IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "A" MUMBAI

BEFORE SHRI SANDEEP GOSAIN (JUDICIAL MEMBER)
AND
SHRI OM PRAKASH KANT (ACCOUNTANT MEMBER)

ITA Nos. 4747 & 4746/MUM/2025
Assessment Year: 2017-18 & 2018-19

Arvind Khetaram Purohit, 33, 2nd Bhoiwada, Kalbadevi, Mumbai-400 002.	***Vs.***	DCIT Central Circle, Kautilya Bhavan, C41-43, Avenue 3, Near Videsh Bhavan, G Block BKC, Bilban Area, Bandra Kurla Complex, Bandra East, Mumbai-400051.
PAN NO. AAEPA 3519 Q **Appellant**		**Respondent**

Assessee by	:	Mr. Bharat Kumar
Revenue by	:	Mr. Rajesh Kumar Yadav, CIT-DR

Date of Hearing	:	17/11/2025
Date of pronouncement	:	20/01/2026

ORDER

PER OM PRAKASH KANT, AM

These two appeals filed by the assessee arise out of a common order dated 24.07.2025 passed by the learned Commissioner of Income-tax (Appeals)–52, Mumbai, [in short 'the Ld. CIT(A)'] for the assessment years 2017-18 and 2018-19 respectively. Since both appeals involve an identical issue relating to alleged unexplained investment in the purchase of a commercial property, with the

consent of both parties, assessment year 2017–18 was treated as the lead year. Accordingly, both appeals were heard together and are being disposed of by this consolidated order for the sake of convenience.

2. Now, we take up the appeal of the assessee for assessment year 2017-18 for adjudication.

2.1 Briefly stated, facts of the case are that for the year under consideration, the assessee filed its original return of income on 16.02.2018 declaring a total income of ₹12,50,440/-. Subsequently, pursuant to a search and seizure action under section 132 of the Income-tax Act, 1961 conducted on 17.03.2021 in the case of M/s Rubberwala Housing and Infrastructure Ltd. (RHIL), certain digital material in the form of an Excel sheet was found, allegedly reflecting cash payments by various purchasers, including the assessee. On the basis of such material, the Assessing Officer following due procedure under the law , issued notice under section 153C of the Act to the assessee, which was duly served.

2.2 During the assessment proceedings u/s 153C read with 153A of the Act, it was noticed that the assessee had booked a commercial shop in “Platinum Mall”, a project developed by RHIL. The Excel sheet recovered from the premises of RHIL, as explained by one of its employees, Shri Imran Ansari, indicated alleged cash payments attributed to the assessee, according to which, the

assessee had paid cash of Rs.2,00,000/- in previous year corresponding to assessment year 2017-18 and Rs.9,68,650/- in previous year corresponding to assessment year 2018-19. A key employee of Rubberwala group, Shri Imran Ansari, who was handling sale and registration of shops in Platinum Mall project of RHIL, stated on oath that excel sheet was found from his laptop and same was maintained by him for recording transaction including receipt of cash component as well as cheque components on sale of RHIL's shops. Shri Imran Ansari in his statement explained as how the cash was being received and forwarded to the Director of the said company. He also explained in detail various columns of the excel sheet maintained. He also stated that alongwith recording entry of cash component in excel sheet, he used to provide a diary to buyer in which entry of all payments made by the respective buyer used to be recorded. His statement has been further affirmed by the Director of the company. The said company also made disclosure of the cash component received against sale of the shops and other properties and offered the same in the return of income filed in response to notice u/s 153A of the Act.

2.3 During assessment proceedings of the case, the Assessing Officer issued show cause notice to the assessee as why the said cash component in the sale of the shops might not be treated as unexplained investment of assessee. In response, the assessee sought cross-examination of said Mr. Imran Ansari. But, neither the

copy of the said excel sheet nor cross-examination of Shri Imran Ansari was provided. The Assessing on the basis of material found at the premises of RHIL and the statement of Mr. Imran Ansari and director of the company Shri Tabrez Shaikh, made addition of the amount of Rs.2,00,000/- paid during the year under consideration as unexplained investment.

2.4 On appeal, the learned Commissioner of Income-tax (Appeals) upheld the addition, holding inter alia that there was no requirement to afford cross-examination of Shri Imran Ansari and that the proceedings under section 153C were valid. The Ld. CIT(A) rejected the other objections of the assessee including not mentioning of the Document Identification Number(DIN) and invalidity of the proceedings u/s 153C of the Act. On merit also the Ld. CIT(A) distinguished the decision in the case of Rajesh Jain in ITA No. 3842 & 3841/Mum/2023 of Co-ordinate Bench of the Tribunal relied upon by the assessee and sustained the addition on merits made by the AO.

