

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCHES 'E': NEW DELHI.**

**BEFORE SHRI S. RIFAUR RAHMAN, ACCOUNTANT MEMBER  
and  
SHRI VIMAL KUMAR, JUDICIAL MEMBER**

**ITA Nos. 3519 & 3520/ DEL/2025  
(Assessment Years : 2018-19 & 2019-20)**

DCIT  
Central Circle,  
Ghaziabad

Vs.

Shri Irfan S/o Sh. Meharban  
140, Mohl. Tarinan, Khurja,  
Bulandshahar 203131

**(PAN: AAZPI 6587R)**

ASSESSEE BY : Ms. Bharti Sharma, Adv &  
Sh. Yatish Sharma, Adv  
REVENUE BY : Ms. Amish S Gupt, CIT DR

Date of Hearing : 23.12.2025  
Date of Order : 12.02.2026

**ORDER**

**PER S. RIFAUR RAHMAN, ACCOUNTANT MEMBER :**

1. These appeals are filed by the Revenue against the order of Ld. Commissioner of Income Tax (Appeals), Kanpur-4 (hereinafter referred to 'ld. CIT(A)') dated 25.03.2025 for AYs 2018-19 & 2019-20.
2. Since the issues are common and the appeals are connected, hence the same are heard together and being disposed off by this common order.
3. First we take up the appeal of revenue in **ITA No.3519/Del/2025 for AY 2019-20**

4. Revenue is in appeal and raise following grounds of appeal:-

1. Whether on facts and circumstances of the case and in law, the Ld. CIT(A)-IV, Kanpur has erred in deleting the protective addition of Rs. 62,11,24,560/- made u/s 68 of the Income Tax Act, 1961 in the hands of assessee on account of unexplained credits/deposits in the bank account on the sole ground that no substantive addition has been made in the hands of M/s HMA Agro Industries Ltd., without appreciating the facts that the assessment order passed by the AO in the case of M/s HMA Agro Industries Ltd. for A.Y. 2018-19 has been set aside by the Principal Commissioner of Income Tax (Central), Kanpur vide order passed u/s 263 of the Act dated 27.03.2025, by holding the assessment order to be erroneous and prejudicial to the interest of revenue and directing the AO to pass fresh order after conducting proper inquiries and investigation.

2. Whether on facts and circumstances of the case and in law, the Ld. CIT(A)-IV, Kanpur has erred in deleting the protective addition of Rs. 62,11,24,560/- made u/s 68 of the Act in the hands of assessee on account of unexplained credits/deposits in the bank account on the sole ground that no substantive addition has been made in the hands of M/s HMA Agro Industries Ltd... ignoring the fact that the assessment order passed in the case of M/s HMA Agro Industries Ltd. for A.Y. 2018-19 has been found to be erroneous and prejudicial to the interest of revenue and has been set aside since the Assessing Officer while making the assessment has not made proper enquiry and necessary verification despite the fact that Shri Irfan failed to prove the genuineness of business activities and transactions with M/s HMA Agro Industries Pvt. Ltd. and consequently credits/deposits of Rs. 62,11,24,560/- in the bank account of Shri Irfan were found to be unexplained being accommodation entries in the garb of bogus purchases for which ultimate beneficiary was M/s HMA Agro Industries Ltd.

3. Whether on facts and circumstances of the case and in law, the Ld. CIT(A)-IV, Kanpur has erred in deleting the addition Rs.62,11,24,560/- made under Section 68 r.w.s 115BBE of the Act, without appreciating the fact that the assessee failed to discharge the primary onus to explain the nature and source of large credits appearing in its bank account.

4. Whether on facts and circumstances of the case and in law, the Ld. CIT(A)-IV, Kanpur has erred in deleting the addition of Rs. 62,11,245/ made on account of commission @ 1 percent of total bank credits of Rs.62,11,24,560/-, disregarding the finding of the Assessing Officer that the assessee was engaged in providing accommodation entries in lieu of commission.

5. That the appellant craves leave to add, modify, amend or delete any of the grounds of appeal at the time of hearing and all the above grounds are without prejudice to each other.

