

IN THE INCOME TAX APPELLATE TRIBUNAL
"C" BENCH, MUMBAI
BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER
AND
SHRI JAGADISH, ACCOUNTANT MEMBER

ITA No. 5630/Mum/2025
Assessment Year: 2017-18

&

ITA No. 5631/Mum/2025
Assessment Year: 2018-19

&

ITA No. 5632/Mum/2025
Assessment Year: 2019-20

ChenaramHabtaji Parihar 203, 2 nd Floor, TirangaBldg, B Wing, Kamathipura, 2 nd Lane, Mumbai-400008 PAN: ARJPP2809 (Appellant)	Vs.	Assistant Commissioner of Income Tax Circle-4(2) Room No.1918, 19 th Floor, Air India Building, Nariman Point, Mumbai-400021 (Respondent)
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Assessee by	Ms Rutuja Pawar, Adv a/w Ms Sneha More, Adv and Ms Pradnya Ramesh, Adv
Department by	Shri R A Dhyani (CIT DR)
Date of Hearing	08.01.2026
Date of Pronouncement	23.02.2026

ORDER

Per: SHRI JAGADISH, A.M.:

1. These appeals filed by the assessee are directed against the common order passed by the Ld. Commissioner of Income Tax (Appeals), Mumbai dated 09.08.2025, arising out of assessments framed by the Assessing Officer under section 153C of the Income-tax

Act, 1961 for the assessment years 2017-18 to 2019-20. Since common issues are involved in all the appeals and the assessee is the same, these appeals were heard together and are being disposed of by way of this consolidated order for the sake of convenience.

2. The brief facts emerging from the record are that a search and seizure action under section 132 of the Act was conducted in the case of Rubberwala Group on 17.03.2021. During the course of search, statement of Shri Imran Ansari, stated to be an employee of the group handling sale and registration of shops in Platinum Mall, was recorded and certain digital data in the form of an Excel sheet was stated to have been found from his possession. Based on the said material, the Assessing Officer formed a belief that the present assessee had purchased shops in Platinum Mall and had allegedly paid cash component aggregating to Rs.53,23,952/- spread over the impugned assessment years. Accordingly, proceedings under section 153C were initiated and additions were made in the hands of the assessee of Rs. 4,00,000/- in A.Y. 2017-18, Rs.15,33,652/- in A.Y. 2018-19 & Rs. Rs.33,90,300/- in A.Y. 2019-20. The Ld. CIT(A) confirmed the additions and the assessee is in further appeal before us. For brevity the grounds raised in A.Y 2017-18 are reproduced as under.:

"1) That on the facts and in the circumstances of the case of the appellant and in law Ld. CIT(A) -52, Mumbai has erred in upholding the addition levied by Assessing Officer of Rs. 4,00,000/- u/s. 69 of the Act.

2) That on the facts and in the circumstances of the case of the appellant and in law Ld. CIT(A) -52, Mumbai has erred in ignoring that fact that there is no incriminating material unearthed by Assessing Officer in case of the appellant u/s. 153C of the Act.

3) That on the facts and in the circumstances of the case of the appellant and in law Ld. CIT(A) -52, Mumbai has erred in considering the fact that the Assessing Officer had no jurisdiction and no material for re- opening u/s. 153C of the Act for A.Y. 2017-18.

4) *That on the facts and in the circumstances of the case of the appellant and in law Ld. CIT(A) -52, Mumbai has erred in ignoring the fact that no satisfaction note has been received to the appellant from his Jurisdictional Assessing Officer as prescribed u/s. 153C of the Act.*

5) *That on the facts and in the circumstances of the case of the appellant and in law Ld. CIT(A) -52, Mumbai has erred in not considering the fact that the Assessing Officer has made the impugned addition u/s. 69 of the Act solely on the basis of statements of Mr. Imran Ansari and Mr. Tabrez Shaikh, without any corroborative evidence.*