3. Before us, the Ld. counsel for the assessee filed a Paper Book containing pages 1 to 29 and relied on the submission made before the lower authorities. The Ld. counsel for the assessee referred to ground Nos. 3 to 6 of the appeal and contended that the addition was made solely on the basis of third-party digital material and statements recorded during the search of RHIL. It was submitted that no document bearing the assessee's handwriting or signature

was found from the said premises and no diary or receipt allegedly for acknowledging cash was recovered either from the assessee or during search of the group. Despite specific requests, the assessee was neither furnished with complete adverse material nor granted an opportunity to cross-examine Shri Imran Ansari, whose statement constituted the sole foundation of the addition. During the course of hearing, the Ld. counsel for the assessee submitted that subsequent the assessment, the Assessing Officer provided a copy of the excel sheet under reference. The relevant columns of the said excel sheet relevant to the assessee is reproduced as under:

Floor	*3rd Floor*
Name	*Krishna Kumar*
Agreement Name	*Arvind K. Purohit*
Shop No.	*43*
Rev. Area	*73.50*
Level	*Level 2*
Total Amount	*3,895,500.00*
Rev Total Amount	*3,895,500.00*
Token Amount A	*200,000.00*
Date	*7.2.2017*
Token Amount B	*579,100.00*
Date	*15.9.2017*
1st Inst. Payment	*389,550.00*
Date	*20.2.2018*
2nd Inst. Payment	*951,825.00*
Date	*8.8.2019*
3rd Inst. Payment	
Date	
Penalty	*7,822.74*
Days Delayed	*99.00*
Due Date	*5.11.18*
Date	*12.2.19*
A. Value	*1,775,025.00*
Rev A. Value	*1,775,025.00*
G-P	*2,120,475.00*

Rev G-P	*2,120,475.00*
Parking A.V.	
95% AMT	*3,700,725.00*
TOTAL RECVD. CASH	*2,120,475.00*
Cash Return	-
Cheque Payment	
Cheque Payment on 1st Floor	*500,000.00*
Cheque Payment on 2nd Floor	*920,020.00*
Cheque Payment on 3rd Floor	
Cheque Payment on 4th Floor	
Cheque Payment on 1st Podium	
Cheque Payment on 2nd Podium	
Cheque Payment on 3rd Podium	
Cheque Payment on Possession	
TOTAL RECVD. CHEQUE	*1,420,020.00*
Total Recv.	*3,540,495.00*
Total Recv. %	*91%*
Bal. Till Date	*160,230.00*
Other Charges & Maintenance A	*238,140.00*
GST @ 18% on Maintenance	*42,865.00*
Maintenance A with GST	*281,005.00*
Other Charges & Maintenance B	
Maintenance A Paid	
Maintenance B Paid	
Interest	***212,153.81***
B BAL	-
95 % Payment Bal	***160,230.00***
100 % Payment Bal	***355,005.00***
B BAL	-
W BAL	***355,005.00***
95 % on A.V.	***1,686,273.75***
Balance Due Now	***266,253.75***
AGREEMENT MADE	***NO***
AGREEMENT SIGNED	
PARKING	
PARKING DETAILS	
Cheque Balance 100	
GST	
Cheque Balance 95	
95	

Bal on 100%	
GST Bal	
Bal	
GST	
GST PAID	
GST BAL	
GST	
G-P Bal	
A Val Bal	
GST	
GST PAID	***213003***
GST BAL	***1232616***
Interest	***212,153.81***
ST/RG	
Remark	
Call Response	
Cheque Bal	
GST	
GST Paid	
GST Bal	
Interest	
ST /REG	
ST/RG CHARGE	
Grand Total	

3.1 Further, the Ld. counsel for the assessee submitted that disclosure of the Rubberwala group at 8% of the alleged cash receipts was a self-serving declaration, possibly motivated by tax considerations, and could not, by itself, establish that the assessee had actually paid any such cash. The Ld. counsel for the assessee relied on the decision of the Co-ordinate Bench in other cases arising out of the same search action, wherein similar additions were deleted.

3.2 On the other hand, the Ld. Departmental Representative (DR) supported the order of the lower authorities.

4. We have heard rival submissions of the parties and perused the relevant materials on record. We find that only evidence which have been referred by the Assessing Officer is an excel sheet wherein name of the assessee is appearing and entry of cash payment is recorded, which has been further explained by Shri Imran Ansari key employee of the RHIL. No other evidence has been referred either by the Assessing Officer or by the Ld. CIT(A)

4.1 The controversy before us is narrow and lies in a short compass as to whether the alleged unexplained investment in the purchase of the shop can be sustained solely on the basis of third-party digital records and statements, without any independent corroborative evidence and without affording the assessee an effective opportunity of cross-examination.