5. Brief facts of the case are, assessee is an individual and regularly filed his return of income and in Assessment Year 2014-15, the case of the assessee was selected for scrutiny and assessment was completed u/s 143(3) of the Act. Assessee is supplying She-buffalo (livestock) to the slaughter houses. During the year under consideration, he has supplied the she-buffalo to H.M.A Agro Industries Ltd Agra and filed his return of income for the A.Y. 2019-20 on 09.12.2019 declaring total income of Rs.20,86,440/- after claiming deductions and paid the due tax of Rs.5,05,353/-. The assessee also maintained books of accounts which were duly audited. The assessee had declared gross receipts as handling charges of Rs.59,31,037/- and total supply of livestock of Rs.171.74 lakhs. During the Lok Sabha Election cash were seized by Police Department on 25-03-2019. Accordingly, the assessment proceedings were made u/s 153A/143(3) of Act.
6. After considering the various material available with Assessing Officer, Assessing Officer observed that assessee is supplying livestock to HMA Agro and after considering the materials found during the search, in the post search proceedings, he came to the conclusion that assessee is merely providing accommodation entries in the form of bogus purchase, it is appropriate to estimate the profit at the rate of 1% of the total deposits in the

bank from which assessee withdrawn Rs.1,75,03,63,927/-, accordingly, added to the income of the assessee. With the above observation, proceeded to make the cash withdrawn by the assessee of Rs.1.75 crores as substantial addition in the hands of HMA Agro Industries Ltd. and protective addition in the hands of the assessee.

7. Aggrieved with the above order assessee preferred an appeal before Ld. CIT(A) Kanpur-4 and filed a detailed submissions before him. After considering the detailed submissions and material available on record Ld. CIT(A) deleted the protective additions made by the Assessing Officer by observing as under:-

6.8 On a detailed examination of the appellants written and oral submissions made during the course of the appellate proceedings, it emerges that protective addition of Rs. 175,03,63,927/- has been done in the hands of the appellant on the basis of providing accommodation entry in the form of bogus purchases to HMA Agro Industries Limited for the year under consideration. The AO in the assessment order has mentioned that the addition in the hands of the appellant has been done on protective basis and the substantive addition has been recommended to be done in the hands of the beneficiary who have taken accommodation entry. It is pertinent here to mention that HMA Agro Industries Limited are also in appellate proceedings before the undersigned for AY 2019-20 and other years For doing a verification of the addition done in the hands of HMA Agro Industries Limited their case records were verified and from the case record it is seen that their Assessing Officer has only made an addition of Rs. 109,94,70,000/-, the amount of cash withdrawn from the bank account of Mohammad Irfan from HDFC Bank, treating it as income of M/s HMA Agro Industries Limited. The assessment of M/s HMA Agro Industries Limited for AY 2019-20 was reopened for reassessment proceedings in March 2023 and thereafter, since search proceedings were also pending with their AO, the assessment of M/s HMA Agro Industries Limited was completed on 31.03.2024 wherein this addition of Rs 109,94,70.000/- was done being the amount of cash withdrawn from the HDFC Bank account of Mohammad Irfan. Since the substantive addition of a lesser amount was done in the hands of the beneficiary HMA Agro it would be worthwhile to quote the

findings in their case as the same are relevant for arriving at the conclusion here

6.9 In the appeal of HMA Agro Industries Ltd. For AY 2019-20, the following is the finding with regard to the addition done for Rs. 109,94,70,000/- vide this office order dt 25 03.2025:-

*8.11 After having considered the above factual matrix and the legal proposition advanced by the appellant, as well as the claim of the appellant by way of his written and oral arguments before me, it would be in the fitness of things to conclude that the appellant company is a producer and exporter of frozen meat and when the sales which are mostly export sales, which have undergone custom clearance and all the necessary approved approvals from APEDA etc have been taken, are accepted by AC then to consider the purchases done by the appellant as bogus would not be right. The AO has not disputed the stock records or the yield of the appellant company, in his assessment order nor during the course of search proceedings any incriminating material in this regard was brought on record. All the payments to the supplier Mohd Irfan has been made through proper banking channel which is not under dispute either. On similar facts in reassessment proceedings for the preceding assessment year 2018-19 wherein the sole issue of reopening was alleged bogus purchase from Shri Mohammad Irfan the same was accepted by the AO after detailed examination of the concerned person Shri Mohammad Irfan, his statements were recorded & documents produced by him were examined. Now to state on similar facts that during the current year of assessment some of the purchases done from Shri Mohammad Irfan are bogus purchases would in my opinion be devoid of any logic. During the appellate proceedings, the appellant has produced the said statement of Shri Mohd Irfan recorded during the assessment proceedings for AY 2018-19, wherein categorically he has stated to have supplied live animals in assessment year 2017-18, 2018-19, & 2019-20 to HMA Agro Industries Limited. The appellant has also produced the purchase bills for buying these live animals, complete list of animals their weight etc. is duly mentioned and their weight wise categorization is also mentioned, to prove his point that animals were duly supplied by Shri Mohammad Irfan to the appellant. The stock summary for live animals supplied meat extracted and sales done has also been placed on record which proves the point that after buying the animals they were slaughtered, meat was extracted which was then sold, which is nowhere under dispute by the AO. During assessment proceedings, in the reply to the show cause notice, the appellant has stated that Shri Mohammad Irfan has withdrawn cash of Rs 109.94 crores which the AO has taken as their admittance, but nowhere in the said reply any admission of any sort has been done by the appellant for the alleged bogus purchase from Shri*