6) *That on the facts and in the circumstances of the case of the appellant and in law Ld. CIT(A) -52, Mumbai has erred in ignoring the fact that the Assessing Officer has made an arbitrary bifurcation of the sum of Rs. 53,23,952/- without assigning any cogent reasoning, findings, or evidentiary basis for such allocation.*

7) *That on the facts and in the circumstances of the case of the appellant and in law Ld. CIT(A) -52, Mumbai has erred in ignoring the fact that the appellant has purchased the Shop No. 93, 94 and 95 at 'Platinum Mall' being developed by M/s. Rubberwala Housing & Infrastructure Ltd. by way of an purchase agreement dated 31.12.2020 i.e. relevant to A.Y. 2021-22.*

8) *That on the facts and in the circumstances of the case of the appellant and in law Ld. CIT(A) -52, Mumbai has ignored the fact that the Assessing Officer has grossly failed to abide the CBDT Circular bearing F No. 286/98/2013-IT (Inv. IT) dated 18.12.2014.*

9) *That the impugned order being contrary to law, evidence, and facts of the case may kindly be set aside, amended, and modified in the light of the grounds of appeal enumerated above and the appellant be granted such relief as is called for on the facts and in the circumstances of the case of the appellant and in law.*

10) *That each of the grounds of appeal enumerated above is without prejudice to and independent of one another.*

11) *That the appellant craves leave to reserve to himself the right to add, to alter or amend any of the grounds of appeal before or at the end of the hearing and to produce such further evidence, documents, and papers as may be necessary."*

3. The Ld. Authorised Representative submitted that, the impugned additions are wholly unsustainable in law and on facts. It was contended that no incriminating material belonging to the assessee was found during the course of search and the entire addition rests merely on the statement of Shri Imran Ansari and the alleged Excel data seized from a third party. It was further submitted that the Assessing Officer has neither furnished the complete Excel sheet to the assessee nor reproduced the relevant entries in the assessment order. The Ld. AR also emphasized that no opportunity of cross-examination of Shri Imran Ansari or Shri Tabrez Shaikh was granted despite specific reliance placed on their statements. It was further argued that the coordinate benches of the Tribunal in several cases arising out of the very same Rubberwala search have consistently deleted identical additions. Reliance was placed on the decisions in the cases of Praveen Khetaram Purohit (ITA Nos. 4742 to 4744/Mum/2025), Akhraj Pukhraj Chopra (ITA Nos. 5553 & 5555/Mum/2025), Bhavana Vikram Jain (ITA Nos. 6363 to 6365/Mum/2025), Bharat Solanki (ITA Nos. 6523 to 6525/Mum/2025), Manish Kashiprasad Seksaria (ITA Nos. 5499 & 5500/Mum/2025), Mishra Ganesha Ram (ITA No. 5556/Mum/2025), Manish Mali & Others (ITA Nos. 6568 to 6571/Mum/2025), Jayantilal Purohit (ITA Nos. 5682 & 5683/Mum/2025) and Kulsum Aaqib Memon (ITA No. 6540/Mum/2025). The Ld. AR therefore prayed that the additions be deleted.
4. Per contra, the Ld. Departmental Representative relied upon the orders of the lower authorities and submitted that during the course of search in the Rubberwala Group, incriminating digital data in the form of Excel sheet was found wherein the name of the assessee appears and therefore the Assessing Officer has rightly invoked the provisions of section 153C and made the additions. According to the Ld. DR, the

statement of Shri Imran Ansari clearly explained the modus operandi of receipt of on-money and therefore the additions deserve to be sustained.

