

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ "ए", चण्डीगढ़
IN THE INCOME TAX APPELLATE TRIBUNAL, CHANDIGARH BENCH "A", CHANDIGARH

HEARING THROUGH: PHYSICAL MODE

श्री ललित कुमार, न्यायिक सदस्य एवं श्री कृणवन्त सहाय, लेखा सदस्य
BEFORE: SHRI. LALIET KUMAR, JM & SHRI. KRINWANT SAHAY, AM

आयकर अपील सं. / ITA No. 615/Chd/ 2025

निर्धारण वर्ष / Assessment Year : 2022-23

Home Construction Co. Opposite PNB Barewal Road, Ludhiana, Punjab-141001	बनाम	The DCIT Central Circle, Ludhiana
स्थायी लेखा सं. / PAN NO: AAIFH6220M		
अपीलार्थी/ Appellant		प्रत्यर्थी/ Respondent

निर्धारिती की ओर से/ Assessee by : Shri Sudhir Sehgal, Advocate

राजस्व की ओर से/ Revenue by : Shri Manav Bansal, CIT, DR

सुनवाई की तारीख/ Date of Hearing : 19/01/2025

उदघोषणा की तारीख/ Date of Pronouncement : 11/02/2026

आदेश/Order

PER KRINWANT SAHAY, A.M:

This is an appeal filed by the Assessee against the order of the Ld. Pr. CIT(A)-5, Ludhiana dt. 26/03/2025 pertaining to Assessment Year 2022-23.

2. In the present appeal Assessee has raised the following grounds:

"1. That the Ld. CIT(A) has erred in confirming the addition of Rs. 1,17,00,000/- against the addition of Rs. 1,50,33,080/-, as made by the Assessing Officer on account of suppression.

2. That the confirmation of above addition as made by the Ld.CIT(A) is not in order and against the facts and circumstances of the case.

3. That the said addition have been confirmed by the CIT(A) without making any enquiries from the parties to whom, the flats have been sold and without bringing any material on record.

4. That the addition has been sustained against the facts and circumstances of the case.

5. That the appellant craves leave to add or amend the grounds of appeal before the appeal is finally heard or disposed off."

3. Briefly, the facts of the case are that the assessee, M/s Home Construction Co., filed its return of Income for A.Y. 2022-23 declaring an income of Rs. 2,68,240 under Section 139(1) of the Income-tax Act, 1961. The

case pertains to the Home Life Buildcon Pvt. Ltd. Group, wherein a search and seizure operation under Section 132 was conducted on 16.11.2021. Incriminating documents were found and seized from various business and residential premises of the group.

3.1 The case was selected for compulsory scrutiny after due approval. Statutory notices under Sections 143(2) and 142(1) were issued and served electronically. The assessee did not object to the jurisdiction or validity of notices during proceedings.

3.2 The assessee is engaged in development of flats/apartments and had developed one project named "Sun Apartments" comprising 27 flats, out of which 3 flats were sold during the year under consideration.

3.3 During the search, statements of Sh. Jagjit Singh Grewal (partner of the assessee firm) and Sh. Ravi Kapoor (a key person associated with the group) were recorded. Digital evidence seized from Sh. Ravi Kapoor's mobile phone and email, along with physical diaries, indicated receipt of "on money" over and above the registered sale consideration.

3.4 Show-cause notices were issued proposing addition of Rs. 1,50,33,334 as undisclosed business receipts on account of "on money." The assessee contested the allegations, denying any involvement of Sh. Ravi Kapoor as its authorized representative and challenging the authenticity and applicability of the evidence.

3.5 The AO rejected the assessee's submissions and held that the digital and physical evidence conclusively established that the assessee had received "on money" in cash over and above the amount recorded in the books of account and registered sale deeds. The AO noted that Sh. Ravi Kapoor was actively involved in the business operations of the assessee and the group, as corroborated by statements of directors, diary entries, and website contact details. Based on seized evidence including allotment letters, transaction details, and diary entries, the AO recomputed the sale consideration of three flats (A-1, D-1, A-3) sold during the year. The difference

between the actual sale consideration as per evidence and the amount shown in the books was determined as Rs. 1,50,33,334. The AO applied the sale rate of Flat A-1 to Flat A-3 due to similar size, location, and floor. rejecting the assessee's claim that rates varied based on negotiation and flat-specific factors.

3.6 Accordingly, an addition of Rs. 1,50,33,334 was made to the total income of the assessee. The total assessed income was computed at Rs. 1,53,01,574, against the returned income of Rs. 2,68,240. The AO also initiated penalty proceedings under Section 271AAB(1A) for undisclosed income and levied interest under Sections 234A, 234B, 234C, and 234D.