*Mohammad Irfan Hence it is not understood as to what guided the AO to treat it as an admittance by the appellant. Shri Mohammad Irfan had supplied live animals of Rs 170 70 crores during the year under consideration, however AO has treated Rs. 109.94 as bogus purchases and the remaining amount of Rs. 60.75 crores has been treated as genuine purchases from the same Shri Mohammad Irfan. When the AO himself has partly confirmed the purchases and has partly disallowed the purchases as being bogus, without bringing on record any contrary fact to treat the bogus purchases nor any enquiry was done in the matter Hence in my opinion the action of the AD to treat amount of cash withdrawal of Rs 109 94 70,000 as bogus purchases is devoid of any merit Since the AD has not disputed the sales, hence the corresponding purchases cannot be said to be bogus and the addition done on this count is to be deleted as has been held by Hon'ble Bombay High Court in the case of Pr. CIT v Nitin Ramdeoji Lohia (2022) 145 taxmann.com 546*

*In view of the above discussion and findings it is evident that the appellant has satisfactorily explained the issue of purchase of from Shri Mohd Irfan to be genuine purchases and under the said circumstances I am of the considered opinion that the order of the Assessing Officer making addition of Rs. 109,94,70,000/- as bogus purchases needs to be deleted. Accordingly the ground number 5 & 6 are here by allowed.*

6.10 In the case of M/s HMA Agro Industries Limited where the substantive addition of Rs. 109.94 crores was done has been deleted, and the same was basis of the allegation of accommodation entries in the hands of the appellant Shri Mohammad Irfan, where the addition done by his AO was Rs 175,03,63,927/- on protective basis therefore the protective addition should also be deleted. Here I would also like to bring on record that the AO has considered all of the credits in the bank account of Mohammad Irfan as accommodation entries, whereas the amount received from HMA was only Rs 170,70,52,786/ The appellant Shri Mohd Irfan during the course of assessment proceedings of HMA group for assessment year 2018-19 appeared before their assessing officer and gave categorical statement that he was doing the business of sale / purchase of buffaloes for HMA Agro Industries Limited primarily. He had submitted the bank statement, copy of Ledger account, and copy of purchase bills along with arrival sheet to prove that the buffaloes were supplied by him to HMA Agro Industries. It is also seen that the major portion of live animal at the Khurja plant of HMA Agro was purchased from Mohammad Irfan and since nowhere both the AO'S have disputed the sale part of the transaction, then to state that the purchase done is bogus and mere accommodation entries is not logical

As has been stated above in the written submissions of the appellant, he has made sales of Rs 171,49,84,475/- (which include sales to Khurja factory Rs 170,70,52,787/- & to Aligarh factory Rs.79,31,688/-) to HMA Agro Industries Limited for which the entire payment has been received during the year under consideration in his bank account and further from the copy of bank account, the bank account statement and the bank book submitted in the appellate proceedings, it is quite evident that the appellant has made sales only to M/s HMA Agro Industries Limited during the year, apart from a minuscule sale of Rs. 24.95 lacs to Federal Agro Industries Pvt Ltd another group company of HMA Agro Group. The total credits in the bank account of Mohammad Irfan are Rs 175,03,63,927/- which include some amount of cash deposit during the year, fund transfer from his HDFC account number 85223, contra entries of cheque returned, and some other personal loan/gifts received by him.