5. We have heard the rival submissions and perused the material available on record. We have also carefully gone through the assessment orders, the impugned appellate order and the judicial precedents relied upon by the parties. It is an admitted factual position that the additions in the present case have been made primarily on the basis of the statement of Shri Imran Ansari and the alleged Excel sheet seized from his possession. It is further noticed that the Assessing Officer has neither supplied the Excel sheet to the assessee nor reproduced the specific entries allegedly relating to the assessee in the assessment orders. Even the date-wise details of the alleged cash payments have not been properly brought on record.
6. In our considered view, when the entire addition is founded upon a document seized from a third party, the Assessing Officer is duty bound to strictly comply with the principles of natural justice by confronting the assessee with the primary material and by establishing a clear nexus between the seized material and the assessee. In the present case, such essential exercise has not been carried out. The assessee has consistently denied having paid any on-money and once such denial is made, the burden squarely shifts upon the Revenue to bring cogent and independent corroborative evidence on record. However, we find that the Revenue has not brought any supporting material such as cash trail, confirmation from the builder, seized receipt, withdrawal linkage or any other incriminating material belonging to the assessee.
7. We further note that the Assessing Officer has heavily relied upon the statements of Shri Imran Ansari and Shri Tabrez Shaikh, but no

effective opportunity of cross-examination was granted to the assessee. It is now well settled that where an addition is based on third-party statement, denial of cross-examination amounts to violation of principles of natural justice and such addition cannot be sustained. The coordinate benches of the Tribunal in the case of Praveen Khetaram Purohit (supra) has examined this issue in detail and held that in absence of corroboration and in absence of due confrontation, such additions cannot be sustained as under :

8. We have heard the arguments for both the parties and have also perused the material placed on record, judgements cited before me and the orders passed by the revenue authorities. From the records, we noticed that the assessment was completed u/s 153C on account of the fact that a search and seizure action was conducted on 17.03.2021 on Rubberwala group. In search action, premises of M/s. Rubberwala Housing & Infrastructure Ltd (RHIL), its promoter and director-Shri Tabrez Shaikh, and a key employee of Rubberwala group Shri Imran Ansari, who was handling sale & registration of shops in "Platinum Mall" project of RHIL were covered. Among others, statement of these persons were recorded on oath on various dates during the course of search as well as post search proceedings. The employee of Rubberwala group confirmed that the cash has been collected from the respective buyers of the shops. However, on the other hand, the assessee denied payment of cash. We noticed that during the search a pendrive with the details of cash transactions with respect to Rubberwala group was found, which was confirmed through statement of Shri Imran Ansari recorded U/s 132(4) of the Act and on this basis, 153C order was framed and the same was upheld by the Ld.CIT(A).

9. We noticed that Ld. CIT(A) although referred the decision of the coordinate bench in case of Rajesh Jain on identical issue but misplace its reliance. After having gone through the basic facts of Rajesh Jain case which is mentioned by Ld. CIT(A) in its order and the same is reproduced as under:

5.1. On 17.03.2021, the residential premise of the assessee was also covered by way of search action u/s 132 of the IT Act, 1961. Search action was also initiated on Rubberwala group on 17.03.2021. In such action along with premises (offices/sites/others) of Rubberwala group entities, residences of

various key persons including its promoter and director Shri Tabrez Shaikh, and Shri Imran Ansari - a key employee of Rubberwala group handling sale & registration of shops in "Platinum Mall" project of RHIL were covered under section 132 of the Act. Among others, statement of these persons were recorded on oath on various dates during search as well as post search proceedings.

5.2. During the action on Rubberwala Group, among other, residence (at 109, 2nd Floor, Prabhat Sadan, 109/120 RBC Marg, Agripada, Mumbai Central - 400011) of Shri ImranAshfaque Ansari was covered under section 132 of the I.T. Act, 1961. His statement was also recorded on oath at his residence. Vide question no. 11 of the said statement dt. 17.03.2021, Shri Imran Ansari was questioned about his roles and responsibilities in M/s. Rubberwala Housing & Infrastructure Ltd (RHIL). In response, Shri Imran Ansari stated that he has been working with Rubberwala group of entities since 2010 and inter-alia handling sale and registration of the shops in "PlatinumMall" Project of M/s. Rubberwala Housing & Infrastructure Ltd (RHIL).

