

**IN THE INCOME TAX APPELLATE TRIBUNAL
“D” BENCH MUMBAI**

**BEFORE SHRI SAKTIJIT DEY, VICE PRESIDENT &
SHRI MAKARAND VASANT MAHADEOKAR, ACCOUNTANT MEMBER**

**ITA No. 7678/Mum/2025
(Assessment Year: 2022-23)**

Din Dayal Jalan Textile Pvt. Ltd. 904-5, Royal Square, 9 th Floor, 173, Dr. Vigas Street, Mumbai-400 002	Vs.	ACIT-4(1)(1), Room No. 642, 6 th floor, Aayakr Bhavan, Queen Road, Mumbai – 400 001
PAN/GIR No. AABCD2310E		
(Applicant)		(Respondent)

Assessee by	Shri D. C. Jain, Ld. AR
Revenue by	Shri Annavaram Kosuri, Ld. DR

Date of Hearing	09.02.2026
Date of Pronouncement	16.02.2026

आदेश / ORDER

PER MAKARAND VASANT MAHADEOKAR, AM:

This appeal is filed by the assessee against the order passed by the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi [hereinafter referred to as “CIT(A)”], dated 16.10.2025 for the Assessment Year 2022–23, arising out of the assessment order passed under section 143(3) read with section

144B of the Income Tax Act, 1961 [hereinafter referred to as “CIT(A)”]dated 25.03.2024.

Facts of the Case

2. The assessee is a Private Limited Company engaged in the wholesale business of sale of cloth and allied items. For the Assessment Year 2022–23, the assessee filed its return of income declaring total income of Rs. 5,50,90,910/-.The case was selected for scrutiny under CASS on the reasons recorded as “Large squared up loans during the year, Reduction in profit because of application of Income Computation and Disclosure Standards and Information in verification cases uploaded through CRIU.”

3. During the course of assessment proceedings, the Assessing Officer received information that a search action under section 132 was conducted on 28.05.2022 in the case of M/s JM Jain LLP, erstwhile M/s JM Jain (proprietorship concern). During the search and post-search enquiries, certain incriminating material was allegedly found indicating that unaccounted transactions were maintained in a parallel server referred to as “JSK Server”.

4. As per the investigation report, the name of the assessee appeared in the books of M/s JM Jain LLP as a customer involved in unaccounted transactions amounting to Rs. 2,00,00,000/-. The assessee admitted that it had paid commission of Rs. 1,00,00,000/- to M/s JM Jain LLP during the relevant year for services rendered as purchase agent.

5. Before the Assessing Officer, the assessee submitted that only Rs. 1,00,00,000/- was paid to M/s JM Jain LLP as commission, duly accounted in the books, and the allegation of Rs. 2,00,00,000/- was factually incorrect. It was also submitted that the addition was based solely on the investigation report and statements recorded in the case of M/s JM Jain LLP, without providing full copies of statements or affording opportunity of cross examination. It was also stated that no independent enquiry was conducted by the Assessing Officer, and conclusions were merely borrowed from the investigation wing. The assessee also submitted that there was no evidence of any off-books purchases or sales by the assessee, nor any material showing that books of account were incorrect or incomplete. The assessee further submitted that even assuming without admitting that there were unaccounted purchases, only net profit element could be brought to tax and not the entire amount.

6. The Assessing Officer, however, did not accept the explanation and proceeded to make the additions. The Assessing Officer recorded that:

- Though the assessee admitted payment of Rs. 1,00,00,000/- as commission, it failed to provide satisfactory details to verify the genuineness of the transaction with M/s JM Jain LLP.
- Since the payment of Rs. 1,00,00,000/- was considered to be 3 percent of the total unaccounted transactions, the Assessing Officer extrapolated the total unaccounted

purchases at Rs. 33,33,33,333/- being calculated as (Rs. 1,00,00,000 ÷ 3) × 100.

- The Assessing Officer assumed net profit at 3 percent of such alleged unaccounted transaction value, which worked out to Rs. 1,00,00,000/-. The said amount was treated as income from business and profession.
- Further, for the remaining amount of Rs. 1,00,00,000/-, the Assessing Officer invoked section 69A and treated the same as unexplained money on the ground that the assessee failed to furnish satisfactory explanation regarding the source of such unaccounted cash transaction.

