

**IN THE INCOME TAX APPELLATE TRIBUNAL, 'E' BENCH
MUMBAI**

**BEFORE: SHRI AMIT SHUKLA, JUDICIAL MEMBER
&
SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER**

**ITA No.7907/Mum/2025 to 7913/Mum/2025
(Assessment Year :2012-13 to 2018-19)**

Hemant Dahyalal Bhatt B-301, Hari Darshan Bhogilal Fadia Road Kandivali West Mumbai- 400 067	Vs.	Dy. Commissioner of Income Tax 6(2), Mumbai
PAN/GIR No.AACP5521D		
(Appellant)	..	(Respondent)

Assessee by	Shri Rajiv Khandelwal (virtually appeared)
Revenue by	Shri Ritesh Misra, CIT DR
Date of Hearing	11/02/2026
Date of Pronouncement	12/02/2026

आदेश / O R D E R

PER BENCH:

These appeals have been filed by the assessee against separate orders passed by the learned Commissioner of Income Tax (Appeals)-54, Mumbai, all dated 30.09.2025, arising out of assessments framed under section 153A read with section 144 of the Income Tax Act, 1961, for assessment years 2012-13 to

2018–19. Since the underlying search action, factual substratum, nature of additions, and legal issues involved are common and interconnected, these appeals were heard together and are being disposed of by way of this consolidated order, so as to ensure uniformity of reasoning, judicial consistency, and avoidance of repetitive adjudication.

2. In all these appeals, the assessee has assailed various additions and disallowances sustained by the learned CIT(A), which inter alia relate to denial of exemption in respect of medical allowance claimed under section 10(14)(ii), addition of dividend income and capital gains by treating the same as taxable income, disallowance of housing loan interest, addition of interest income, and additions on account of jewellery found during the course of search. The complete details of additions made and sustained in each assessment year, together with the nature and quantum thereof, are summarized in the following tabular form:

A.Y.	Issue
2012-13	The Learned Commissioner of Income Tax (Appeals) erred in confirming the addition of INR 15,000 on account of medical allowance, which is specifically exempt from tax under Section 10(14) (ii) of the Income Tax Act, 1961.
	The Learned Commissioner of Income Tax

	<p>(Appeals) has erred in confirming the addition of INR 2,35,939 comprising dividend income of INR 55,645 and long-term capital gains of INR 1,80,294 under the provisions of the Income Tax Act, 1961.</p>
2013-14	<p>The Learned Commissioner of Income Tax (Appeals) erred in confirming the addition of INR 15,000 on account of medical allowance, which is specifically exempt from tax under Section 10(14)(ii) of the Income Tax Act, 1961.</p> <p>The Learned Commissioner of Income Tax (Appeals) has erred in confirming C the addition of INR 2,51,086 comprising a dividend income of INR 52,082 and long-term capital gains of INR 1,99,004 under the provisions of the Income Tax Act, 1961.</p>
2014-15	<p>The Learned Commissioner of Income Tax (Appeals) erred in confirming the addition of INR 14,917 on account of medical allowance, which is specifically exempt from tax under Section 10(14)(ii) of the Income Tax Act, 1961.</p> <p>The Learned Commissioner of Income Tax (Appeals) has erred in confirming C the addition of INR 2,89,754 comprising a dividend income of INR 55,468 and long-term capital gains of INR 2,34,754 under the provisions of the Income Tax Act, 1961.</p> <p>The Learned Commissioner of Income Tax (Appeals) has erred in confirming the addition of INR 41,693 comprising of short-term capital gains</p>

	under the provisions of the Income Tax Act, 1961
2015-16	<p>The Learned Commissioner of Income Tax (Appeals) erred in confirming the addition of INR 15,000 on account of medical allowance, which is specifically exempt from tax under Section 10(14)(ii) of the Income Tax Act, 1961.</p> <p>The Learned Commissioner of Income Tax (Appeals) has erred in confirming (4 the addition of INR 6,48,542 comprising a dividend income of INR 47,419 and c long-term capital gains of INR 6,33,377 under the provisions of the Income Tax Act, 1961.</p> <p>The Learned Commissioner of Income Tax (Appeals) has erred in confirming the addition of INR 54,809 comprising of short-term capital gains under the provisions of the Income Tax Act, 1961.</p>
2016-17	<p>The Learned Commissioner of Income Tax (Appeals) erred in confirming the addition of INR 15,000 on account of medical allowance, which is specifically exempt from tax under Section 10(14)(ii) of the Income Tax Act, 1961.</p> <p>The Learned Commissioner of Income Tax (Appeals) has erred in confirming the addition of INR 93,932 comprising dividend income of INR 60,105 and long-term capital gains of INR 22,062 under the provisions of the Income Tax Act, 1961.</p>
2017-18	The Learned Commissioner of Income Tax

