility and receive the funds at the end of the credit period. Both the legs of the transactions and resultant income have been accounted for. Thus, the funds were at the disposal of the three group concerns for a longer time than the appellant. Further, **there is no specific finding of appellant diverting the funds for its own use. In view of this, I do not concur with the AO that the additional income earned by the appellant should be estimated**

**at a higher rate than the rate adopted for group concerns. Considering the discussion above, I feel that the rate of 0.5% adopted in the case of M/s Duli Trade Commodities Pvt Ltd is reasonable and realistic and can be applied in the case of the appellant.** The reduction of rate from 7% to 0.5% would also address the claim of the appellant that not all transactions were with the entities of Topworth/ Llyod/Uttam group, thereby implying that not all transactions were circular in nature. **Considering the overall discussion as made above, the additional income is calculated at the rate of 0.5% of the total sales.** This additional income shall primarily include the commission income earned from the group concerns and also cover any other unaccounted incomes like bill discounting income, interest received, discount income on account of suppression of GP etc.”  
[emphasis supplied by us by bold and underline]

5.6. It is pertinent to note that Id. CIT(A) has adopted the rate of 0.50% for profit estimation from the case of M/s Duli Trade Commodities Pvt Ltd. This case travelled before the Coordinate Bench of ITAT Mumbai in ITA nos. 3063 to 3069 and 2340 to 2346/Mum/2025, order dated 22.08.2025 wherein on similar estimation with similar factual position, the addition sustained by the Id. CIT(A) was deleted. Relevant paragraphs from this order are reproduced for ready reference:

*“17. Now considering the above facts in detail, we proceed to decide the merits of the additions. In this regard, it was submitted that the assessee had not entered into any bogus/circular transactions as held by the AO. As per Ld. AR the assessee is engaged in the business of wholesale trading of metals and metal ores having a turnover of more than Rs. 2,000 crores. Considering the nature of the goods traded, which are heavy and bulky in size, there is typically no physical movement of such goods at the time of sale. Instead, the goods are stored at designated warehouses, and symbolic delivery is effected by way of transfer of title documents or delivery orders, which is an accepted and recognized commercial practice in the line of business. Such operational model is standard across the industry and does not, in any manner, indicate the presence of sham transactions. Thus the transactions are genuine.*

*18. Alternatively, it was also submitted that even if it is to be assumed that the assessee has entered into circular transaction, there is no evidence nor any findings arising out from the search proceedings to suggest that the assessee has earned extra cash which is in excess of amounts/profits already reflected in the books of accounts. On the contrary, the statements recorded of various individuals at the time of*

*search indicate that the assessee has earned commission as its profits for providing the service of generating alleged non-genuine invoices. In this regard out attention was drawn to the statement of Shri Narsingh Vijay Dhawale, accountant of Mr. Vinod Jatia which is at paper book page No. 56 & 57, (Q. No. 13 and 14). Further, statement of Shri Riyaz Shaikh, CFO of Lloyds Metal and Energy Limited (group company of the assessee) which is at paper book page No. 71, (Q. no. 32). Thus, in this way we have noticed that the statements itself indicate that the transactions were executed in an auto mode with a pre-determined commission structured as profits. Most importantly, there is no mention of any cash consideration or compensation being paid for availing the alleged bogus invoices in any of the search statements including confessional statements.*

*19. We noticed from the record that not only there are no seized documents supporting the findings of the AO, absolutely there is no deposition made by anybody indicating any cash receipts by the assessee. It is important to mention here that in a case where there would have been such statements during the course of search alleging such cash receipts, the assessee would have an opportunity to cross examine the deponent. However, as per the facts of the present case, the assessee is in a worst situation in as much as the AO and Ld. CIT(A) has merely presumed and inferred cash consideration and thus the assessee had no such opportunity.*

*20. We further noticed that the additions made by the AO for all the six years is of approximately Rs. 250 crores. However, it is impossible and against the prudence that such substantial amounts have been paid to the assessee without leaving behind any documentary evidence such as notings, diaries or any cash trail. The complete absence of such evidence, in spite of extreme action of search and seizure, strongly suggest that no cash income was actually received by the assessee. Thus the absence of any evidence in itself is a positive evidence to suggest absence of cash transactions. On this proposition reliance is being placed upon the decision of the Coordinate Bench of the Mumbai of the Hon'ble Tribunal in the case of DCIT v. Supreme Holdings and Hospitality (India) wherein, with respect to the same search proceedings of Mr. Vinod Jatia and his companies, the Coordinate Bench of the Tribunal held that there is no involvement of any cash transaction nor there is any cash trail found in the search proceedings.*

*21. Furthermore, neither the AO nor the Ld. CIT(A) has referred to or relied upon any specific finding or tangible evidence to demonstrate that the assessee had actually received any cash. In our view, at the time of making the addition, the AO has merely proceeded on a presumptive basis by stating that the assessee might have received cash, without bringing any concrete, corroborative or even circumstantial evidence on record to substantiate such an assumption. Such reasoning of the*

*revenue authorities is based purely on conjectures was also accepted by the Ld. CIT(A). In our considered view, such conjectural reasoning cannot form the basis for a sustainable addition under the Act. On this proposition, reliance is being placed up on the decision of the Hon'ble Supreme Court in the case of Dhakeshwari Cotton Mills Ltd. v. CIT (26 ITR 775) (PBP 144), wherein, it was held that although, the AO is not restricted by the strict and technical rules of the evidence and pleadings, he cannot proceed to make an addition purely on a guess work without any reference to material or tangible evidence.*