5.3. Shri Imran Ansari in his response to question no. 13 & 14 of the said statement explained the complete procedure of the of the sale of shops in the "Platinum Mall" project. While explaining further about the price structure of the shops, Shri Imran Ansari in response to Q. no. 15 categorically revealed that the total price of the shops contains cash component and banking channel component, and these components are decided by Shri Tabrez Shaikh (Director/CMD of RHIL and Promoter of Rubberwala Group). On probing further, Shri Imran Ansari, in response to Q. no. 16, stated that these prices, as decided by Shri Tabrez Shaikh, are communicated to him orally. He also revealed in response to Q. no. 17 of the said statement that data related to shops is maintained by him in excel sheets. Corroborating to the fact that data is being maintained by Shri Imran Ansari in excel sheet, during search proceedings at the residence of Shri Imran Ansari, a 16GB Pendrive was retrieved from his possession. The said pen drive is accepted by Shri Imran Ansari belonging to him and he also accepted that this pen drive is containing data maintained for the sale of shops in Platinum Mall. Shri Imran Ansari explained that this data is prepared by him. Shri Imran Ansari's this acceptance also corroborates with the fact that the said data was retrieved from the residential premises of Shri Imran Ansari and not from any office of Rubberwala Group.

5.4. It was ascertained that the data is being maintained by Shri Imran Ansari in an excel file namely "consolidated 1 2 3 balance". In the said file sheets with different name viz "Master", "Payment" and "Cheque" etc. are found to be maintained. It is also found out that in respect of the sale of shops in the said project, comprehensive data is being maintained in these excel sheets, and in this regard, it is important to mention that the sheet "Master" is so elaborate that the data in the said sheet is spread across 98 columns. Shri Imran Ansari has explained all 98 columns of "Master" sheet and such explanation of each and every column by Shri Imran Ansari further support the fact that he was maintaining the said data and therefore could explain all these columns with relevance and purpose. Shri Imran Ansari in response to Question no. 22, 23 and 24, has explained in detail the meaning and relevance of each and every column. In column B, against the name of 'Raj Bhai Jain'/'Raj Bhai Jain(I.S)', total 27 shops have been entered. Further, these 27 shops are stated (by Shri Imran Ansari) to be booked by the assessee only. Also, Shri Tabrez Ahmed Shaikh, Director and Promoter of the RHIL, while deposing statement during post search proceedings on 19.08.2021 categorically confirmed the admission made by Shri Imran Ansari, and has confirmed the data of the said excel to be true by confirming facts stated by Shri Imran Ansari in his statement. It is also important to note here that the phone number mentioned above i.e., 9892196071 against all 27 shops, is of Shri Rajesh Jain.

5.5. Regarding the frequency of updating the said excel file/sheet, Shri Imran Ansari, in response to Q. no. 25, stated that this sheet is updated on the same day when a payment is received either in cash or cheque (or banking channel). The column A to AR of the sheet "Master" are stated to be updated till 16.03.2021 and other sheets of the said excel file are also stated to be updated till 16.03.2021. It is revealed in the above response that he takes the parties to Shri Abrar Ahmed (who during the search established to be a person handing cash for the Rubberwala Group). Shri Abrar Ahmed, after receiving the cash confirms to Shri Imran Ansari who update the diaries and the said excel file. Such detailed mechanism in place further upholds the facts stated by Shri Imran Ansari on oath. It is also important to note here that Shri Imran Ansari also used to call and follow up with the buyers on the numbers saved in his data. As aforementioned, the number, for the shops for which the assessee has paid the cash component, is mentioned as 9892196071, which is the assessee's own number. Thus, it makes

clear that for the cash payment part, for all the above mentioned 27 shops, Shri Imran Ansari used to follow up with Shri Rajesh Jain/assessee only.....