**The Hon'ble Bombay High Court in the case of Pr. CIT v. Nitin Ramdeoiji Lohia [2022] 145 taxmann.com 546** held that where Assessing Officer made addition by disallowing expenses on purchases on ground that an information was received from sales tax department that assessee was beneficiary of accommodation entries on account of bogus purchases, since Assessing Officer had not disputed corresponding sales transactions, purchases also could not be bogus and, thus, impugned addition made on account of bogus purchases to be deleted

The only basis on which the addition has been done for accommodation entries being bogus purchase in the hands of M/s. HMA Agro Industries Limited, is the cash withdrawal from HDFC Bank of Rs. 109.94 crores done by Mohammad Irfan, who had clearly stated in his statements before the AO that he makes payment to the persons from whom he buys these live animals through bank transfer and in cash, as those people being agriculturist and people of small mean require immediate cash to be paid for purchases done from them so that their accounts are settled then and there. It is seen that in the business of sale/purchase of live animal, payment through cash is also accepted by the department in exceeding limits prescribed u/s 40A(3), as in Rules 6DD an exception has been provided and even the Central Board of Direct Taxes, has issued a circular whereby even it clarifies that purchases of animals is done in cash from traders, then cash can be paid to them subject to fulfilling of certain conditions Thus, the CBDT itself mandates that payment in cash can be done for buying live animals exceeding the limit prescribed u/s 40A(3) by carving out an exception in Rule 6DD. Hence payment done by Shri Mohammad Irfan to his suppliers for which cash has been withdrawn by him from his bank account cannot be stated to be unguine

Further, in the assessment order of Sh. Irfan and M/s HMA Agro Industries Limited, the AO has not brought on record any kind of evidence that this cash withdrawn by Shri Mohammad Irfan was handover to HMA Agro Industries Limited, so as to prove his point that these were mere accommodation entries. When the sales from M/s HMA Agro Industries Limited have been accepted in totality and no adverse inference has been made regarding those sales, then it cannot be said that for making those sales no purchases were done and were mere accommodation entry.

Further this office had sent an email to the Assessing Officer of M/s HMA Agro Industries Limited on 7th November 2023, to inquire into the status of assessments framed in the case of M/s. HMA Agro Industries Limited PAN AACCH0450J, where substantive addition on the same issue were recommended. The Deputy Commissioner of Income Tax, Central Circle, Agra has sent an email dated 8th November 2023, in response to the said email, which has also been marked as a copy to Additional Commissioner Income Tax, Central Circle, Kanpur the content of the email are as follows:

"Subject :Fwd:Re:Fwd: Appellate proceedings in the case of Shri Irfan (PAN: AAZPI6587R) for A.Y.'s 2013-14, 2014-15, 2017-18, 2018-19 & 2019-20-reg

Sir,

Please refer to the subject as mentioned above.

With respect to the same, the desired specific information is as under-

1. The assessment order, dated 31.03.2023 has been passed for AY 2018-19, in the case of M/s. HMA Agro Industries Limited covering the issue discussed in the trailing mails. Shri Irfan was also issued summons and his statements were recorded on oath on 28.03.2023. Since he was able to provide the details of transactions and documentary supports in the nature of bills/vouchers, ledgers and account statements, which established that he was carrying out business with M/s HMA Agro Industries Limited and therefore no separate addition was made in the hands of HMA Agro Industries Limited for AY 2018-19 on this ground. (The assessment order and the statements of Shri Irfan are being scanned and enclosed with this mail. Some sample documents presented are also being enclosed for reference).

.....”

In light of the above findings, where the substantive addition done in the hands of HMA Agro Industries Limited has been deleted for AY 2019-20, and no substantive addition have been made by the AO himself for AY 2018-19, there

remains no room to allege that the appellant Mohammad Irfan had made accommodation entries of bogus purchases to M/s. HMA Agro Industries Limited, and hence the protective addition done in the hands of the appellant Shri Mohammad Irfan for an amount of Rs 175,03,63,927/-stands deleted It may be reiterated here that the AO has observed that all the transactions in the bank account are with M/s. HMA Agro Industries Limited and no other entity (para 4.13 of the assessment order).