4. Against the order of the AO the assessee went in appeal before the Ld. CIT(A).

4.1 The Ld. CIT(A) carefully examined the assessment order dated 29.03.2024, wherein the Assessing Officer made an addition of Rs.1,50,33,334/- on account of alleged "on money" received on the sale of three flats (A-1, D-1, and A-3) in the Sun Apartments project during FY 2021-22. The AO primarily relied upon (i) the statement of partner Shri Jagjit Singh Grewal recorded during the search, mentioning a price range of Rs.40 lakhs to Rs.1 crore per flat, and (ii) certain digital documents, loose slips, allotment letters, and transaction notes recovered from the mobile/e-mail of Shri Ravi Kapoor (a third-party broker).

4.2 The CIT(A) held that the statement of Shri Jagjit Singh Grewal, being vague and not related to any specific flat or transaction, does not constitute incriminating material and cannot be the sole basis for addition, as it amounts to surmise and conjecture. This view is supported by the Hon'ble Supreme Court in Omar Salay Mohamed Sait v. CIT [1959] 37 ITR 151 (SC) and Dhakeswari Cotton Mills Ltd. v. CIT [1954] 26 ITR 775 (SC), which prohibit additions based purely on suspicion without reference to evidence.

4.3 With respect to Flat A-1 sold to Karan Kochhar & Pia Wig and Flat D-1 sold to Vishal Sra, the CIT(A) upheld the additions of Rs.22,00,000/- and

Rs.95,00,000/- respectively. These additions were sustained because specific seized documentary evidence existed, financial transaction details, advance payment records, and allotment letters clearly indicating actual sale considerations of Rs.1,00,00,000/- and Rs.1,51,00,000/- against the registered/book values of Rs.78,00,000/- and Rs.56,00,000/-.

4.4 However, regarding Flat A-3 (sold to Karan Kochhar), the CIT(A) deleted the addition of Rs.33,33,334/-. The AO had extrapolated the rate from Flat A-1 without any specific incriminating material relating to Flat A-3. The CIT(A) observed that in the real estate sector, the price of each flat varies significantly due to factors such as location, vastu, direction, floor level, frontage, furnishing status, neighbourhood, demand-supply dynamics, and buyer negotiations. With only three flats sold in the entire project, the sample size was too small to justify statistical extrapolation. In the absence of direct evidence for Flat A-3, the addition was held to be based on presumption and hence unsustainable.

4.5 Ground No. 7 (general ground) was not pressed during appellate proceedings and was accordingly dismissed.

4.6 In the result, the appeal was partly allowed. The addition was reduced from Rs.1,50,33,334/- to Rs. 1,17,00,000/-. The revised assessed income was determined at Rs. 1, 19,68,240/-.

5. Against the order of the Ld. CIT(A) the assessee preferred an appeal before the Tribunal.

6. During the course of hearing the Ld. Counsel for the Assessee argued that the assessee is a group concern of M/s Homelife Buildcon Pvt. Ltd. and the CIT(A) while sustaining the addition in respect of two flats sold to Mr. Karan Kochhar and Vishal Sra had relied upon the 'digital data' seized from the residence of Sh. Ravi Kapoor, who is a third party, where the independent search and seizure operations had been carried out. He further argued that Sh. Ravi Kapoor is engaged in the brokerage business in 'Real Estate' and even in the returns filed to the department prior to search and after the

search, he has declared substantial income in respect of brokerage in real estate and the same has been disclosed in his return of income and such income stands accepted. It was further argued that no independent enquiries have been made from the buyers of the flats and nothing adverse have been seized from the premises of the assessee or partners/directors of the assessee concern and the assessee relied upon the order of the Chandigarh Bench of the ITAT in the case of Sh. Subhash Chander Gupta in ITA No. 768/Chd/2024, dated 07.04.2025, in which, regarding the evidence found from the premises of third party, the following finding have been given by the Hon'ble Bench:-

"16. We have duly considered the rival contentions and gone through the record carefully. We have taken note of the finding of the AO. We would appreciate the finding of the CIT(A) in the later part of this order. First let us evaluate quality of evidence possessed by the AO qua the assessee for making addition to his income. The only evidence possessed by the AO is one loose sheet of a paper whose contents are being noted by us while dealing first fold of proposition at page 7 and 8 of this order. This page is neither in the handwriting of the assessee nor was found from his premises. It is a document found at the premises of a third person. The assessee had no control over any other person, what they write in their accounts at their office/residence. He cannot be charged to any liability on the basis of writing made by a third person. This aspect was considered by the Hon'ble Supreme Court in the case of CBI Vs V.C. Shukla and others (1998) 3 SCC page 410 wherein CBI sought to prosecute certain politicians on the basis of one Diary written by one 'Jain' which was known as 'Jain Hawala Diary'. All the charges were quashed by the Hon'ble Supreme Court by holding that a person shall not be made accountable for the writings made by a third person in his notings. It has come on the record the paper was in the handwriting of one Shri Sushil Kumar whose statement was not recorded under Section 132(4), therefore, no presumption of truth can be attached to his statement. Even otherwise, presumption of truth can be drawn qua deponent who made such declaration. Qua the third person, no presumption of truth can be inferred. He has imputed these allegations in order to settle certain disputes with his erstwhile employer i.e. Shri Sanjay Bansal. This is discernible from his statement available on page No. 48 of the Paper Book. A FIR No. 1/8/2013 was registered against him by the employer for embezzlement of funds. This witness was never put for cross-examination by the AO inspite of repeated requests.