	<p>(Appeals) erred in confirming the addition of INR 15,000 on account of medical allowance, which is specifically exempt from tax under Section 10(14)(ii) of the Income Tax Act, 1961.</p> <p>The Learned Commissioner of Income Tax (Appeals) erred in confirming the addition of INR 98,743 on account of housing loan interest u/s 24(a) of the Income Tax Act, 1961.</p> <p>The Learned Commissioner of Income Tax (Appeals) has erred in confirming the addition of INR 1,40,199 comprising interest income of INR 37,451 dividend income of INR 52,852 and long-term capital gains of INR 49,896 under the provisions of the Income Tax Act, 1961.</p> <p>The Learned Commissioner of Income Tax (Appeals) has erred in upholding the addition of INR 23,42,856 made on account of jewellery found in the locker of appellant's family members.</p>
2018-19	<p>The Learned Commissioner of Income Tax (Appeals) erred in confirming the addition of INR 75,000 on account of housing loan interest u/s 24(a) of the Income Tax Act, 1961.</p> <p>The Learned Commissioner of Income Tax (Appeals) has erred in upholding the addition of INR 44,49,865 made on account of jewellery found in the locker of appellant's family members.</p>

3. The learned counsel for the assessee submitted that both the assessment orders and the appellate orders have been

passed ex parte, without affording any meaningful or effective opportunity of being heard. He submitted that the assessee was under incarceration for a prolonged duration exceeding five years, being implicated in proceedings connected with the search conducted in the Nirav Modi Group on 22.02.2018, and during such period of confinement, the assessee neither had access to notices nor the practical ability to respond to statutory proceedings. It was further brought to our notice that the assessee was granted conditional bail by the Hon'ble Supreme Court only on 05.02.2024, and prior thereto, was effectively incapacitated from defending his case or presenting relevant documentary material.

3.1 He further submitted that insofar as assessment years 2012-13 to 2016-17 are concerned, the original assessments had already attained finality and were unabated assessments as on the date of search, and therefore, no addition could have been made in the absence of incriminating material discovered during the course of search. He submitted that none of the additions made by the Assessing Officer in these years were based on any seized document, material, or evidence unearthed during search, and therefore, such additions fall beyond the permissible scope of assessment under section 153A, as conclusively settled by the Hon'ble Supreme Court in *PCIT vs. Abhisar Buildwell (P.) Ltd.* (2023) 149 taxmann.com 399 (SC).

4. He further submitted that insofar as assessment years 2017–18 and 2018–19 are concerned, these being abated and search year assessments respectively, the matter may be restored to the file of the Assessing Officer, as the assessee could not participate in earlier proceedings owing to circumstances beyond his control, and therefore, the assessee deserves to be granted a fair and meaningful opportunity to present his case on merits.

5. Per contra, the learned CIT-DR submitted that since the assessments and appellate proceedings were completed ex parte and the assessee did not raise these contentions before the authorities below, the matter may be restored to the file of the Assessing Officer for fresh adjudication.

6. We have carefully considered the rival submissions, examined the impugned assessment orders and appellate orders, and perused the material placed on record in light of the statutory framework governing assessments under section 153A and the binding judicial precedents governing the scope and ambit of such assessments. It is an undisputed and admitted position emerging from the record that search and seizure action under section 132 was conducted on 22.02.2018 in connection with the Nirav Modi Group, and the assessee, being an employee of one of the group entities, was covered in the said search. It is

further evident that insofar as assessment years 2012–13 to 2016–17 are concerned, the returns of income filed by the assessee had already attained finality, and no assessment proceedings were pending on the date of search. There was neither any notice issued under section 143(2), nor any pending reassessment or scrutiny proceedings, and therefore, in terms of the statutory scheme of section 153A, these years constituted unabated assessments.