6.11 I also find that the AO has made protective addition vide order dt. 30.09.2021, without making any substantive addition. The AO has held that the substantive addition would be considered in the hands of beneficiaries. In my considered view, protective assessment cannot be independent of substantive assessment, and protective assessment must follow substantive assessment. There can be a substantive assessment without any protective assessment but there cannot be a protective assessment without there be a substantive assessment. Thus in my view, the AO was not correct in making protective assessment of Rs. 175,03,63,927/- in the hands of Sh. Irfan without making any corresponding substantive addition.

Thus, grounds of appeal no. 5 to 9 of the appeal are allowed.

8. Aggrieved with the above order revenue is in appeal before us. At the time of hearing Ld. DR submitted that assessee has claimed to have supplied livestock to HMA Agro Industries Ltd. without their being proper documents supporting the above transaction before the Assessing Officer. Considering the documents submitted by the assessee, it is clear that assessee is providing only accommodation entries to the HMA Agro Industries Ltd.. However, Ld. CIT(A) has observed that similar additions were made in the case of HMA Agro Industries Ltd. to the extent of Rs.109.94 crores based on the cash withdrawal from HDFC Bank by the assessee. It was submitted that Ld. CIT(A) should not have deleted the protective addition made in the hands of the assessee when assessee has not substantiated the sales to HMA Agro

Industries Ltd. Further, she submitted that assessee has declared very small margin. Therefore, she submitted that Assessing Officer has rightly treated the sales as accommodation entries and proceeded to make 1% of the above sales as income of the assessee. She objected to the relief granted by the Ld. CIT(A) relying on the findings in the case of HMA Agro Industries Ltd. She relied on the detailed findings of the AO.

9. At the time of hearing Ld. AR submitted briefly the facts as under:-

a) During the assessment proceedings, the assessee filed all the requisite details including audited books of account and bills/vouchers asked for and complied with all the notices. (Refer the assessment replies dated 22.02.2021 and 22.09.2021 enclosed in the PB)

b) However, the ld. AO, without appreciating the responses and supporting evidence filed by the assessee, merely relying on the investigation done by the Investigation wing post requisition proceedings and based on various conjectures and surmises, made the following additions in the assessment order passed u/s 143(3) of the Act dated 30.09.2021:

i. Protective Addition of Rs.175,03,63,927/- being the total credits/deposits in the bank accounts of the assessee (including from HMA Agro Industries Limited) as unexplained credit u/s 68 r.w.s 115BBE of the Act alleging that the assessee was not doing any genuine business activity but providing accommodation entries to HMA Agro Industries Limited.

The AO also stated that substantive addition would be considered in the hands of beneficiaries who have taken accommodation entries in the form of alleged bogus purchases from the assessee. (Para 5 at page no. 7 of AO Order)

c) The ld. CIT(A), vide its order dated 25.03.2025, deleted all the aforementioned additions by inter-alia, holding as under:

i) The Id. CIT(A) deleted the protective addition of Rs.1750363927/- on the ground that the transactions of the assessee for supplying livestock to HMA Industries Ltd. were genuine business (purchase/sale) transactions and not accommodation entries. The ld. CIT(A) reached to this conclusion after independently verifying the documents, books of account and bills/vouchers

submitted by assessee and also relied upon the detailed findings given in the case of HMA Agro Industries Ltd where substantive addition made in the AY 2019-20 was deleted by the ld. CIT(A). The ld. CIT(A) also noted that AO in the case of HMA Agro Industries Ltd. for the AY 2018-19, reopened the assessment on this issue of alleged accommodation entries with Sh. Irfan u/s 147 of the Act but made no substantive addition after making detailed verification and examination.

ii. The ld. CIT(A) also deleted the substantive addition of estimated commission income of Rs. 17503300/- on the ground that once it has been conclusively held that Sh. Irfan has not provided accommodation entries to M/s HMA Agro Industries Ltd., there can be no case of earning commission income as a consequence.

iii. The ld. CIT(A) deleted the addition of Rs. 6,00,000/- on the ground that this cash was actually withdrawn by Sh. Mohd. Rizwan from his bank account and belonged to him and not to the assessee.

d) Being aggrieved with the order of CIT(A), the department is in appeal before the Hon'ble ITAT, Delhi.

e) Further submitted as under

**1. RE: PROTECTIVE ADDITION OF RS.175,03,63,927/- BEING THE TOTAL CREDITS/DEPOSITS IN THE BANK ACCOUNTS OF THE ASSESSEE (INCLUDING FROM HMA AGRO INDUSTRIES LIMITED) AS UNEXPLAINED CREDIT U/S 68 R.W.S 115BBE OF THE ACT.**