16.1 Therefore, AO was not in possession of any material which can authorize him to firmly reach at a conclusion that Shri Sanjay Bansal has made payment of Rs. 13 Cr in cash to the assessee. The AO is simply harping upon the statement of Accountant of Shri Sanjay Bansal against whom a FIR has been lodged by his employer. If we exclude that statement from the evidence on the basis of the judgement of Hon'ble Supreme Court in the case of Andaman Timber Industries V CCE as well as judgement of Hon'ble jurisdictional High Court in the case of PCIT Vs DSG Papers (P) Ltd. reported in 161 taxmann.com 586 (2024), then nothing will remain with the AO to draw such a conclusion. Therefore, this addition is not sustainable. We allow this ground of appeal and delete the addition."

6.1 Similar reliance was placed in another order of Chandigarh Bench of the ITAT in the case of Sh. Amarjit Singh in ITA No. 774/Chd/2023, vide order, dated 06.03.2025, in which, the following finding has been given:-

"17. The authenticity of the document has not been proved by the AO because assumption of truth contemplated under Section 132(4) is confined qua the person who has confessed a document. In other words, this document was from the books of Shri Kapil Romana and if he admits these entries pertaining to him can be construed as true qua him and he can be bound for the liabilities, but not a third person. We rely upon the judgment of Hon'ble Supreme Court in the case of CBI Vs V.C. Shukla (supra)."

6.2 Reliance was also placed in the another order of Chandigarh Bench in the case of Malbros International Pvt.Ltd. in ITA No.48/Chd/2025, wherein, it has been held as under:-

"It was further observed by the bench that assessment u/s 143(3) was initiated solely for the purpose of verifying the return of income as filed by the assessee. In such circumstances, the importing and reliance upon material seized from third-party searches would go beyond the jurisdiction conferred u/s 143(3) particularly, where the applicable law i.e., Explanation-2 to section 148 (as amended by the Finance Act, 2021) mandates prior approval from the Principal Commissioner of Income Tax (PCIT) before initiating reassessment proceedings on the basis of such material. The failure to comply with such requirement would render the assessment legally untenable."

6.3 The Ld. Counsel also relied upon the order of M/s Homelife Buildcon Pvt. Ltd in ITA Nos. 880,1036/Chd/2024, dt. 17.07.2025, which is one of the group concern, where digital data and other evidences were seized from the residence of Sh. Ravi Kapoor and the Hon'ble Bench has given a finding in the said order, that no reliance could be placed on the documents recovered from third party namely. Sh.Ravi Kapoor, who is independent broker and it has been held that no cognizance could be taken of the documents seized from third party namely, Sh. Ravi Kapoor. The assessee heavily relied upon the said order and pleaded that the issue was covered in favour of assessee and brought to our attention to para 54 and 59 of the said order.

7. Per contra, the Ld. DR relied upon the order of Assessing Officer and the Ld. CIT(A) and said that the evidence as recovered from the resident of

Sh. Ravi Kapoor including digital evidence has to be relied upon and, therefore, the CIT(A) has rightly upheld the addition of Rs. 1,17,00,000/-.

8. We have gone through the order of Assessing Officer and CIT(A), arguments of the Ld. Counsel, CIT (DR) and Brief Synopsis and the judgments as relied upon by the Learned Counsel of the assessee. It is undisputed fact that the assessee under appeal, is a group concern of Homelife Buildcon Pvt. Ltd. Simultaneous search was also carried on at the premises of said concern on 16.11.2021, alongwith the main concern of the group Mis Homelife Buildcon Pvt.Ltd. On the basis of certain documents found from independent and separate search on Sh. Ravi Kapoor, which have been reproduced at various pages of the assessment order, the Assessing Officer has concluded after confronting the said documents to the assessee that there was 'on money' which have been received in respect of three flats, which have been summarized at page 19 of the order and the Assessing Officer had made the addition of Rs. 1,50,33,334/-.

9. The Ld. CIT(A) has deleted the addition, amounting to Rs. 33,33,334/- in respect Flat No.A-3 as there was no incriminating evidence found during the course of search, but confirmed the addition on account of alleged 'on money' received in respect of Flat No.A-1 and D-1 amounting to Rs. 22 lacs and 95 lacs as order finding given by him in para 5.2.3 of the order.

