

IN THE INCOME-TAX APPELLATE TRIBUNAL "C" BENCH,  
MUMBAI

BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER  
&  
SHRI PRABHASH SHANKAR, ACCOUNTANT MEMBER

IT(SS)A /3241/MUM/2025  
(A.Y. 2016-17)

IT(SS)A/3242/MUM/2025  
(A.Y. 2017-18)

IT(SS)A/3243/MUM/2025  
(A.Y. 2020-21)

<b>Param Property Developers</b> Plot No. 30, Jivandeep Apartment, Station Road, Ambarnath(E), Thane – 421501, Maharashtra	v/s. बनाम	Assistant Commissioner of Income Tax, Central Circle – 2,Thane, Ashar IT Park, 6 <sup>th</sup> Floor, Wagale Industrial Estate, Thane– 400 604, Maharashtra
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No: AALFP9248G		
Appellant/अपीलार्थी	..	Respondent/प्रतिवादी

IT(SS)A/3309/MUM/2025  
(A.Y. 2014-15)

IT(SS)A/3310/MUM/2025  
(A.Y. 2015-16)

<b>Pride Infrastructure</b> Plot No. 34, Ketan Bhavan, Suryoday CHS Ltd., Station Road, Ambarnath(E), Thane – 421 501, Maharashtra	v/s. बनाम	Assistant Commissioner of Income Tax, Central Circle – 2,Thane, Ashar IT Park, 6 <sup>th</sup> Floor, Wagale Industrial Estate, Thane – 400 604, Maharashtra
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No: AAMFP3255G		
Appellant/अपीलार्थी	..	Respondent/प्रतिवादी



ITA No. 3241 3242 3243 3309 3310 3244 3245 3246 2873 2874 2875 2812 2813  
2814 2815 2816 2817 /Mum/2025

A.Y. 2011-12, 2012-13, 2013-14, 2014-15, 2015-16, 2016-17, 2017-18, 2018-19, 2019-20, 2020-21  
Param Property Developers and Ors.

**IT(SS)A/3244/MUM/2025**  
**(A.Y. 2017-18)**

**IT(SS)A/3245/MUM/2025**  
**(A.Y. 2018-19)**

**IT(SS)A/3246/MUM/2025**  
**(A.Y. 2019-20)**

<b>Shree Sahjanand Enterprise</b> Plot No. 30, Jivandeep Apartment, Station Road, Ambarnath(E), Thane - 421501, Maharashtra	v/s. बनाम	Assistant Commissioner of Income Tax, Central Circle - 2, Thane, Ashar IT Park, 6 <sup>th</sup> Floor, Wagale Industrial Estate, Thane - 400 604, Maharashtra
<b>स्थायी लेखा सं./जीआइआर सं./PAN/GIR No: ABTFS3558B</b>		
<b>Appellant/अपीलार्थी</b>	..	<b>Respondent/प्रतिवादी</b>

**IT(SS)A/2873/MUM/2025**  
**(A.Y. 2016-17)**

**IT(SS)A/2874/MUM/2025**  
**(A.Y. 2017-18)**

**IT(SS)A/2875/MUM/2025**  
**(A.Y. 2018-19)**

<b>Dharmik Structures</b> Plot No. 13, Jivandeep Apartment, Station Road, Ambarnath(E), Kalyan- Dombivali Road, Thane - 421501, Maharashtra	v/s. बनाम	Assistant Commissioner of Income Tax, Central Circle - 2, Thane, Ashar IT Park, 6 <sup>th</sup> Floor, Wagale Industrial Estate, Thane - 400 604, Maharashtra
<b>स्थायी लेखा सं./जीआइआर सं./PAN/GIR No: AAJFD2415R</b>		
<b>Appellant/अपीलार्थी</b>	..	<b>Respondent/प्रतिवादी</b>



ITA No. 3241 3242 3243 3309 3310 3244 3245 3246 2873 2874 2875 2812 2813  
2814 2815 2816 2817 /Mum/2025

A.Y. 2011-12, 2012-13, 2013-14, 2014-15, 2015-16, 2016-17, 2017-18, 2018-19, 2019-20, 2020-21  
Param Property Developers and Ors.

