

**आयकर अपीलीय अधिकरण न्याय पीठ मुंबई में।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**“B” BENCH, MUMBAI**

**BEFORE SHRI PAWAN SINGH, JM &**  
**SHRI ARUN KHODPIA, AM**

**I.T.A. No. 7460/Mum/2025**  
(Assessment Year: 2017-18)

**I.T.A. No. 7461/Mum/2025**  
(Assessment Year: 2018-19)

**I.T.A. No. 7462/Mum/2025**  
(Assessment Year: 2019-20)

<b>Bhavesh Harjiram Solanki,</b> Room No. 23, Shreenathji Bldg, 3 <sup>rd</sup> Bhoiwada, Kalbadevi H.O, Mumbai - 400002 <b>PAN: CIIPS0708P</b>	Vs.	<b>DCIT, CC-4(2),</b> C-41-43, Avenue 3, near Videsh Bhavan, G Block BKC, Gilban Area, Bandra Kurla Complex, Bandra (East), Mumbai-400051
<b>Assessee -अपीलार्थी / Appellant</b>	:	<b>Revenue - प्रत्यर्थी / Respondent</b>

**Assessee by** : Shri Bharat Kumar, CA  
**Revenue by** : Shri Vivek Perampurna, CIT-DR  
**Date of Hearing** : 19.12.2025  
**Date of Pronouncement** : 20.01.2026

**ORDER**

**Per Arun Khodpia, AM:**

These appeals are preferred by assessee to assail the separate orders of Commissioner of Income Tax Appeals-52, Mumbai (for short “The Ld.

CIT(A)”), all dated 01.08.2025, for the Assessment Years (AY) 2017-18, 2018-19 and 2019-20, arises from assessment orders passed u/s 153C r.w.s. 143(3) of Income Tax Act, 1961 (for short “The Act”), all dated 22.03.2024, by The Assistant Commissioner of Income Tax, Central Circle 4(2), Mumbai (for short “the Ld. AO”).

2. All the aforesaid appeals are instituted by the same assessee, on identical grounds of appeal, facts, circumstances and controversy involved therein, thus are heard together and decided under this common order.

3. ITA No. **7460/Mum/2025** for AY 2017-18 has been taken up as the **lead case** to deliberate upon, for adjudication, wherein based on discussion, submission and observations, the decision, being on identical and interconnected facts (except quantum involved), would apply *mutatis mutandis* to the remaining two appeals in ITA **7461 & 7462** for **AY 2018-19** and **2019-20**.

4. The grounds of appeal for the lead case are as under:

*“1. On the facts and circumstances of the case in law, Ld. CIT(A) erred in confirming the stand of A.O. about that issuing the notice u/s 153C of the Act without DIN. It is blatant contravention of the Circular No. 19/2019, dated 14-8-2019 issued by the CBDT*

*2. On the facts and circumstances of the case in law, Ld. CIT(A) erred in confirming addition without referring to any incrementing document. Besides, he has not referred to any incriminating material in the satisfaction note issued to the Appellant.*

3. *On the facts and circumstances of the case in law, Ld. CIT(A) erred in confirming stand of A.O. for not sharing incrementing documents found during the course of search of Rubberwala group which was pertained to the appellant.*

4. *On the facts and circumstances of the case in law, Ld. CIT(A) erred in confirming stand of A.O. about the not providing statement and materials used by him against the appellant*

5. *On the facts and circumstances of the case in law, Ld. CIT(A) erred in confirming stand of A.O. about opportunity of cross examination of the person whose statements were used against the appellant*

6. *On the facts and circumstances of the case in law, Ld.CIT(A) erred in confirming addition of Rs. 1,00,000/- u/s 69 of the Act.*

7. *On the facts and circumstances of the case, the CIT(A) erred in holding that a combined satisfaction note is valid in the eyes of law, as current legal and judicial precedent overwhelmingly requires separate satisfaction notes for each assessment year and/or entity; the recording of a combined or consolidated satisfaction note has consistently been held to vitiate the proceedings under section 153C of the Income Tax Act.”*