1. The ld. AO at para 5, page no. 70 of his order alleged that "since it is established that the assessee has not done any business activity during the year under consideration but to provide accommodation entries in the form of bogus purchases, hence, the total credit/deposits of Rs 175,08,63,927/- (including Re. 170,70,52,786/- from HMA Agro Industries Ltd) received by the assessee during the year under consideration in his bank account is treated as unexplained and added to the total income of the assessee for the year under consideration on protective basis u/s 68 r.w.s 115BBE of the Income Tax Act, 1961 and substantive addition to the tune of these credits/deposits would be considered in the hands of beneficiaries who have taken accommodation entries in the form of bogus purchases from the assessee,"

2. In this regard, at the very outset, it is respectfully submitted that NO SUBSTANTIVE ADDITION ON ACCOUNT OF ALLEGED

ACCOMMODATION ENTRIES ARISING FROM ALLEGED BOGUS PURCHASES WAS MADE IN THE HANDS OF THE BENEFICIARY, i.e., HMA AGRO INDUSTRIES LTD., in its assessment for the AY 2018-19, which was reopened under section 147 of the Act solely on this issue.

The ld. CIT(A), vide email dated 07 November 2023, sought information from the Assessing Officer of M/s HMA Agro Industries Ltd. regarding the status of the assessments framed in the case of the said assessee, wherein a substantive addition on this issue was recommended.

In response thereto, the learned DCIT, Central Circle, Agra, sent an email to the learned CIT(A), the contents of which are reproduced below:

"Subject: Re: Fwd: Appellate proceedings in the case of Shri Irfan

(PAN: AAZP16587R) for A.Y.'s 2013-14, 2014-15, 2017-18, 2018-19 & 2019-20-reg

Sir

Please refer to the subject as mentioned above

With respect to the same, the desired specific information is as under-

1. The assessment order, dated 31.03.2023 has been passed for AY 2018- 19, in the case of M's. HMA Agro Industries Limited covering the issue discussed in the trailing mails. Shri Irfan was also issued summons and his statements were recorded on oath on 28.03.2023. Since he was able to provide the details of transactions and documentary supports in the nature of bills/vouchers, ledgers and account statements, which established that he was carrying out business with M's HMA Agro Industries Limited and therefore no separate addition was made in the hands of HMA Agro Industries Limited for AY 2018-19 on this ground. (The assessment order and the statements of Shri Irfan are being scanned and enclosed with this mail. Some sample documents presented are also being enclosed for reference) (Refer page no. 23 of the CIT(A) order)

From the aforesaid paragraph, it is evident that after detailed verification and examination of the facts and documents, including bank statements, ledger accounts, and bills/vouchers, submitted by Sh. Irfan during the assessment proceedings of HMA Agro Industries Ltd., the Assessing Officer himself concluded that the assessee was carrying on genuine business transactions with M/s HMA Agro Industries Ltd. and, accordingly, made no substantive addition on this issue for AY 2018-19.

3. FURTHER, THE LD. CIT(A), IN AY 2019-20, IN THE CASE OF M/S HMA AGRO INDUSTRIES LTD., DELETED THE SUBSTANTIVE ADDITION MADE IN ITS CASE, The relevant findings recorded by the CIT(A) in the case of HMA Agro Industries Ltd. have been reproduced at para 6.9, page 19, of the order passed by the CIT(A) in the case of the assessee.

4. Thus, once the substantive addition has been deleted, the protective addition also fails, as there cannot be any protective addition independent of a substantive addition.

5. Furthermore, the Id. CIT(A), in the case of the assessee, independently examined the nature of the assessee's business and duly verified the submissions, audited books of account, ledgers, bills, bank statements, and other supporting documents furnished in connection with the business transactions with M/s HMA Agro Industries Ltd. The learned CIT(A) held that the transactions between the assessee and the said company were genuine business transactions and not accommodation entries. (Refer paras 6.8 to 6.11, pages 18 to 24 of the CIT(A) order)