**IT(SS)A/2812/MUM/2025**  
**(A.Y. 2016-17)**

**IT(SS)A/2813/MUM/2025**  
**(A.Y. 2017-18)**

<b>DIA Infratech</b> Plot No. 30, Jivandeeep Apartment, Station Road, Ambarnath(E), Thane – 421501, Maharashtra	v/s. बनाम	Assistant Commissioner of Income Tax, Central Circle – 2, Thane, Ashar IT Park, 6 <sup>th</sup> Floor, Wagale Industrial Estate, Thane – 400 604, Maharashtra
<b>स्थायी लेखा सं./जीआइआर सं./PAN/GIR No: AAJFD1898C</b>		
<b>Appellant/अपीलार्थी</b>	..	<b>Respondent/प्रतिवादी</b>

**IT(SS)A/2814/MUM/2025**  
**(A.Y. 2011-12)**

**IT(SS)A/2815/MUM/2025**  
**(A.Y. 2012-13)**

**IT(SS)A/2816/MUM/2025**  
**(A.Y. 2013-14)**

**IT(SS)A/2817/MUM/2025**  
**(A.Y. 2014-15)**

<b>Rapid Infratech Pvt. Ltd.</b> Plot No. 30, Jivandeeep Apartment, Station Road, Ambarnath(E), Thane – 421501, Maharashtra	v/s. बनाम	Assistant Commissioner of Income Tax, Central Circle – 2, Thane, Ashar IT Park, 6 <sup>th</sup> Floor, Wagale Industrial Estate, Thane – 400 604, Maharashtra
<b>स्थायी लेखा सं./जीआइआर सं./PAN/GIR No: AADCR9983P</b>		
<b>Appellant/अपीलार्थी</b>	..	<b>Respondent/प्रतिवादी</b>

Assessee by :	Shri Vijay Patel,AR
Revenue by :	Shri R. A. Dhyani, (CIT-DR)

Date of Hearing	28.01.2026
Date of Pronouncement	20.02.2026



## **आदेश / ORDER**

### **PER BENCH :-**

The above appeals are filed by the assessee against the orders passed by the Learned Commissioner of Income-tax, Appeal, CIT(A), Pune-11 [hereinafter referred to as "CIT(A)"] pertaining to assessment orders passed u/s. 143(3) r.w.s. 153A/153C of the Income-tax Act, 1961 [hereinafter referred to as "Act"] for various assessment years. All the above stated appeals are interrelated involving identical grounds of appeal in various concerns of the **Patel Realty group** which underwent search and seizure operation u/s 132 of the Act and also these appeals have been heard together. Therefore, they are being adjudicated in this composite order for the sake of brevity. We take up the appeals in the case of **Param Property Developers** first which is taken as 'Lead Case' and the decision herein would apply *mutatis mutandis* on identical issues.

2. The grounds of appeal are as under:

### **IT(SS)A /3241/MUM/2025(AYs 2016-17)**

1. That, the learned CIT(A)-11, Pune has grossly erred in not considering the impugned block assessment order passed is against natural justice and bad in law. The AO may please be directed to annul the impugned block assessment order.



2. That, the learned CIT(A)-11, Pune is not justified in upheld the addition of principal amount of Rs. 50,00,000 & interest thereon of Rs.51,781 (correct Rs.57,534), considering so-called non genuine loan accepted from Samyak Exim Pvt. Ltd. u/s.68 r.w.s.115BBE on the basis of non-incriminating material and the explanation along with cogent supporting submitted to the entire satisfaction of the AO. The Assessing Officer may please be directed to delete such addition.
3. That, the learned CIT(A)-11, Pune is not justified in upheld the addition of Rs. 50,00,000 & Rs.2,28,576/- (correct Rs.2,53,973/-), being Principal loan and interest respectively on so-called non genuine loan accepted from Samyak Exim Pvt. Ltd, u/s.68 r.w.s.115BBE on the basis of non-incriminating material and the explanation along with cogent supporting submitted to the entire satisfaction of the AO. The Assessing Officer may please be directed to delete such addition.