7. Accordingly, the assessment was completed under section 143(3) read with section 144B at total income of Rs. 7,50,90,910/-, comprising:

- Returned income: Rs. 5,50,90,910/-
- Addition under section 69A: Rs. 1,00,00,000/-
- Addition as business income (net profit on alleged unaccounted transactions): Rs. 1,00,00,000/-

Penalty proceedings under sections 271AAC and 270A were also initiated.

8. The assessee preferred appeal before the CIT(A). Before the CIT(A), the assessee reiterated that there was no evidence of any payment over and above Rs. 1,00,00,000/- which was duly recorded, no details of alleged unaccounted transactions, such as names of parties, dates, quantum of individual transactions, were

provided. It was also submitted that no cross examination was allowed despite repeated requests. The assessee further stated that the figure of 3 percent adopted by the Assessing Officer was arbitrary and without any basis and the books of account were not rejected and no defect was pointed out.

9. The CIT(A) observed that the assessee had paid unaccounted cash of Rs. 2,00,00,000/- to M/s JM Jain LLP, as per incriminating evidence found during search, the unaccounted transaction was confirmed by key person of M/s JM Jain LLP, the assessee failed to furnish documentary evidence to prove the nature and source of unaccounted cash transaction and in absence of supporting evidence explaining the source of unaccounted cash transaction, there was no reason to interfere with the assessment order. Accordingly, the CIT(A) upheld the additions.

10. Aggrieved by the order of the CIT(A), the assessee has raised the following grounds before us:

1. Under the facts and Circumstances and in law the learned C.I.T (Appeals) erred in confirming the addition of Rs.1.00 crore u/s 69A made by the Assessment unit NBAC stating Unaccounted commission paid to M/S J. M. Jain LLP based on information from investigation Unit.

1(a) The assessment Order first alleges that the assessee has paid Rs.2.00 crore to M/S J. M. Jain LLP during AY 2022-23. The Assessee (Appellants) have paid commission of Rs.1.00 crore to M/s J. M. Jain LLP for the Services as purchase agent rendered by them. The assessment Order later accepts the payment of Rs.1.00 crore as accounted for commission and then seek to add Rs.1.00 crore.

1(b) The Assessment unit has based the addition on the report by the investigation Unit and have made the mind to make above addition – irrespective of any submission by the assessee.

1(c) In spite of repeated requests during assessment proceedings for copies of statement and information report and any other material which sought to be used, not provided.

1(d) No cross examination provided of the person whose statements are being used.

1(e) Assessing officer without making by any independent inquiry himself had simply borrowed conclusions drawn by Investigation report.

1(f) There is no evidence / proof that the appellants have paid commission to M/s J. M. Jain LLP over above the commission Rs.1.00 crore as declared and accounted in the books of accounts, The department has based the findings on the Investigation report only.

2. Under the facts and Circumstances and in law the learned CIT (Appeals) erred in confirming the addition of Rs.1.00 crore as business income, made by the Assessment Unit stating considering nature of these transaction net profit is assumed at 30% of transaction value which comes to Rs.1.00 crore (3% of 33.33 Crore) therefore Rs.1.00 crore is treated as net profit from Such transactions.

2(a) In the assessment order it is assumed that the assessee has paid Rs.1.00 Crore to J. M. Jain LLP which is out of books of the assessee and considering this amount as 3% the total transaction involved Therefore, the total Unaccounted (unaccounted purchase) involved turns to be Rs.33.33 Crore.

2(b) The department has not produced any details of Such transaction as to with whom they were done, when they were entered into amount of each individual transaction paid and received.

2(c) An absolutely arbitrary figure of 3% has been chosen by the assessment Unit. No analysis or basis has been established for taking this random figure.

2(d) The department has not provided any document, statement which shows the transaction of any off books purchases and / or Sales. The whole premise of the department is based on imagination. Only.

2(e) The department has not raised any objection as to the accuracy of the books of accounts or made any effort to reject the books of accounts.

3. The Appellants Crave leave to add, amend, alter, delete the grounds of appeal at or before the hearing of appeal.

11. During the course of hearing, the learned Authorised Representative (AR) reiterated the facts and submitted that the addition of Rs. 1,00,00,000/- as alleged unaccounted commission paid to M/s J.M. Jain LLP has been made solely on the basis of information received from the Investigation Wing in consequence of search conducted in the case of J.M. Jain LLP on 28.05.2022. It was submitted that during search proceedings in the case of J.M. Jain LLP, certain entries were allegedly found in a parallel SAP based server known as "JSK Server", said to record cheque components and cash components of transactions. On that basis, it was alleged that the assessee had paid Rs. 2,00,00,000/- to M/s J.M. Jain LLP, out of which Rs. 1,00,00,000/- was treated as unaccounted commission.