10. We have considered the arguments of both the sides and also gone through the case laws relied upon by the assessee in the case of Sh.Subhash Chander Gupta and Amarjit Singh as cited 'supra' and we are in agreement with the observation in those orders, that no reliance could be placed on third party evidence. Further, that Sh. Ravi Kapoor is an independent person. We have also gone through the order of ITAT in the main group concern of the assessee namely M/s Homelife Buildcon Pvt. Ltd. in ITA Nos. 880, 1036/Chd/2024, dated 17.07.2025, wherein the similar issue was there and on the basis of certain digital data, certain additions were made in the hands of M/s Homelife Buildcon Pvt. Ltd. which was confirmed by the CIT(A). The assessee had challenged those finding of the CIT(A) and such arguments of

the assessee have been recorded in the case of Homelife Buildcon Pvt. Ltd., as cited supra, and finally, the Hon'ble Bench in that case has held that no reliance could be placed on the documents recovered from the 'digital data' and other evidences recovered from his residence of Sh. Ravi Kapoor and gave a finding in the case of M/s Homelife Buildcon Pvt. Ltd., as under:-

11. We have considered the arguments on merits of the Ld. Counsel and CIT (DR) and we have also gone through the Brief Synopsis, the paper books in three Volumes, judgment set as filed by the assessee's counsel. We have also gone through the order of AO and CIT(A). The facts are not disputed and as highlighted, while dealing with the legal grounds of appeal of the assessee, that all the additions as made by the AO are on the basis of documents/digital data recovered from the premises of Sh. Ajay Kumar Prabhakar, independent deed writer and his associate Sh. Raj Kumar Sachdeva and Sh. Ravi Kapoor, an independent broker, the document recovered from Sh. Devinder Ghai and on the basis of statements of Sh. Ajay Prabhakar, Raj Kumar Sachdeva. It is also a fact that the above persons are not the employees of the assessee company and they are not even the partners/directors in the company. They are carrying on their independent business."

12. Further, the said order is also relied upon, wherein, the following findings have been given by the Hon'ble Bench:-

"65. We also find that it is an accepted fact that no incriminating material was found from the premises of the assessee and the said addition was sustained by the CIT(A) on the basis of 'digital data' found from Sh. Ravi Kapoor, who is not an employee of assessee company. He is a property dealer (broker) and he has been disclosing income from his property dealings in his returns of income in Asstt. Year 2020-21 and in the return filed for Asstt. Year 2021-22. He had disclosed an income of Rs. 44 lacs and which has been accepted by AO and even for Asstt. Year 2022-23, he has disclosed an income of Rs. 60 lacs and all such income has been accepted by the department. Copies of such evidence has been placed in the Paper Book. We also find that Sh. Ravi Kapoor has accepted that the said 'digital data' belongs to him only in respect of his property business and even he has denied about any signatures of Sh. Manu Gupta as per 'digital data'. Sh. Manu Gupta has also denied his signatures on the same. Further, there is nothing on record about the enquiries or statements of Smt. Praveen Bhandra and Surbhi Bhandra and no adverse view have been taken in their cases. Since these evidences having been recovered from the third party, namely Sh. Ravi Kapoor and no satisfaction have also been recorded by the AO before relying upon such material in the

case of assessee on which assessment has been framed u/s 143(3). Even the section 132(4) clearly states that the document has to be considered in the hands of person, from whom, such document has been found. No corroborative evidence has been found from the assessee. Various judgments as relied upon by the Ld. Counsel as cited 'supra' of the Odeon Builders, Sh. Amarjit Singh, DSG Papers (P) Ltd. and different Benches of the ITAT are very much relevant, besides the judgment of Sh. Ashwani Kumar Jain, as cited 'supra'."

13. Thus, relying on the findings of the Chandigarh Bench of the ITAT in the case of M/s Homelife Buildcon Pvt. Ltd., wherein that addition as sustained by the CIT(A) on the basis of digital data and other documents found from the premises of third party namely. Sh. Ravi Kapoor cannot be sustained and, accordingly, the addition of Rs. 1,17,00,000/- is hereby deleted.

14. In the result, appeal of the Assessee is allowed.

Order pronounced in the open Court on 11/02/2026

Sd/-

ललित कुमार
(LALIET KUMAR)
न्यायिक सदस्य / JUDICIAL MEMBER

Sd/-

कृणवन्त सहाय
(KRINWANT SAHAY)
लेखा सदस्य/ ACCOUNTANT MEMBER

AG

आदेश की प्रतिलिपि अग्रेषित/ Copy of the order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकर आयुक्त/ CIT
4. आयकर आयुक्त (अपील) / The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
6. गार्ड फाईल/ Guard File

आदेशानुसार/ By order,
सहायक पंजीकार/ Assistant Registrar