6. The Hon'ble ITAT also vide their recent order dated 04.12.2025 passed in the case of M/s HMA Agro Industries Ltd for the same AYs 2018-19 and AY 2019-20 has discussed at length the nature of business transactions (sale/purchase) of Sh. Irfan with HMA Agro Industries Ltd and held them completely genuine and stated that the transactions could not be held as accommodation entries. The Hon'ble Tribunal also acknowledged that Sh. Irfan produced his complete books of account including bills/voucher with the AO and accepted the utilisation of cash withdrawals made by Sh. Irfan from his bank accounts to pay the farmers from whom live stock (she buffalo) was arranged/purchased by Sh. Irfan on behalf of HMA Agro Industries Limited. [Para 7, 8, 9 & 10-Page nos. 65 to 68 of Supplementary PB)

7. Thus, in view of the aforesaid discussion protective addition of Rs. 175,03,63,927/-deserves to be deleted.

RE: AD-HOC ADDITION OF COMMISSION OF RS. 1,75,03,300/- @ 1% OF THE TOTAL CREDITS/DEPOSITS IN THE BANK ACCOUNTS OF THE ASSESSEE BASED ON THE ALLEGATION THAT THE ASSESSEE PROVIDED ACCOMMODATION ENTRIES TO HMA AGRO INDUSTRIES LTD.

8. The Id. AO also made an adhoc addition of commission of Rs. 1,75,03,300/-@ 1% of the total deposits/credits Rs. 175,03,63,927 / (including credits/deposits of Rs. 170,70,52,786/-received from M/s HMA Agro

Industries Ltd) in the bank accounts of the assessee based on the same allegation that the assessee was not doing any genuine business activity but was only involved in providing accommodation entries in the form of bogus purchases as the assessee failed to prove the genuineness of business transactions done with M/s HMA Agro Industries Ltd. (Refer Para 4.17, page 7 of the AO order)

9. Although this ad hoc addition of commission income was made on a substantive basis in the hands of the assessee, it was entirely dependent upon the outcome of the protective addition of the total credits/deposits in the assessee's bank accounts, which were treated as accommodation entries. The impugned addition of commission income is, therefore, a consequential addition arising out of the protective addition made in the assessee's hands. Accordingly, once it has been conclusively held that the transactions between the assessee and HMA Agro Industries Ltd. were genuine business transactions and not accommodation entries, there can be no question of earning any such commission income as a consequence.

10. The Id. CIT(A), at para 7.3, page 25, has rightly held that once the conclusion of the Assessing Officer that the assessee was providing accommodation entries to M/s HMA Agro Industries Ltd. was found to be incorrect, particularly in view of the fact the AO himself conducted detailed inquiries during the assessment proceedings for AY 2018-19 in the case of M/s HMA Agro Industries Limited, including summoning and examining Sh. Irfan on oath along with verifying his books of accounts, and concluded that Sh. Irfan was doing genuine business with M/s. HMA Agro Industries Limited., there could be no question of earning commission income as a consequence.

11. Further, the Hon'ble ITAT also vide their recent order dated 04.12.2025 passed in the case of M/s HMA Agro Industries Ltd for the same AYs 2018-19 and AY 2019-20 held the transactions of Sh. Irfan with HMA Agro Industries Ltd as genuine business transactions and not the accommodation entries, thus, the impugned addition of adhoc commission income does not survive. [Para 7, 8, 9 & 10-Page nos. 65 to 68 of Supplementary PB]

12. Besides, the impugned addition of commission tantamounts to double addition in the hands of the assessee in as much as either there could be handling charges/commission from arranging actual purchases of livestock on behalf of HMA Agro Industries Ltd. or alleged commission income earned from arranging the alleged accommodation entries of the said purchases.

13. With regard to the other allegations made by the Id. AO while treating the credits/deposits received in the bank accounts of the assessee as accommodation entries and, consequently, making an ad hoc addition on account of commission income, our specific responses to each of these allegations are briefly discussed hereunder

i) The AO alleged that the assessee failed to maintain and produce books of account and supporting bills/vouchers to substantiate business transactions with M/s HMA Agro Industries Ltd.

- The aforesaid statement is grossly incorrect since the assessee filed his audited Balance Sheet, Income & Expenditure Account, Tax Audit Report along with books of account vide the assessment replies dated 22.02.2021 and 22.09.2021 enclosed at page nos. 34-37 & 84 of the PB respectively.
- Further, the assessee also furnished the certified ledger of HMA Agro Industries along with sample purchase bills for supply of live-stock vide reply dated 22.09.2021 at page no. 84 of the PB. Copy of certified ledger and sample bills are also enclosed at page no. 89-248 of the PB. Also refer page no. 6 of the AO order where extracts of this reply are reproduced by the AO.