It is an undisputed position that the entire edifice of the impugned addition rests on (i) an Excel sheet recovered from the possession of a third party during search, and (ii) the statement of Shri Imran Ansari explaining the said entries. On the basis of said material and statement of key person, the said company RHIL accepted the fact of the on-money received in cash and declared 8% of the net profit for undisclosed income but no material evidencing actual payment of cash—such as receipts, diaries,

acknowledgments, or contemporaneous documents or corroborative linking to the assessee to alleged cash payment has been found from the assessee. Even the alleged diary, repeatedly referred to in the statements, was never recovered either from the assessee or during the search of RHIL.

4.2 There is no receipt, no diary, no acknowledgement, no contemporaneous documents and no corroborative linking to the assessee to alleged cash payment has been referred by the lower authorities. It is further evident that despite a specific request, the assessee was denied the opportunity to cross-examine Shri Imran Ansari. The digital material relied upon does not speak for itself and derives its evidentiary value entirely from the explanation furnished by the very person whose statement was relied upon. In such circumstances, denial of cross-examination causes manifest prejudice and strikes at the root of the principles of natural justice.

4.3 We find that identical issues arising out of the same search action on the Rubberwala Group have been consistently decided in favour of the assessees by various Coordinate Benches of the Tribunal, wherein additions based solely on such uncorroborated third-party material and statements were deleted. The Revenue has not been able to point out any distinguishing feature or bring on record any fresh or independent material to persuade us to take a different view.

4.4 Identical addition made in the case of Bharat Solanki in ITA No. 6523/Mum/2025, the Co-ordinate Bench has deleted the addition observing as under:

> *"8.5 The Ld. counsel for the assessee submitted that said Rubberwala Group has credited 100% amount of the cash in its books of accounts against offering 8% of income on such declaration. In other words, they have generated huge amount of income in their hands at 33% of tax on the 8% income of the cash declared. For example, if the assessee get credited Rs.100 in its books of accounts against cash received then it has paid taxes @ 33% on the Rs.8 which work out to Rs.2.6. The Ld. counsel for the assessee submitted that this was one of the beneficial declaration and therefore, they have admitted and paid the taxes. The Ld. counsel for the assessee submitted that the assessee has never paid such cash on-money and it might be their own money which they had brought into books in garb of cash on-money for tax benefit.*
>
> *8.6 We are of opinion that though the Rubberwala Group has admitted receipt of unaccounted cash and offered a percentage thereof to tax, such admission by the seller cannot, by itself, fasten liability upon the purchaser unless there is cogent evidence establishing that the purchaser actually made such payment. The disclosure by the developer may explain the source of its own funds, but it does not dispense with the burden on the Revenue to prove the assessee's investment or expenditure.*
>
> *8.7 The Ld. counsel for the assessee specifically brought to our attention that Shri Imran Ansari in his answer to question No. 13 of the statement dated 17.03.2021 stated that after receipt of alleged cash from the customers a small diary was being used to provide containing cash details received from the customers. The Ld. counsel for the assessee submitted that no such diary has been recovered from the assessee nor any kind of receipt issued by Rubberwala Group having signature of the assessee has been found from the premises of the Rubberwala group or from the assessee. The Ld. counsel submitted that in the case of one of the customer sh Rajesh Jain search was conducted by the Department but no such document in the form of diary was found which could corroborate statement of Shri Imran Ansari. According to him, Shri Imran Ansari cooked up a story of cash on-money in his statement for benefiting interest of their company.*
>
> *8.8 We are of opinion that Shri Imran Ansari himself stated that cash payments were recorded in a diary provided to buyers but no such diary was recovered from the assessee. Even in other cases arising from the same search, including that of Shri Rajesh Jain, no such diary was found despite*

search action. This materially weakens the evidentiary value of the statement.

8.9 Further, although the assessment was framed under section 153C of the Act, the incriminating material forming the basis of satisfaction was admittedly not furnished to the assessee in entirety. The assessee also specifically sought cross-examination of Shri Imran Ansari, whose statement constitutes the fulcrum of the addition. The request was declined on the premise that the statement was not the sole basis of the addition. However, on a careful examination of the record, we find that there is no other independent evidence apart from the said statement and the Excel sheet maintained by the same person.

8.10 It is well settled that while income-tax proceedings are not governed by strict rules of evidence, the principles of natural justice cannot be diluted where additions are founded on adverse material collected from third parties. Where such material is relied upon as substantive evidence, denial of effective opportunity to rebut or cross-examine strikes at the root of fairness of the proceedings.

8.11 In the absence of any corroborative material directly connecting the assessee with the alleged cash payment, and in the absence of cross-examination of the person whose statement is relied upon, the addition rests on suspicion and presumption rather than proof.

8.12 It is well settled that mere furnishing of copies of statements or documents does not, by itself, satisfy the requirement of natural justice, where such material is sought to be used adversely against an assessee and the assessee specifically disputes its correctness. The learned Commissioner (Appeals) has proceeded on the assumption that since extracts of statements, Excel data, and pen-drive contents were supplied through the show-cause notice, the principles of natural justice stood fully complied with. This approach conflates disclosure of material with testing of material, which are legally distinct concepts. The reliance placed by the learned Commissioner (Appeals) on Andaman Timber Industries is, with respect, misconceived and internally contradictory. The said decision has been cited to suggest that cross-examination is necessary only where the third-party statement is the "sole basis" of the addition. This reading is incorrect. In the present case, the Excel sheets and the pen-drive data have no independent evidentiary value dehors the explanation and interpretation supplied by Shri Imran Ansari. The alleged cash component, the attribution of entries to specific buyers, and the linkage of the assessee to such entries emanate entirely from his statement. The digital material does not speak for itself. Consequently, the statement is not collateral or incidental evidence but the very foundation of the addition. Much emphasis has been placed by the lower authorities on the proposition that income-tax proceedings are not governed by the strict provisions of the Indian Evidence Act. There can be no quarrel with this settled proposition.

However, it is equally settled that relaxation of evidentiary rules does not imply abrogation of natural justice. Even material which is otherwise admissible must still satisfy the minimum requirement of fairness when used against an assessee. The Hon'ble Supreme Court in Kishinchand Chellaram v. CIT (125 ITR 713) has unequivocally held that any material collected behind the back of the assessee, if proposed to be used against him, must be subjected to an opportunity of rebuttal in a meaningful manner, which necessarily includes cross-examination where facts are disputed.

8.13 Considerable reliance has been placed on the alleged admission by the Rubberwala Group that it received on-money and offered the same to tax. This, however, cannot be determinative of the assessee's liability. It is trite law that an admission by one party cannot be used as conclusive evidence against another, unless the latter is afforded an opportunity to test and rebut such admission. The assessee is not estopped from disputing the correctness or applicability of such admission to his case, particularly when the alleged payment is denied and no independent corroboration exists.

8.14 The learned Commissioner (Appeals) has sought to distinguish the coordinate Bench decision in Rajesh Jain primarily on the ground that the assessee therein was subjected to search, whereas the present assessee was not. This distinction is wholly irrelevant to the core issue of evidentiary reliance on third-party material without cross-examination. Considerable reliance has been placed on the alleged admission by the Rubberwala Group that it received on-money and offered the same to tax. This, however, cannot be determinative of the assessee's liability. The ratio of Rajesh Jain rests squarely on two pillars:

1. *absence of corroborative material against the assessee, and*
2. *denial of cross-examination despite specific request.*

8.15 Both these features are present in the case before us. Judicial discipline mandates that a coordinate Bench decision on identical facts be followed unless shown to be per incuriam, which is not the case here.

8.16 The ld CIT(A) relied on various decisions to contend that providing cross examination of sh Ansai was not required. These authorities do not lay down a blanket proposition dispensing with cross-examination. On the contrary, they consistently hold that the requirement depends on the nature of evidence, its role in the adjudication, and the prejudice caused. In the present case:

- *the assessee has categorically denied having made any cash payment;*
- *no cash, diary, or corroborative document was found from the assessee;*

- *the alleged diary, though repeatedly referred to in statements, was never recovered; and*
- *the entire edifice of the addition rests on third-party statements and electronic data interpreted by those very persons.*

8.17 In such circumstances, denial of cross-examination causes manifest prejudice and cannot be brushed aside as a mere procedural irregularity.

8.18 We find that, in identical factual circumstances relating to alleged cash "on-money" payments for purchase of shops in Platinum Mall *from the Rubberwala Group, the Co-ordinate Bench of the Tribunal in* ***Praveen Khetaramm Purohit v. DCIT*** *(ITA Nos. 4742 to 4744/Mum/2025) has deleted similar additions. The learned also placed reliance upon another decision of the Co-ordinate Bench of the Tribunal in Akhraj Pukhraaj Chopra vs DCIT and Lilaram Vs DCIT in ITAs No.5553 and 5554/Mum/2025, vide order dated 12.11.2025, wherein similar addition was made on the basis of search and seizure action on Rubberwala Group. Reliance in this regard has been also 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 accededto 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:–

……..