5. Briefly stated the return of income for AY 2017-18 was filed by assessee on 06.03.2018, declaring total income at Rs. 3,36,880/-. Further a search and seizure action was conducted on 17.03.2021 on Rubberwala Group. In the said search action at the premises of M/s Rubberwala Housing and Infrastructure Ltd. (RHIL), its promoter and director, Mr. Tabrez Shaikh and a key employee of Rubberwala Group, Mr. Imran Ansari, who was handling sale and registration of shops in “Platinum Mall” project at RHIL were covered. Statements of these

persons were recorded on oath. It is observed on the basis of such information by Id. AO that Shri Bhavesh Hariram Solanki, Mumbai have purchased a Shop in the 'Platinum Mall', for which had paid cash on-money of Rs. 1,00,000, Rs. 7,42,700/- and Rs. 7,29,625/- during the AYs 2017-18, 2018-19 and 2019-20. In first response, the assessee denied to have made such payments and remain consistent with such stand, however such contentions of assessee were not found favour with the Id. AO, the additions, thus, was made treating the aforesaid amounts as unexplained investment under section 69 of the Act.

6. Aggrieved with the aforesaid addition, assessee preferred an appeal before the Id. CIT(A), however Id. AO's stand of making the addition under section 69 have been confirmed by the Id. CIT(A), finding no substance in the plea of the assessee before him.

7. Being aggrieved, the assessee carried the matter before the ITAT, which is under consideration in the present matters.

8. Before us the Id. AR on behalf of the assessee submitted that the identical issues are already decided by the Tribunal in the case of **Mr. Manish Mali & Ors in ITA No. 6571/Mum/2025 & others, vide order dated 24.12.2025** wherein under identical facts and circumstances, the akin issues are decided in favour of the assessee, with the following findings:

“12. We have considered the rival submissions, perused the material available on record and the decisions / jurisprudence relied upon by the assessee. Admittedly, as per the facts of present matter, during the search and seizure action on Rubberwala Group, certain incriminating material was found, relates to the assessee Shri Manish Mali, further confronted and admitted by Mr. Imran Ansari (employee of Rubberwala Group) and Mr. Tabrez Shaikh, the Director of RHIL. As per admission of the key persons of Rubberwala Group certain cash was paid by the buyers of Shops in Platinum Mall including the assessee Shri Manish Mali. However, the assessee had always denied the alleged payment of cash.

13. It is brought to our notice that identical issues involving cash payments for acquisition of Shops in Platinum Mall constructed by RHIL, cases of certain more assesseees were also picked-up and assessed under section 153 of the Act. In such cases ITAT, Mumbai had adopted a view that, if the statements used against the assessee are not provided, neither the cross examination of persons, whose statements were relied upon was provided, the assessee was kept deprived of reasonable opportunity to rebut in contradiction of the evidence and facts used against him, no addition can be made. The observations of Tribunal in various cases are reproduced hereunder for the sake of interpretation in the present matter:

**(1) Pravin K Purohit in ITA No. 4742 to 4744/M/2025 dated 15.10.2025.**

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

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

20. In the case of CIT Vs. Odeon Builders Pvt. Ltd. (418ITR 315), it was held that the 'addition/disallowance made solely on third party information without

subjecting it to further scrutiny and denying the opportunity of cross examination party renders the of the third addition/disallowance bad in law'

**21. H.R. Mehta v/s Assistant Commissioner of Income-tax, Mumbai, 72 taxmann.com110 (Bombay) :**

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

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

**(3) Bhavana V Jain in ITA No. 6363 to 6365/M/2025 dated 10.12.2025.**

*“During the hearing, the learned AR apart from placing reliance upon the aforementioned two decisions rendered by the Co-ordinate Bench in similar circumstances 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. Apart from relying upon the orders passed by the lower authorities, the learned DR could not bring any material on record to deviate from the findings of the Co-ordinate Bench rendered in the aforementioned decisions in similar factual circumstances. Therefore, respectfully following the decisions of the Co-ordinate Bench cited supra, we do not find any merits even in the additions made under section 69 of the Act in the assessment year 2019-20, and the same is also deleted. Accordingly, the impugned additions made under section 69 of the Act in the assessment years 2017-18 to 2019-20 are deleted.”*