10. We also noticed that the decision of the Coordinate Bench of ITAT in the case of Rajesh Jain in ITA No. 3842& 3841 & ITA No. 3954,3952,3951 and 3950/Mum/2023 on the identical facts is reproduced herein below:

12. *The appeal filed by the revenue for AY 2020-21 is with regard to the relief granted by Ld CIT(A) holding that the cash payments relating to the shops purchased by others cannot be assessed in the hands of the assessee. The decision rendered by us in AY 2018-19 and 2019-20 on an identical issue on merits in the earlier paragraphs would apply in this year also. Following the same, we affirm the order passed by LdCIT(A) on this issue.*

13. *In the appeal filed by the assessee, the addition of alleged cash payment of Rs.18,64,200/- in respect of purchase of shop confirmed by Ld CIT(A) is being assailed.*

14. *We noticed earlier that the assessee had purchased a shop in the commercial premises developed by Rubberwala group. During the course of search conducted in their hands, incriminating documents containing details of cash collected on sale of various shops were found. The employee of Rubberwala group confirmed that the cash has been collected from the buyers of shops. However, the assessee denied payment of cash. However, the AO relied upon the materials found in the case of Rubberwala group and accordingly made addition of Rs.18,64,200/- in AY 2020-21. The LdCIT(A) also confirmed the same.*

15. *The Id A.R submitted that the addition was made on the basis of third party statement and documents found from the premises of third party. As per the deposition made by the employee of Rubberwala group, the buyers were given a diary, in which, the details of cash received were acknowledged. The Ld A.R submitted the search officials did not find any such diary with the assessee during the course of search operation conducted in his hands. Hence the statement so given by the employee stands disproved. He submitted that the AO has simply relied upon third party statement without bringing any independent material to support the same. The AO also did not provide the opportunity of cross examination despite being asked by the assessee. Accordingly, by placing reliance on various case laws, the Ld A.R submitted that this addition should be deleted.*

16. We heard Ld D.R and perused the record. We notice that the AO has made the addition on the basis of evidence found in the premises of third party and also on the basis of deposition made by the employee of the third party. No corroborative material was brought on record to support the statement so given, which is mandatory when the assessee denies any such payment. Further, the AO also did not provide opportunity of cross examination to the assessee, even after the said request was made by the assessee. Under these set of facts, we are of the view that the impugned addition of Rs.18,64,200/- cannot be sustained. In this regard, we may take support from the decision rendered by SMC bench of Mumbai Tribunal in the case of Naren Premchand Nagda vs. ITO (IT Appeal No.3265/Mum/2015 dated 08-07-2016), wherein an identical issue was decided as under:-

17. We also notice that the AO did not provide opportunity to cross examine the persons from Rubberwala group, on whose statements the AO had placed reliance upon. The Hon`ble Supreme Court has held in the case of Andaman Timber Industries vs. Commissioner of Central Excise (2015)(62 taxmann.com 3)(SC) that not providing opportunity to cross examine is a serious flaw and it will make the order nullity, as it amounts to violation of principle of natural justice. We are of the view that the above said decision of Hon`ble Supreme Court shall apply to the facts of the present case.

Similarly, in Rajesh Jain and other connected matters, it was held that when the AO relies upon third-party statement and material, denial of cross-examination and lack of supporting evidence renders the addition unsustainable.

8. In the present case also, there is no independent material brought on record to establish that the assessee has actually paid on-money. Further, the assessee was not even confronted with the Excel sheet or the exact entries allegedly pertaining to him. Considering the totality of facts and circumstances of the case and respectfully following the consistent view taken by the coordinate benches of the Tribunal on identical set of facts, we are of the considered opinion that the additions made by the Assessing Officer and confirmed by the Ld.

CIT(A) are unsustainable in law. Accordingly, the additions made in all the three assessment years are directed to be deleted.

9. In the result, all the appeals filed by the assessee are **allowed**.

Order pronounced in the open court on 23/02/2026

Sd/-

Sd/-

(NARENDER KUMAR CHOUDHRY)

(JAGADISH)

Judicial Member

Accountant Member

Mumbai, Dated: 23/02/2026

Ashwani Rao

Sr. Private Secretary

Copy of the order forwarded to:

1. Appellant
2. Respondent
3. The CIT
4. The CIT (Appeals)
5. The DR, I.T.A.T.

By order

(Assistant Registrar)
ITAT, Mumbai