3. It may be stated here that three appeals filed by the assessee are directed against the appellate order passed by the ld.CIT(A) in respect of assessment orders passed u/s 143(3) r.w.s. 153A of Act for **AYs 2016-17, 2017-18 & 2020-21**. The issues involved in all these three appeals are common, therefore, all they are being decided vide this common order. **IT(SS)A /3241/MUM/2025(AYs 2016-17)** is the taken up as the Lead Case.

4. Facts in brief as culled out from the orders of lower authorities reveal that during the year under consideration, the assessee had received Unsecured loans amounting to Rs. 50,00,000/- each from two companies alleged to be shell/bogus entities i.e Samyak Exim Pvt Ltd and Vansh & Co. During the assessment proceedings, the assessee was asked to substantiate the genuineness of said loans and in response to



this, the assessee filed copies of confirmations and the copies of ITR filed by the loan creditors etc. After examining the documents, the AO held that the said loans were not genuine. Main reasons attributed were that these companies were not found at the given addresses and also they were Surat/Kolkata based bogus companies engaged in the bogus accommodation loan providing activity. After discussing various case-laws regarding the section 68 of the Act, the AO held that the above loans were not genuine. Accordingly, an addition of Rs. 1,02,80,357/- (1,00,00,000 + 2,80,357) was made u/s. 68 of the Act in respect of principal and the interest amounts.

5. Before the Id.CIT(A), the assessee agitated the addition claiming that by producing various evidences, it not only proved the identity and creditworthiness of these entities but also proved the genuineness of the transactions. However, the appellate authority upheld the addition agreeing with the AO.

5.1 However, before the appellate authority, the assessee raised a legal ground challenging the validity of the additions claiming that they were not based on any incriminating evidence found during search operation. As such, no addition could be made in respect of the



transactions already recorded in the books of account by invoking the provisions of section 153A/153C of the Act. It was claimed that both the impugned loans were already recorded in its regular books of account and the addition was made only on the basis of post search inquiry as nothing incriminating in this regard was found during search action on the group. Reliance was placed on various case laws in support of the grounds of appeal. It was submitted that the AO made the addition on the basis of ledger account extracted from the 'Tally Software' being part of regular books of account which is not the incriminating material. In support of it, it firm relied upon the recent judicial pronouncement reported in (2021) TaxCorp (DT) 84282 (HC-DELHI) PR. COMMISSIONER OF INCOME TAX CENTRAL-2, NEW DELHI VERSUS PARAM DAIRY LTD. It was stated that the AO travelled beyond the scope of the block assessment. It is settled law that the AO has to make adjustments/additions purely on the basis of incriminating material. It is also established by the various courts of law that the ledger accounts appearing in the regular books of accounts could not be treated as 'incriminating material'. The view was ratified in the judgement by the Hon'ble Delhi HC in the case of Commissioner of Income Tax (Central)-III Vs. Kabul Chawla (2016) 380 ITR 573 (Delhi).