12. The learned Authorised Representative submitted that only Rs. 1,00,00,000/- was paid as commission to M/s J.M. Jain LLP for services rendered as purchase agent during the financial year 2021-22 relevant to the assessment year under consideration. It was contended that the said commission payment was made strictly in terms of the Memorandum of Understanding dated

01.04.2021 executed between the parties, which clearly set out the nature, scope and terms of the services to be rendered. The assessee had furnished complete details of the parties dealt with, the nature of services rendered by M/s J.M. Jain LLP, and the agreed commission structure. It was further submitted that confirmation from M/s J.M. Jain LLP acknowledging receipt of Rs. 1,00,00,000/- was placed on record. The learned AR emphasized that all documentary evidences so furnished were duly filed before the Assessing Officer and were neither found to be incorrect nor doubted in the assessment order. It was specifically pointed out that the assessment order itself records that Rs. 1,00,00,000/- stood accounted as commission payment in the books of the assessee, and yet the very same amount has been proceeded to be treated as unaccounted commission and added to income, which according to the learned AR is self-contradictory and unsustainable.

13. It was contended that the impugned addition has been made entirely on the basis of the investigation report without any independent application of mind by the Assessing Officer. The learned AR submitted that no independent enquiry or verification was conducted by the Assessing Officer to substantiate the allegations emerging from the investigation report. It was further pointed out that no corroborative evidence demonstrating actual payment of any unaccounted cash by the assessee has been brought on record. According to the learned AR, the assessment order does not identify any specific transaction, date, purchaser,

supplier or flow of funds so as to establish the alleged unaccounted payment. It was therefore submitted that mechanical reliance on the investigation report, in the absence of independent enquiry and supporting material, renders the addition unsustainable in law and on facts.

14. The learned AR further addressed the issue of contradictory statements of the third party and submitted that reliance placed by the Assessing Officer on such material is wholly unsustainable. It was pointed out that one statement allegedly recorded from Shri Jeetmal Chororia, partner of M/s J.M. Jain LLP, states that there were no transactions with the assessee. However, on the other hand, confirmation from M/s J.M. Jain LLP acknowledges receipt of Rs. 1,00,00,000/- as commission from the assessee. It was thus submitted that contradictory versions of the same person have been relied upon without confronting the assessee with the inconsistency. The learned AR emphasized that the confirmation reproduced in the assessment order was stated to be from the individual in his personal capacity, whereas the commission payment was admittedly made to M/s J.M. Jain LLP, which is a separate legal entity having a distinct PAN and maintaining separate books of account. Therefore, according to the learned AR, the reliance on such inconsistent material without proper verification renders the addition untenable.

15. On the aspect of violation of principles of natural justice, the learned AR strongly contended that no opportunity of cross

examination of the concerned person was provided to the assessee, though statements of third parties were relied upon. It was further submitted that the annexure to the investigation report, which allegedly contained entry wise data, was never supplied to the assessee. The assessment order itself records that the data was voluminous and not fully reproduced. It was argued that mere reference to voluminous material cannot justify non furnishing of the material relied upon for making the addition. According to the learned AR, denial of such material and absence of cross examination vitiates the assessment proceedings.

16. The learned AR also elaborated on the legal requirements for invoking section 69A of the Act. It was emphasized that for the applicability of section 69A, there must be a finding that the assessee is the owner of unexplained money, such money is not recorded in the books of account, and the explanation offered by the assessee is found to be unsatisfactory. It was contended that in the present case, there is no finding establishing possession or ownership of any unexplained money by the assessee. No evidence of actual payment of unaccounted cash has been brought on record and the entire addition is based on third party information. Therefore, it was argued that invocation of section 69A in the facts of the present case is invalid in law.

17. With regard to the addition of Rs. 1,00,00,000/- as business income, the learned AR submitted that the Assessing Officer assumed that the said amount represented 3 percent of the total alleged unaccounted transactions of Rs. 33.33 crore and treated

the same as net profit. It was pointed out that the assessment order records that certain employees of M/s J.M. Jain LLP allegedly stated that commission was 3 percent of total unaccounted purchase value. On this basis, since Rs. 1,00,00,000/- was stated to have been paid, the Assessing Officer extrapolated the total unaccounted turnover to Rs. 33.33 crore and estimated net profit at 3 percent.

