

**IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE BENCH, INDORE
[conducted through Hybrid mode]**

**BEFORE SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER &
SHRI BHAGIRATH MAL BIYANI, ACCOUNTANT MEMBER**

1. I.T.A. No.927/Ind/2024 – Asst.Year 2015-16

2. I.T.A. No.928/Ind/2024 – Asst.Year 2014-15

Mukesh Jain C/o. S.V. Agrawal & Associates Dadi Dham, 24, Joy Builders Colony, Near Rafael Tower Old Palasia 452 001 (M.P.)	The ACIT (Central)-2, Indore - 452 001
PAN No. ABFPJ 3732 L	
(Appellant)	(Respondent)

Assessee by :	CA Sh. S.N. Agrawal
Revenue by :	Sh. Anup Singh, CIT-DR

Date of Hearing	18/12/2025
Date of Pronouncement	21/01/2026

ORDER

PER SIDDHARTHA NAUTIYAL - JM:

Both these appeals have been filed by the assessee against the common order of the Commissioner of Income Tax (Appeals)-3, Bhopal, [hereinafter referred to as the “the CIT(A)] dated 23/10/2024 passed for Assessment Years (AYs) 2014-15 & 2015-16. Since common facts and issues for consideration are involved for both the years under consideration before us, these appeals are being taken up together (grounds extracted from AY 2014-15).

ITA No.928/Ind/2024 for AY 2014-15

2. The Assessee has raised the following grounds of appeal:

“1. That on the facts and in the circumstances of the case and in law, the Ld CIT(A) erred in maintaining the legality of issuance of notice under section 153C of the Act and passing of assessment order in the case of the appellant for Assessment Year 2014-15 even when Assessment Year 2014-15 was barred by limitation of time from the date of issuance of notice under section 153C of the Act

2. That on the facts and in the circumstances of the case and in law, the Ld CIT(A) erred in maintaining the legality of issuance of notice under section 153C of the Act in the case of the appellant even when no incriminating documents pertaining to the appellant were actually found and seized during the course of search carried out on 23-03-2018 at the residential as well as business premises of MRJ Group/concerns of Indore.

3. That on the facts and in the circumstances of the case and in law, the Ld CIT(A) erred in maintaining the legality of notice issued under section 153C of the Act without recording of proper satisfaction as mandated by the provisions of section 153C of the Act.

4. That on the facts and in the circumstances of the case and in law, the Ld CIT(A) erred in maintaining the addition of Rs. 2,00,000/- made to the total income of the appellant on account of alleged unexplained cash loan by treating it as unexplained investment under section 69 of the Act in case of non-abate assessment and that too in absence of any incriminating documents found and seized during the course of search.

5. That on the facts and in the circumstances of the case and in law, the Ld CIT(A) erred in maintaining the addition of Rs. 2,00,000/-made to the total income of the appellant on account of alleged cash loan by treating it as unexplained investment under section 69 of the Act.

6. The appellant reserves the right to add, alter and modify the grounds of appeal as taken by him.

3. The brief facts of the case are that a search and seizure action under section 132 of the Income-tax Act, 1961 (hereinafter referred to as “the Act”) was carried out on 23.03.2018 in the case of MRJ Group, Indore, including the residential premises of Shri Dilip Kumar Jain. During the course of the said search, certain loose papers and hundies were found and seized as per inventory LPS-2 from the premises of the searched person. On the basis of these seized documents, the Assessing Officer formed an opinion that some of the entries recorded therein pertained to the assessee, Shri Mukesh Jain,

and accordingly initiated proceedings under section 153C of the Act for Assessment Years 2012-13 to 2018-19 after recording a satisfaction note.

3.1. In response to the notices issued under section 153C of the Act, the assessee filed returns of income for the relevant assessment years, including A.Y. 2014-15 and A.Y. 2015-16, declaring the same income as originally returned. During the course of assessment proceedings, the Assessing Officer alleged that as per pages 33 and 54 of LPS-2, the assessee had advanced cash loans of ₹2,00,000/- to Shri Pawan Omprakash Khaitan during the previous year relevant to A.Y. 2014-15 and ₹1,00,000/- to Shri Lalith Kumar Mehta during the previous year relevant to A.Y. 2015-16. It was alleged that these transactions were in the nature of hundi loans and were executed in cash, as the seized papers were found to be supported by post-dated cheques and the searched person, Shri Dilip Kumar Jain, had allegedly admitted that the transactions recorded in the seized hundies related to his regular business and were carried out in cash.

4. The assessee was called upon to explain the source of the alleged loans and to produce supporting evidence. The assessee, however, categorically denied having entered into any such transactions and contended that the seized documents neither belonged to him nor bore his signature, PAN or complete name, and that they were found from the premises of a third party. It was also submitted that the assessee had not advanced any cash loans to the alleged parties and that no incriminating material belonging to the assessee was found during the course of search. The Assessing Officer rejected the explanation of the assessee and held that the transactions recorded in the seized papers were genuine and related to the assessee. Accordingly, an

addition of ₹2,00,000/- was made under section 69 for A.Y. 2014-15 and an addition of ₹1,00,000/- was made under section 69 for A.Y. 2015-16 as unexplained investments, taxable under section 115BBE. Penalty proceedings under section 271(1)(c) were also initiated.