10. Considered the rival submissions and material placed on record, we observed that assessee is supplying livestock to HMA Agro Industries Ltd., on the basis of indent raised to the assessee for the above said supplies by the HMA Agro, the assessee had supplied the livestock on receipt of trade advances. The assessee was compensated with the percentage of commission on the nature of supply. We observed that search and post search proceedings were initiated in the case of HMA Agro Industries Ltd. and in the post search proceedings several statements were recorded from the assessee as well as main personnel of HMA Agro Industries Ltd. It is fact on record that HMA

Agro Industries Ltd. is agreed with the fact that they have purchased livestock from the assessee however, the Assessing Officer came to the conclusion that assessee was not doing any genuine business activity but providing accommodation entry to HMA Agro Industries Ltd. by providing bogus purchase bills and based on that the funds were transferred to the assessee against the above such bills. He observed that on the same day or next day assessee used to withdraw the cash and gave it back to HMA Agro Industries Ltd. Assessing Officer also alleged that assessee has not specifically substantiate the utilization of the above cash withdrawals which were remitted to the assessee through banking channel.

11. We observed that in the case of HMA Agro Industries Ltd. the ITAT Agra Bench has discussed elaborately the transactions carried on by the HMA Agro Industries Ltd. and they held that the transactions with the assessee are genuine business transactions. Further, even Ld. CIT(A) has considered detailed submissions in the case of HMA Agro Industries Ltd. and gave an independent findings that transactions with HMA Agro Industries Ltd. were genuine sale/purchase transactions and not accommodation entries. Further, we observed that assessee has also gave a complete details of utilization of cash withdrawal which was also reproduced in the assessment order itself. The transactions were cross verified with HMA Agro Industries Ltd. books

of account and therefore, the transactions cannot be treated as accommodation entries.

12. Further we observed that Assessing Officer has made protective addition in the hands of the assessee, without there being any substantive addition in the hands of HMA Agro Industries Ltd., with the above observation, Ld. CIT(A) has deleted the protective addition and also gave an independent finding that the transactions are genuine. Considering the factual matrix on record in our considered view Ld. CIT(A) has rightly deleted the above addition. Therefore we are inclined to dismiss the Grounds No.1 to 3 raised by the revenue.

13. Coming to the issue of estimation of income at the rate of 1% of the total credit in the bank accounts of the assessee. We observed that the transactions with the HMA Agro Industries Ltd. is genuine and assessee has supplied the livestock to the HMA Agro Industries Ltd. Based on the indent raised by them. As per the nature of activities HMA Agro Industries Ltd. purchases livestock from the individuals like assessee from the open market and items purchased were indented to them by paying commission which is agreed between them. Since the assessee has declared the above said commission in his books of account and the same are duly audited. Hence, the payment of commission were matching with the books of account maintained by HMA Agro Industries Ltd. , the estimation of income without there being any basis at estimating the commission at the rate of 1% are not justified. In our

considered view at least Assessing Officer should have made comparative analysis before estimating the income at 1% of the total credits. Therefore, we are inclined not to disturb the detailed findings of the Ld. CIT(A).

14. In the result, ground No.4 raised by the revenue is dismissed.

15. Ground No.5 is general in nature.

16. In the result, appeal filed by the revenue is **dismissed**.

17. The same issue is exactly similar to the issue raised by the revenue in the AY 2019-20 (ITA No.3519/D/2025) the findings are applicable for AY 2018-19 mutatis mutandis. Accordingly, the appeal filed by the revenue in ITA 3520/D/2025 is dismissed.

18. Finally, in the result, the appeals filed by the revenue vide ITA Nos.3519 & 3520/Del/2025 are **dismissed**

**19. Order pronounced in the open court on this day of 12<sup>th</sup> February 2026**

**Sd/-  
(VIMAL KUMAR)  
JUDICIAL MEMBER**

**Sd/-  
(S.RIFAUR RAHMAN)  
ACCOUNTANT MEMBER**

**Dated: 12.02.2026**

**\*Mittali Sr. PS**

Copy forwarded to:

1. Appellant
2. Assessee
3. CIT
4. CIT(Appeals).
5. DR: ITAT

**ASSISTANT REGISTRAR  
ITAT, NEW DELHI**