*22. After evaluating the entire records, we also found that the payer of the alleged amount has not been identified throughout the assessment proceedings. It is strange that the AO has alleged that the receipt of excess consideration to the extent of 5% of the turnover, which aggregates to approximately Rs. 250 crores for all the years under consideration but at the same time had not identified the person who had paid such a huge amount to the assessee. The revenue has also not made any addition in the hands of any counter party in respect of such huge amount allegedly paid to the assessee. Thus in our view, if the assessee had received the cash consideration outside the books of accounts, then in that eventuality, there has to be some entity who has paid such amount and such entity ought to have been identified and taxed by the Income-tax Department.*

*23. Even otherwise, the additions sustained by the Ld. CIT(A) is excessive. As in this regard, it was submitted that as per prevailing industry practice, the profit margin earned in case of a genuine wholesale trading is between 0.17% and 0.63%. (This fact has been accepted by the Ld. CIT(A) on Pg. 86). Therefore, in our view, even assuming that the transaction entered by the assessee are circular in nature and non-genuine, then in that eventuality the findings of the Ld. CIT(A) that the assessee must have earned 0.5% commission is contrary to commercial logic. No prudent businessman would pay such a high commission to a mere entry provider, especially when the commission exceeds or equals the profit margins earned in legitimate trading activity. Hence, the commission earned by the assessee has to be much lower than the industry's average net profit margin.*

*24. Even otherwise, the profit margin disclosed by the assessee on alleged circular transactions comes to 0.27% for the year under consideration (chart showing profit margin for the all the years is enclosed in the file). Therefore, in our view, considering the thin margin in this line of business, it is held that the profits disclosed by the assessee in its audited books of account includes commission income earned, therefore, in our considered opinion, no further addition is warranted on this account. Reliance is being placed on the decision of the Rajkot Bench of the Hon'ble Tribunal in the case of Kamlesh Deoraj Jain v. ITO (PBP 154), Chandigarh Bench of the Hon'ble Tribunal in the case of Seo*

*Lehenga House v. DCIT (PBP 173) and Nagpur Bench of the Hon'ble Tribunal in the case of ACIT v. Solaries Holdings Put Ltd. (PBP 197), wherein it has been held that in case of a circular transaction, the profit declared in the books of accounts covers the commission portion and that no further addition is warranted especially in absence of any evidence of cash payments.*

*25. Therefore, considering the totality of the facts and circumstances of the present case and also considering the decisions of the Coordinate Benches of the Tribunal as discussed by us above, we allow the grounds of appeal raised by the assessee and direct the AO to delete the additions.*

*26. Since, we have deleted the additions by considering the merits, therefore there is no need to adjudicate the other grounds raised by the assessee as the same become academic in view of our above detailed findings.”*

6. The very basis adopted by Id. CIT(A) of resorting to the estimation of additional income by applying the rate of 0.50% has been meritoriously dislodged by the decision of the Coordinate Bench in the aforesaid case of M/s. Duli Trade Commodities Pvt Ltd. We further note that all the aspects of additions made in the present case have been elaborately dealt by the Coordinate Bench in the case of Duli Trade Commodities Pvt Ltd. (supra), including inter alia, the following:

*a. Transactions were executed in an auto mode with a pre-determined commission structured as profits. Most importantly, there is no mention of any cash consideration or compensation being paid for availing the alleged bogus invoices in any of the search statements including confessional statements.*

*b. Not only there are no seized documents supporting the findings of the AO, absolutely there is no deposition made by anybody indicating any cash receipts by the assessee. There is a mere presumption and inference drawn about the cash consideration, far from factual position. Such a conjectural reasoning cannot form the basis for a sustainable addition under the Act.*

*c. Complete absence of any evidence in spite of extreme action of search and seizure, strongly suggest that no cash income was actually received by the assessee.*

*d. After evaluating the entire records, it was also found that the payer of the alleged amount has not been identified throughout the assessment proceedings. Revenue has also not made any addition in the hands of any counter party in respect of such huge amount allegedly paid to the assessee.*

*e. The additions sustained by the Ld. CIT(A) is excessive. As per prevailing industry practice, the profit margin earned in case of a genuine wholesale trading is between 0.17% and 0.63%, fact of which has been accepted by the Ld. CIT(A).*

*f. No prudent businessman would pay such a high commission to a mere entry provider, especially when the commission exceeds or equals the profit margins earned in legitimate trading activity.*

6.1. Considering the factual matrix and the judicial precedents in the entities forming part of the same search exercise conducted by the Department, ground no. 6 raised by the assessee in its appeal for Assessment Year 2013-14 is allowed whereby addition sustained by the ld. CIT(A) adopting 0.50% for estimation of additional income is deleted. Also, since the appeal of the assessee is allowed on the merits of the case, jurisdictional issues raised are left open. Since we have deleted the additions upheld by Ld. CIT(A) in assessee's appeal, consequently, the grounds raised by the revenue in its appeal stands dismissed.

6.2. In the result, appeal of the assessee is allowed and that by the revenue is dismissed, for Assessment Year 2013-14.

7. Fact pattern and circumstances in the other appeals, both by the assessee and revenue are identical except for variation in quantum and

numbering of grounds, our decision rendered in above paragraphs for Assessment Year 2013-14 applies mutatis mutandis for all the other captioned appeals.

8. In the result, all the appeals filed by the assessee are allowed and all the appeals filed by the revenue are dismissed.

Order is pronounced in the open court on 06 January, 2026

Sd/-  
[Sandeep Gosain]  
Judicial Member

Sd/-  
[Girish Agrawal]  
Accountant Member

***Dated: 06 January, 2026***

*MP, Sr.P.S.*

Copy to:

- 1 The Appellant
- 2 The Respondent
- 3 DR, ITAT, Mumbai
- 4 Guard File
- 5 CIT

BY ORDER,

(Dy./Asstt. Registrar)  
ITAT, Mumbai