5. Aggrieved by the assessment orders, the assessee preferred appeals before the Commissioner of Income-tax (Appeals). Before the CIT(Appeals), the assessee challenged the validity of the proceedings under section 153C as well as the additions made on merits. It was contended that no incriminating material belonging to the assessee was found during the search, that the seized documents were dumb documents found from the premises of MRJ Group, that the name of the assessee was not mentioned in full and no signature or PAN appeared on the seized papers, and that the essential characteristics of a hundi transaction were not satisfied. It was also argued that the assessee was not confronted with the statement of Shri Dilip Kumar Jain and no opportunity of cross-examination was granted. The CIT(Appeals), after considering the submissions and the remand report, held that the proceedings under section 153C were valid for A.Y. 2014-15 and A.Y. 2015-16, as they fell within the six assessment years preceding the date of receipt of incriminating material by the jurisdictional Assessing Officer. On merits, the CIT(Appeals) upheld the findings of the Assessing Officer by observing that the seized hundies were correlated with post-dated cheques, that the searched person had admitted the cash transactions, and that the assessee had failed to discharge the onus of proving that the transactions did not relate to him. The arguments of the assessee regarding absence of full name, signature or PAN on the seized documents were rejected as impractical. Accordingly, the

additions of ₹2,00,000/- for A.Y. 2014-15 and ₹1,00,000/- for A.Y. 2015-16 were confirmed and the appeals for these years were dismissed.

6. The assessee is in appeal before us against the order passed by CIT(Appeals) dismissing the appeal of the assessee.

7. We have heard the rival contentions and perused the material on record.

7.1. The dispute before us for Assessment Years 2014-15 and 2015-16 arises out of additions made under section 69 of the Act on the basis of certain loose papers and alleged hundies seized from the premises of a third party, namely Shri Dilip Kumar Jain, during the course of search conducted in the case of MRJ Group.

7.2. On careful examination of the entire record, we find that the additions in question are founded solely on pages 33 and 54 of inventory LPS-2, which were neither found from the possession nor from the control of the assessee. The said documents do not contain the complete name, address or PAN of the assessee, Shri Mukesh Jain, nor do they bear his signature. The mere reference to the name "Mukeshji" appearing on the seized papers, without any further corroboration, cannot conclusively establish that the documents belong to or pertain to the assessee. We further find force in the contention of the assessee that he was never confronted with the statement of Shri Dilip Kumar Jain, whose alleged admission has been heavily relied upon by the Assessing Officer as well as the CIT(Appeals). The failure of the Revenue Authorities to confront the assessee with such statement and to afford him an

opportunity of cross-examination is in our view, a violation of the principles of natural justice. Any material or statement used against the assessee must be put to him for rebuttal, failing which the same cannot be used to fasten tax liability.

7.3. It is also an undisputed fact that the assessee is employed as a Senior Accounts Officer in “Nayi Duniya” and there is nothing on record to demonstrate that he was engaged in the business of advancing cash loans or hundi transactions. No independent enquiry has been conducted by the Assessing Officer to establish the financial capacity of the assessee to advance such alleged loans or to prove the actual flow of funds from the assessee to the alleged borrowers. The additions have thus been made purely on the basis of presumptions and surmises.

7.5. We also observe that the seized documents do not satisfy the essential characteristics of a hundi transaction, as there is no evidence of a tripartite arrangement involving drawer, drawee and payee, nor is there any unconditional order signed by the assessee directing payment of a specified sum. In the absence of such essential ingredients, the characterization of the alleged transactions as hundi loans is inappropriate.

7.6. In view of the above facts and circumstances, we are of the considered opinion that there is no specific incriminating material belonging to the assessee which has a bearing on the determination of his income for Assessment Years 2014-15 and 2015-16. The additions made under section 69 are not supported by legally sustainable evidence and cannot be upheld.

7.7. Accordingly, the additions of ₹2,00,000/- made for Assessment Year 2014-15 and ₹1,00,000/- made for Assessment Year 2015-16 are hereby deleted.

8. In the result, the appeals of the assessee for both the assessment years are allowed.

**Order is pronounced under provision of Rule 34 of ITAT Rules, 1963
on 21/01/2026.**

Sd/-

**(BHAGIRATH MAL BIYANI)
ACCOUNTANT MEMBER**

Indore; Dated 21/01/2026
Tcn*

Sd/-

**(SIDDHARTHA NAUTIYAL)
JUDICIAL MEMBER**

आदेश की प्रतिलिपि □ ग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT(A)
4. आयकर आयुक्त(अपील) / The CIT(A)-3, Bhopal.
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Indore
6. गार्डफाईल / Guard file.

आदेशानुसार/ BY ORDER,

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**(Dy./Asstt. Registrar/Sr. P.S./DDO)
ITAT, Indore**