**(3) Akhraj Chopra in ITA No. 5553, 5555/M/2025 dated 12.11.2025.**

“18. From the records we also noticed that no statement was provided to the assessee, and none of the persons, whose statements were relied upon were

produced for cross-examination. Even the extract of the statement mentioned in the assessment order does not indicate the name of the assessee.

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

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

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

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

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

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

23. As the facts and circumstances in these appeals are identical to ITA No. 4742/Mum/2025 for the A.Y 2017-18 (except variance in figures) and the decision rendered in above paragraph would apply mutatis mutandis for these

appeals also. Accordingly, the grounds of appeal of the present appeals also stands allowed. In the result, all the appeals filed by the assessee stands allowed.”

14. In light of the facts and circumstances involved in the present matter, identical to the facts of cases decided by the ITAT Mumbai in various matters, relied upon by the assessee, in absence of any contradictory material, fact or decision submitted by the revenue to rebut in defence., respectfully following the observation and legal propositions by the Co-ordinate Bench of ITAT, we find substance in the contention raised by ld. AR. Accordingly, Ground Nos. 2 to 8 raised by the assessee, assailing the sole issue *qua* the addition under section 69 are allowed, the ld. AO is, thus, directed to vacate the addition made u/s 69 of the Act.

15. Regarding Ground No.1 to challenge the validity of notice issued under section 153C without DIN in blatant contravention of the Circular No. 19/2019, dated 14-8-2019 issued by the CBDT. The same is dismissed as not pressed.

16. Since, the lead appeal of assessee in ITA No. 6571/Mum/2025 for AY 2017-18 stands allowed, thus the remaining two appeals of the assessee in ITA Nos. 6569, 6568/Mum/2025 for AY 2018-19 and 2019-20 involving identical issues are also allowed following our aforesaid observations.

17. In result, the appeal of assessee in ITA No 6571, 6569 & 6568/Mum/2025, stands allowed in terms of our observations.”

9. Based on aforesaid submissions, it was the prayer by ld. AR that since the issue is squarely covered by the aforesaid decision of the Tribunal in the case of *Manish Mali & Ors (supra)*, therefore the present matter may also be decided accordingly.

10. Per contra, ld. Sr. DR vehemently supported the orders of revenue authorities.

11. We have considered the rival submissions perused the material available on record and case laws relied upon by the Id. AR. Admittedly the issue in present matter is identical with the issues dealt with, in the case of **Manish Mali (supra)**. Therefore, in absence of any new fact, material or decision brought on record by the revenue to contradict the aforesaid findings of Tribunal, we do not see any reason to deviate from the stand adopted therein.

12. In backdrop of the aforesaid observations, we direct the AO to delete the additions made under section 69 of the Act, consequently, the appeal of assessee in **ITA 7460/MUM/2025 for AY 2017-18 stands allowed.**

13. Following our observations and findings in **ITA 7460/MUM/2025 for AY 2017-18**, the appeals for **AY 2018-19** and **AY 2019-20** in **ITA 7461 & 7462/MUM/2025** shall be allowed, being assailed for identical contentions on similar facts and circumstances.

14. In combined result all the three captioned appeal of the assessee are **allowed**, in terms of our aforesaid observations.

*Order pronounced in the open court on 20-01-2026.*

**Sd/-**  
**(PAWAN SINGH)**  
**Judicial Member**  
Mumbai, Dated : 20-01-2026.  
*\*SK, Sr. PS*

**Sd/-**  
**(ARUN KHODPIA)**  
**Accountant Member**

**Copy of the Order forwarded to :**

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

BY ORDER,

(Dy./Asstt. Registrar)  
**ITAT, Mumbai**