6. The Id.CIT(A) was of the opinion that the word ‘incriminating material’ has not been defined in the Act. It may comprise of document or evidence found in search which demonstrates or proves that what is apparent is not real or what is real is not apparent. The nature of the evidence or information gathered during the search should be of such nature that it should prima facie show that the real and true nature of transaction between the parties is something different from the one recorded in the books or documents maintained in ordinary course of business. If such conditions are satisfied, it can be held that the material found or collected during the course of search as incriminating in nature. Hence, if a search is conducted to investigate certain allegations which are found to be correct during search and based on the various evidences collected during the search action, specific information or finding is generated on account of inquiries conducted during search process which has a bearing on the determination of total income of an assessee, the AO would be within his power to proceed under section 153A of the Act against such person on the basis of such finding which would also constitute incriminating material. Hence, if during the course of search action, elaborate and thorough investigations are carried out to verify/examine modus operandi of an illegal scheme orchestrated by



certain persons and during such investigations, based on ascertainment of various facts, examination of seized books, recording of statements and analysis of documents of a number of entities in coordination with each other, certain information is generated that (i) the scheme violates the provisions of the Act and that (ii) such scheme has assisted various parties who have taken benefit of such scheme in introduction of their unaccounted income in their books in the form of eligible and non-taxable income, thus affecting determination of their total income, then, this information is clearly covered by section 153A/153C of the Act.

6.1 He further observed that in the present case, the documents found during the search were confronted to Shri Hiren Patel, partner of the appellant firm and he could not satisfactorily reply to the questions asked. Further, the investigation done during the post-search proceedings clearly suggested that the loan raised by the assessee were not genuine loans. The facts of the case thus, suggested that the addition was made on the basis of incriminating material. He further distinguished the case of PCIT vs. Param Dairy Ltd.(supra) relied upon by the assessee, inter alia holding that it did not pertain to the issue of accommodation entries. Likewise, the decision in the case of CIT vs. Kabul Chawla 380 ITR 573 (Delhi) was also distinguished on the same



reasoning. In the present case, during the search operation, it was found that the assessee raised unsecured loan from a shell entity and the partner of the appellant firm could not substantiate the unsecured loan raised by the firm and even basic details such as contact person of the lender, business activities of the lender, process followed while raising the loan, etc. could not be explained by him. These findings led to a prima facie belief that the said unsecured loan is not genuine. Thus, the facts of the present case were different than the facts of the case relied upon by the appellant. Accordingly, he upheld the additions made by the AO.

7. Before us, the assessee has reiterated the same contentions as made before the first appellate authority, contesting the action of the appellate authority in not treating the order as bad in law in view of the facts involved which clearly showed that nothing incriminating was found during search and the impugned transactions were already disclosed by the assessee in its books of account.

7.1 The Id.DR on the other hand relied on the orders of the authorities below.



8. We have carefully considered all facts of the case, perused the records and have also gone through the provisions of law and the citations relied upon by both the sides. It is seen that a search and seizure action u/s 132 of the Act was conducted on Patel RPL Realty group of cases on 08/08/2019. The assessee is part of Patel RPL Realty Group. During the search operation, documents regarding unsecured loans raised by various entities of the Group from various shell entities were found and seized. These documents were confronted to Shri Hiren Bechar Patel, a key person of the Group whose statement was recorded u/s. 132(4) of the Act. The relevant portions of the said statement have been reproduced in the assessment order wherein he affirmed the impugned loans as also similar loans taken by other entities also forming part of this appellate order. The AO noticed from the statement that Shri Patel could not satisfactorily answer the questions posed to him. He could not give the details such as key persons of loan creditors, nature of business of the creditors, contact persons from the side of loan creditors, procedure followed in raising loans, terms agreed with the creditors, etc. It was also seen from the assessment orders of various entities of this Group that the above details could not be furnished even during the post-search proceedings during which the issue of unsecured loans was



investigated and notices were issued to many of the loan creditors and in several cases, the loan creditors were not found existing at the given address and in certain cases no reply was received. During the search operation, certain documents pertaining to assessee were found which were having bearing on the income of the assessee and hence, the unsecured loans were treated as unexplained liable to be added as unexplained income after initiation proceedings u/s 153A/153C r.w section 143(3) of the Act.