6.1 The nature of additions made by the Assessing Officer in various assessment years, including additions relating to medical allowance, dividend income, long term capital gains, short term capital gains, housing loan interest, and jewellery found during search, are summarized in the following analytical table:

	Asst. Year	AY 2012-13	AY 2013-14	AY 2014-15	AY 2015-16	AY 2016-17	AY 2017-18	AY 2018-19
Sr No.	Particulars of issue	Amount						
1	Medical allowance, which is specifically exempt from tax under Section 10(14)(ii)-	15,000	15,000	14,917	15,000	15,000	15,000	-

2	Addition of dividend income-Exempt considered as Income from Other Sources-	55,645	52,082	55,468	47,419	60,105	52,852	-
3	Addition of long-term capital gain on sale of shares [STT Paid]-Exempt considered as Income from Other Sources-	1,80,294	1,99,004	2,34,754	6,33,377	22,062	49,896	-
4	Addition of short-term capital gain on sale of shares [STT Paid) considered as Income from Other Sources-	-	-	41,693	54,809	-	-	-
5	Addition of Interest income-Exempt considered as Income from Other Sources	-	-	-	-	-	37451	*
6	Addition of Housing loan interest						98743	75,000
7	Addition of jewellery found in locker	-	-	-	-	-	23,42,856	44,49,865

6.2 A careful and meticulous perusal of the assessment orders reveals that none of the additions made in assessment years 2012–13 to 2016–17 have been made on the basis of any incriminating material found during the course of search. The additions have been made solely on the basis of examination of return of income, financial statements, and other documents which were already part of the regular assessment record, and which had attained finality long prior to the search action.

7. The legal position governing the scope of additions in unabated assessments under section 153A now stands conclusively settled by the Hon'ble Supreme Court in the landmark judgment of PCIT vs. Abhisar Buildwell (P.) Ltd. (supra), wherein the Hon'ble Court has authoritatively held that in respect of completed or unabated assessments, the Assessing Officer does not have the jurisdiction to make additions in the absence of incriminating material discovered during the course of search. The Hon'ble Supreme Court has clarified that section 153A does not confer unfettered power upon the Assessing Officer to revisit completed assessments, and the legislative intent underlying the provision is to enable assessment only in respect of undisclosed income unearthed during search.

7.1 Applying the aforesaid binding legal principle to the facts of the present case, it becomes manifestly clear that the additions made in assessment years 2012–13 to 2016–17, relating to medical allowance, dividend income, long term capital gains, and short term capital gains, do not have any nexus with incriminating material discovered during the course of search. These additions are merely based on re-examination of already disclosed financial particulars, which had attained finality and were not pending assessment at the time of search. Such an exercise falls clearly outside the jurisdictional ambit of section 153A as interpreted by the Hon'ble Supreme Court.

7.2 Thus, in view of the binding ratio laid down by the Hon'ble Supreme Court in *Abhisar Buildwell (P.) Ltd.* (supra), and in the absence of any incriminating material, the additions made in assessment years 2012–13 to 2016–17 cannot be legally sustained and are hereby deleted. Accordingly, the appeals of the assessee for assessment years 2012–13 to 2016–17 stand allowed.

8. Insofar as assessment years 2017–18 and 2018–19 are concerned, the factual and legal position stands on a materially different footing, as these represent abated and search year assessments respectively, wherein the Assessing Officer is vested with wider jurisdiction to examine and determine the correct

income of the assessee. However, it is equally a matter of record that both the assessment proceedings and appellate proceedings were conducted *ex parte*, and the assessee was prevented by circumstances beyond his control from participating in such proceedings, owing to prolonged incarceration and consequent inability to respond to statutory notices or furnish relevant material.

8.1 The fact that the assessee was granted conditional bail by the Hon'ble Supreme Court on 05.02.2024 substantiates the bona fide nature of the assessee's inability to participate in the earlier proceedings. The principles of natural justice, which form the bedrock of fair adjudication, mandate that no person should be condemned unheard, and that adjudication must be preceded by affording reasonable and meaningful opportunity of being heard.

8.2 In view of these peculiar facts and circumstances, and in order to ensure that the assessee is not prejudiced on account of circumstances beyond his control, and to uphold the principles of fairness and justice, we deem it appropriate to restore the issues arising in assessment years 2017-18 and 2018-19 to the file of the Assessing Officer, who shall adjudicate the matter afresh, after affording adequate opportunity of hearing to the assessee, and after considering such explanations and documentary evidence as may be furnished.

8.3 The Assessing Officer shall examine the matter independently and in accordance with law, uninfluenced by any observations contained in the earlier ex parte orders, and shall pass a speaking order after duly considering the material and submissions of the assessee.

9. In the result, appeals of the assessee for assessment years 2012-13 to 2016-17 are allowed, and appeals for assessment years 2017-18 and 2018-19 are allowed for statistical purposes.

Order pronounced in the open court on 12th February, 2026.

**Sd/-
(GIRISH AGRAWAL)
ACCOUNTANT MEMBER**

**Sd/-
(AMIT SHUKLA)
JUDICIAL MEMBER**

Mumbai; Dated 12/02/2026
KARUNA, *sr.ps*

Copy of the Order forwarded to :

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

//True Copy//

BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai