

IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "E", MUMBAI

BEFORE SHRI ANIKESH BANERJEE, JUDICIAL MEMBER AND
SHRI MAKARAND VASANT MAHADEOKAR, ACCOUNTANT MEMBER

I.T.A No.1602/Mum/2025
(Assessment Year: 2020-21)

Hubtown Limited Hubtown Seasons, CTS No.469-A, Opp. Jain Temple, R.K. Chembur Marg, Chembur East-400071 PAN : AAACA6101D	vs	Assistant Commissioner of Income Tax Central Circle 2(4) Room No.802, 8 th Floor, Pratishtha Bhavan, Old CGO Annexe, M K Road-400020
APPELLANT		RESPONDENT

Assessee by : Shri Fenil Bhatt
Respondent by : Shri Ritesh Misra (CIT DR)

Date of hearing : 20/01/2026
Date of pronouncement : 21/01/2026

ORDER

Per Anikesh Banerjee (JM):

The instant appeal of the assessee filed against the order of the Ld. Commissioner of Income-tax (Appeals)-48, Mumbai [for brevity, 'Ld.CIT(A)'] order passed under section 250 of the Income-tax Act, 1961 (for brevity, 'the Act) for the Assessment Year 2020-21, date of order 25/02/2025. The impugned order emanated from the order of the Learned Deputy Commissioner of Income Tax,

Central Circle 2(4), Mumbai (for brevity, 'the Ld.AO') order passed u/s 143(3) of the Act, date of order 29/09/2021.

2. The assessee filed the return declaring total income of Rs.10,42,73,090/-. Pursuant search action on 30.07.2019 the case was centralized and finally the assessment was completed. The Ld. AO made addition total amount of Rs.64,75,370/- as unexplained money under section 69A of the Act. Aggrieved assessee filed an appeal before the Ld. CIT(A). The Ld. CIT(A) uphold the impugned assessment order. Being aggrieved assessee filed an appeal before us.

3. The Ld. AR argued the matter and filed a paper book comprising **pages 1 to 228**, which has been taken on record. The Ld. AR contended that the entire addition was made by the Ld. AO solely on the basis of Whatsapp messages, statements recorded from an employee, and statements of third parties. The Ld. AO made an addition under section 69A of the Act amounting to Rs. 59,75,370/- on the basis of Whatsapp messages found in the mobile phone of the Sales Manager. Further, a cash amount of Rs. 5,00,000/- was seized from the premises of the broker, Shri Bhavesh Sanghvi, at A/20, Satkar CHS Ltd., Teli Gali Cross Road, opposite Hubtown Solaris, Andheri (East), Mumbai. It was observed that Shri Bhavesh Sanghvi, a broker, was involved in the sale of various flats of M/s Hubtown Ltd. He had facilitated payments for the purchase of a flat by Mrs. Dollina Pereira and was also allegedly involved in the receipt of on-money on sale of flats, earning commission in cash on behalf of the assessee. Based on the statement of Shri Bhavesh Sanghvi, an addition of Rs. 5,00,000/- was made to the total income of the assessee under section 69A of the Act. Accordingly, a total

addition of Rs. 64,75,370/- (Rs. 59,75,370/- + Rs. 5,00,000/-) was made during the impugned assessment year.

The Ld. AR respectfully submitted that the same issue in the assessee's own case had already been adjudicated by the Coordinate Bench of the ITAT, Mumbai 'E' Bench for AY 2018-19 in **ITA Nos. 1601 and 3038/Mum/2025**, vide order dated **10.12.2025**. The observations of the Coordinate Bench are reproduced below:

"4. Addition related to Rs.1.35 crores

The alleged addition was made by the Ld.AO considering the statement recorded during the search for receiving cash through broker, Shri Bhavesh Sanghvi, amount to Rs.30 lakhs and the transaction pertaining to Mr. D.V. Prabhu, who is senior employee of the assessee, amount to cash of Rs.1.05 crores. The statements are recorded U/s 132(4) of the Act. The Ld.AO finally found that the total cash transaction was made at Rs.1.76 crores and out of that the addition was confirmed related to Rs.1.35 crores. The observations of the Ld.AO in impugned assessment order pages 40 & 41 are extracted below:-

"The submission of the assessee has been carefully perused. The assessee stated that some of the individuals have now retracted from such statements and gave statements under duress. However, no such incident is reported in the Panchnama and the assessee has not produce any substantive documents or evidence that the statements are given under tremendous pressure, it is just an after-thought that the Assessee is resorting to such Retractions to do away with its inability to substantiate non-existence of cash transactions when confronted with clear evidence. Therefore the retraction of the assessee that the statements are given under fear or pressure is not acceptable. Moreover, there is ample evidence on record which have pointed to Cash consideration being received as stated by Customers, brokers and inferred from the WhatsApp messages of various people associated with Sales. The assessee has failed to submit any relevant evidence to deny the above mentioned transactions. From the statements of Shri Bhavesh Sanghvi, Shri Tirthraj Singh, Shri Rajesh Jha and Shri D. V. Prabhu and the physical & digital evidences found during search investigation, it is clear that cash is received in sale of flats

In view of the above, Rs. 1,35,00,000/- is treated as unexplained money during the AY 2018-19 and added to the total income of the assessee u/s 69A of the Act.

Penalty proceedings u/s 271AAC of the Act is initiated as income determined u/s 69A of the Act."

5. The assessee filed an appeal before the Ld. CIT(A) and the Ld.CIT(A), in its order found that the parties, Shri D.V. Prabhu has retracted his statement and also the agent, Shri

BhaveshSanghvi. Finally, the Ld.CIT(A) deleted the addition amount to Rs. 30 lakhs by holding that the cash pertains to Shri BhaveshSanghvi, whose statement cannot be relied upon.

6. In argument, the Ld.DR stated that the said addition is found in the whatsapp chat of the employee. Finally, he prayed to uphold the addition of Rs.30 lakhs. He relied on the order of the assessing authority:

7. On the other hand, the Ld.AR argued that the allegation against the assessee was for receiving cash of Rs.1.35 crores, but the addition was duly made u/s 69A, which is bad in law. Plain reading of the section 69A of the Act is as follows:-

"Unexplainedmoney, etc.

69A. *Where in any financial year the assessee is found to be the owner of any money, bullion, jewellery or other valuable article and such money, bullion, jewellery or valuable article is not recorded in the books of account, if any, maintained by him for any source of income, and the assessee offers no explanation about the nature and source of acquisition of the money, bullion, jewellery or other valuable article, or the explanation offered by him is not, in the opinion of the [Assessing] Officer, satisfactory, the money and the value of the bullion, jewellery or other valuable article may be deemed to be the income of the assessee for such financial year."*

He further stated that the Ld.AO had relied on the statement recorded and the whatsapp chat of the employee of the assessee, who has finally retracted the statement on dated 01/08/2019 before the Ld.AO. The number, which is referred in the whatsapp chat was not cross verified by the assessee. Even the cash received from the parties was not verified by the Ld.AO. Considering this, the addition should be deleted. We find that the implementation of section 69A of the Act itself is wrong in respect of receiving of cash from the other party. So the Ld. AO erred in imposition of section 69A of the Act. So the addition made by the Ld.AO of Rs.1.35 crores is duly deleted.

8. Accordingly, revenue's ground no. 1(ii) is dismissed & assessee's ground no. 4 is allowed."

4. The Ld. DR argued and stands in favor of the orders of the revenue authorities.

5. We have heard the rival submissions and perused the material available on record. The addition of Rs. 64,75,370/- was confirmed by the Ld. AO under section 69A of the Act. The entire addition was made solely on the basis of Whatsapp messages and the statements of an employee and third parties. The Ld. AO further observed in the assessment order that the assessee had received on-money on the sale of flats. However, the invocation of section 69A of the Act in the present facts is misplaced. Respectfully following the order of the Coordinate Bench of the ITAT, Mumbai in the **assessee's own case** (supra), we find that the facts of the present case are squarely covered by the said decision. Applying the ratio laid down therein, we follow the order of the Coordinate Bench. Accordingly, the impugned appellate order is set aside, and the addition made by the Ld. AO is deleted.

6. In the result the appeal of the assessee bearing **ITA No.1602/Mum/2025** is allowed.

Order pronounced in the open court on 21st day of January, 2026.

Sd/-

(MAKARAND VASANT MAHADEOKAR)
ACCOUNTANT MEMBER

Mumbai, दिनांक/Dated: 21/01/2026
Saumya Sr.PS

Sd/-

(ANIKESH BANERJEE)
JUDICIAL MEMBER

Copy of the Order forwarded to:

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.

3. आयकरआयुक्त CIT
4. विभागीयप्रतिनिधि, आय.अपी.अधि., मुंबई/DR, ITAT,
Mumbai
5. गार्डफाइल/Guard file.

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BY ORDER,

(Asstt. Registrar), **ITAT, MUMBAI**