8.19 The consistent factual matrix emerging from above decisions is that the additions were made solely on the basis of (i) statements of Shri Imran Ansari, an employee of the Rubberwala Group, recorded during the course of search, and (ii) data contained in an Excel sheet retrieved from a pen drive found from his possession. No incriminating material was found from the assessee. The assessee, from the inception, categorically denied having paid any cash over and above the documented consideration.

8.20 The Co-ordinate Bench, after an exhaustive examination of the facts, has held that such third-party statements and electronic records, uncorroborated by any independent evidence and not directly linking the assessee to the alleged cash payment, do not constitute credible evidence for

sustaining an addition under section 69 of the Act. The Bench further noted that, despite specific requests, the assessee was neither confronted with the complete adverse material nor afforded an opportunity to cross-examine Shri Imran Ansari or any other person whose statements were relied upon.

8.21 It is well settled that while the rigours of the Evidence Act do not strictly apply to income-tax proceedings, additions must nevertheless be founded on material which is reliable, cogent, and has a direct nexus with the assessee. Third-party statements, cannot be treated as conclusive unless supported by independent corroborative evidence. At best, such material may give rise to suspicion, but suspicion, however strong, cannot take the place of proof.

8.22 Equally well settled is the principle that if the Assessing Officer proposes to rely upon any adverse material to the detriment of the assessee, such material must be confronted to the assessee, and a reasonable opportunity must be granted to rebut or contradict the same. Where the addition rests substantially on a third-party statement, denial of cross-examination strikes at the very root of the matter and amounts to a serious breach of the principles of natural justice. The Hon'ble Supreme Court in ***Andaman Timber Industries v. CCE(supra)*** *has categorically held that failure to grant such opportunity renders the order a nullity.*

8.23 In the present case, it is undisputed that:

- *no incriminating document or diary evidencing cash payment was found from the assessee;*
- *the alleged electronic data was found from the possession of a third party;*
- *the statements relied upon do not specifically record any admission by the assessee; and*
- *the assessee was not provided copies of the complete statements or electronic data, nor was cross-examination permitted.*

8.24 In the absence of any independent corroborative evidence establishing that the assessee had, in fact, paid cash "on-money", the evidentiary threshold required for sustaining an addition under section 69 or 69C of the Act remains unmet.

8.25 During the hearing before us, the learned Departmental Representative could not bring on record any distinguishing fact or fresh material to persuade us to take a view different from that consistently adopted by the Co-ordinate Benches of the Tribunal in identical matters arising from the same search action. Judicial discipline requires that, in the absence of distinguishing features, such co-ordinate decisions be respectfully followed.

8.26 On a holistic consideration of the facts and circumstances of the case, we hold that the impugned addition has been made solely on the basis of uncorroborated third-party material and statements, without affording the assessee an effective opportunity to confront or rebut the same, and in violation of the principles of natural justice. Such an addition cannot be sustained in law.

8.27 Accordingly, the addition of □1,00,000/- made under section 69C of the Act for the assessment year under consideration is deleted."

4.5 It is well settled that while strict rules of evidence do not apply to income-tax proceedings, additions must nonetheless be founded on cogent, reliable material having a direct nexus with the assessee. Suspicion, however strong, cannot substitute proof. An admission or disclosure made by the seller cannot, by itself, fasten liability on the purchaser in the absence of independent evidence establishing actual payment.

4.6 In view of the above discussion, and respectfully following the consistent decisions of the Coordinate Benches on identical facts, we hold that the addition made on account of alleged unexplained investment in purchase of the shop cannot be sustained. Accordingly, the addition made for the assessment year 2017–18 is deleted.

5. Since the issue involved in assessment year 2018–19 is identical, the addition made for that year is also deleted following our decision for the lead assessment year.

6. In the result, both the appeals filed by the assessee are allowed.

Order pronounced in the open Court on 20/01/2026.

Sd/-	**Sd/-**
(SANDEEP GOSAIN)	**(OM PRAKASH KANT)**
JUDICIAL MEMBER	**ACCOUNTANT MEMBER**

Mumbai;
Dated: 20/01/2026
Rahul Sharma, Sr. P.S.

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

BY ORDER,

//True Copy//

(Assistant Registrar)
ITAT, Mumbai