18. The learned AR contended that the adoption of 3 percent rate is wholly arbitrary. No defect in the books of account of the assessee was pointed out. The books were not rejected under section 145(3) of the Act. No independent evidence of any transaction amounting to Rs. 33.33 crore was brought on record. No purchaser or supplier was identified, no dates or bills were referred to, and no flow of funds was established. It was submitted that estimation of income without rejection of books of account is without jurisdiction and contrary to settled principles. The figure of Rs. 33.33 crore, according to the learned AR, is merely derived by reverse calculation from the alleged commission amount and is not based on any actual evidence of turnover. Additions based on conjectural figures and imaginary transactions were stated to be unsustainable in law.

19. The learned DR, on the other hand, supported the orders of the Assessing Officer and the learned CIT(A). He submitted that the addition was based on specific material emanating from the investigation carried out in the case of M/s J.M. Jain LLP, wherein the name of the assessee figured with an amount of Rs.

2,00,00,000/- . It was contended that the investigation report clearly reflected the involvement of the assessee in the impugned transactions and, therefore, the Assessing Officer was justified in drawing an inference on the basis of such material.

20. The learned DR further pointed out that Shri Jeetmal Chororia, partner of M/s J.M. Jain LLP, had denied having any transactions with the assessee. However, subsequently, there was acceptance of receipt of Rs. 1,00,00,000/- as commission. According to the learned DR, the statement referred to by the Assessing Officer was not the sole basis of the addition but was part of the overall material gathered during investigation. It was submitted that the Assessing Officer had considered the material available on record in totality and that the additions made were in accordance with law.

21. We have heard the rival submissions, perused the material placed on record, and carefully considered the orders of the authorities below.

22. The learned AR's principal contention is that the assessee has paid only Rs. 1,00,00,000/- as commission to M/s J.M. Jain LLP for buying support services/purchase agent services during F.Y. 2021-22, duly supported by MOU dated 01.04.2021 and confirmation from M/s J.M. Jain LLP, and that this payment is accounted in the books. It is further contended that the assessment order itself records that Rs. 1,00,00,000/- was accounted commission payment, and yet the same has effectively

been treated as unaccounted by making addition of Rs. 1,00,00,000/- under section 69A on an assumed premise of “balance” commission out of books.

23. We find that the assessment order proceeds on two parallel strands: first, that investigation information reflects Rs. 2,00,00,000/- against the assessee; second, that assessee admits Rs. 1,00,00,000/- as commission. On this basis, the Assessing Officer infers that the remaining Rs. 1,00,00,000/- is unaccounted commission. However, for sustaining an addition under section 69A, it is not sufficient to merely show a difference between an amount appearing in third-party material and an amount admitted/recorded by the assessee. The statutory requirement is that the assessee is found to be the owner of “money” etc. and such money is not recorded in the books, coupled with an unsatisfactory explanation. In the present case, the assessment order does not bring on record any primary evidence of actual payment of unaccounted cash by the assessee, such as cash trail, cash withdrawal linkage, identification of payer and recipient mechanism, date-wise cash movement, or any seized document evidencing cash payment by the assessee. The addition is thus inferential and rests materially on third-party information.

24. The learned AR further contends that the addition is based entirely on the investigation report and that no independent enquiry was conducted by the Assessing Officer. We note that the Assessing Officer has reproduced the investigation narrative

regarding the alleged modus operandi of JM Jain group, including the existence of “JSK Server” and taxable/non-taxable bifurcation. Nevertheless, when the addition is made in the hands of the assessee, the Assessing Officer must connect such generalized modus operandi to the assessee with cogent, assessee-specific material. The order does not demonstrate such linkage by identifying specific invoices, specific purchases routed through the alleged parallel system, names of the manufacturers/suppliers to whom cash was allegedly paid on assessee’s behalf, or any corresponding evidence of off-book purchases/sales in the assessee’s business. In absence of such assessee-specific corroboration, the addition remains substantially founded on third-party material.

25. The learned DR has pointed out a contradiction in the stance of Shri Jeetmal Chororia, partner of M/s J.M. Jain LLP, namely that he initially denied any transactions with the assessee, but subsequently confirmed receipt of Rs. 1,00,00,000/-. The learned DR submits that the denial statement is not reliable, as noted by the Assessing Officer, and that the investigation report contains the assessee’s name with Rs. 2,00,00,000/-.

26. We have considered this contradiction. In our view, the contradiction cuts both ways and cannot, by itself, substitute the need for corroborative evidence. If the denial is treated as unreliable, that does not automatically establish unaccounted payment by the assessee. Equally, if the subsequent confirmation

is accepted, it supports the assessee's case that Rs. 1,00,00,000/- was paid and acknowledged. The contradiction rather underscores the necessity of confronting the assessee with the precise material relied upon and of conducting verification to establish the true factual position. The presence of contradiction in third-party statements makes it incumbent upon the adjudicating authority to rely on objective corroboration rather than presumptions.

27. The learned AR has contended that copies of statements and annexures containing entry-wise data were not furnished, and no opportunity of cross-examination was provided. The assessment order records that the data is voluminous and not fully reproduced. On the record before us, it is not demonstrated that the complete material (entry-wise data or annexures which specifically show assessee-wise entries of Rs. 2,00,00,000/- and any supporting documents for cash component) was supplied to the assessee and that opportunity of cross-examination of persons whose statements were used was afforded. Where additions are made on the basis of third-party statements/material, denial of effective opportunity to rebut the same, including cross-examination where statements are relied upon, vitiates the evidentiary use of such statements to the prejudice of the assessee.

28. In light of the above, we hold that the addition of Rs. 1,00,00,000/- under section 69A, as "unaccounted commission", is not supported by independent corroborative material

establishing actual payment of unaccounted cash by the assessee. The addition is premised on an inference drawn from third-party information without identifying assessee-specific transaction details and without establishing ownership/possession of unexplained money in the hands of the assessee. The contradiction in third-party stance further necessitates corroboration, which is not evident from the assessment order. Accordingly, on the record as it stands, the addition under section 69A cannot be sustained.

29. Coming to the second addition, the Assessing Officer has reverse computed alleged unaccounted purchases of Rs. 33,33,33,333/- on the footing that commission rate is 3% and since “unaccounted commission” is Rs. 1,00,00,000/-, total purchases must be Rs. 33.33 crores. Thereafter, he estimated net profit at 3% and made addition of Rs. 1,00,00,000/-.

30. We find multiple infirmities in this approach. First, the base assumption itself is that Rs. 1,00,00,000/- is unaccounted commission, which we have found to be unsupported as per record. Once the foundation fails, the superstructure of reverse computation also fails. Second, even otherwise, reverse computation of turnover from an assumed commission rate, without identifying any actual purchase transactions, without quantifying cash component transaction-wise, and without linking such purchases to corresponding sales or stock movement in assessee’s accounts, is conjectural. Third, estimation of profit without rejection of books under section

145(3) and without demonstrating any defect in the books is legally unsustainable. Fourth, the adoption of 3% as net profit is itself unsupported by any comparative analysis, past history, or industry margin evidence brought on record.

31. The learned DR's reliance on the investigation report and the assessee name appearing with Rs. 2,00,00,000/- does not cure the above defects. Even if the assessee name appears in third-party data, the Assessing Officer must establish, with supporting material, that such entries represent unaccounted purchases by the assessee and then determine the manner of bringing to tax the correct income element in accordance with law. Mere appearance of name and amount does not automatically justify a reverse-engineered turnover and profit estimation.

32. Considering the totality of facts, the contradictions highlighted by the learned DR, and the assessee's objections on lack of corroboration and denial of effective opportunity, we are of the view that both additions, as confirmed by the learned CIT(A), cannot be sustained on the present record. The additions are founded primarily on third-party information without assessee-specific corroboration and without due compliance of principles of natural justice in respect of the material relied upon.

33. Accordingly, the additions of Rs. 1,00,00,000/- under section 69A and Rs. 1,00,00,000/- as business income are deleted.

34. In the result, the appeal of the assessee is allowed.

Order pronounced in the open court on 16.02.2026.

Sd/-
(SAKTIJIT DEY)
VICE PRESIDENT

Sd/-
(MAKARAND VASANT MAHADEOKAR)
ACCOUNTANT MEMBER

Mumbai, Dated 16/02/2026
Dhananjay, Sr.PS

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / The CIT(A)
4. आयकर आयुक्त (अपील) / Concerned CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुम्बई / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

1.

उप/सहायक पंजीकार (Asst. Registrar)
आयकर अपीलीय अधिकरण, मुम्बई / ITAT, Mumbai