8.1 On perusal of the assessment order, we find that notices u/s 153A/153C of the Act have been issued in case of **Unabated assessment years only**. This fact has been affirmed by the Id.AR before us and also not controverted by the Id.CIT(DR). Moreover, the AO himself has admitted in no uncertain terms that the impugned loans were already recorded in the regular books of account and he made the addition based on post search enquiries only, either because the respective creditors were not traceable or had not creditworthiness.

8.2 It may be stated that various courts of law have considered the issue of incriminating materials found during search and seizure operation on the basis of which proceedings u/s 153A/153C of the Act



could be taken or not. The Hon'ble ITAT, Special Bench, Mumbai in the case of **All Cargo Global Logistics Ltd. v. DCIT 137 ITD 287 (Mum) (SB)** held that in respect of **non-abated assessments**, the assessment will be made on the basis of books of account or other documents not produced in the course of original assessment but found in the course of search and undisclosed income or undisclosed property discovered in the course of search. It has thus been held that in case of completed assessments, the assessment u/s. 153A has to be made on the basis of incriminating material only, i.e., undisclosed income/ property/ books of accounts/documents. In other words, where nothing incriminating is found in the course of search relating to any of the assessment years covered u/s.153A of the Act, the assessment for such assessment years cannot be disturbed. It has also been held that in the absence of any incriminating materials, the completed assessment has only to be reiterated. Similar view has been taken in the case of **Murli Agro Products Ltd. [2014] 49 taxmann.com 172 (Bom)**.

8.3 The Hon'ble jurisdictional High Court in the case of **Commissioner of Income-tax-II, Thane v. Continental Warehousing Corporation (Nhava Sheva) Ltd. [2015] 58 taxmann.com 78 (Bom)** held that no addition can be made in respect



of assessments which have become final, if no incriminating material is found during the search. It has been held that once the original assessment has attained finality, then the Assessing Officer while passing the independent assessment order u/s.153A r.w.s.143(3) cannot disturb the assessment/reassessment order which has attained finality, unless the materials gathered in the course of the proceedings u/s.153A establish that the reliefs granted under the finalized assessment/reassessment were contrary to the facts unearthed during the course of 153A proceedings. Relevant extracts of the order are reproduced as under for the sake of brevity:

“A bare perusal of section 153A would indicate as to how a non-obstante clause has been inserted and with a defined intent. Where search is initiated under section 132 or books of account, other documents or any assets are requisitioned under section 132A after 31-5-2003, that the Assessing Officer is in a position to and mandated to issue notice within the meaning of sub-section (1) of section 153A. That is because, Chapter XIII within which the powers of search and seizure and powers to requisition books of account are spelt out enable the revenue to take care of cases where it effects a search and seizure. That search and seizure is effected and after the same at search and is effected, books of account, other documents, money, bullion, jewellery or other valuable article or thing is found as a result thereof that notwithstanding anything and within the meaning of the above provisions having been concluded, it is open for the revenue to make an assessment. It is also open to the revenue to make a reassessment in cases where it exercises the powers to requisition books of account etc. This is because it is of the view that the books of account are required to be summoned or taken into custody. It, therefore, issues a summons in that regard. It may also requisition the books of account or other documents for that might be useful and or any assets representing withholding or part income or property which has not been or would not have been disclosed for the purpose of the [Indian Income-tax Act, 1922](#) or



the [Income-tax Act](#) 1961 by any person from whose possession or control they have been taken into custody. This is when the authorities have reason to believe that such powers need to be exercised. Therefore, the fetters and which are to be found in other provisions are removed and a notice of assessment in such cases is then issued. That is mandated by sub-section (1) of [section 153A](#). It is not only the issuance of the notice but assessment or reassessment of total income of six assessment years immediately preceding the assessment year relevant to the previous year in which such search is conducted or requisition has to be made. [Para 22] There is much substance in the contentions of the assessee that the provisions such as [section 153A](#) enabling assessment in case of search or requisition making specific reference to the provisions which enable carrying out of search or exercise of power of requisition that the assessment in furtherance thereof is contemplated.[Para 23] Assessee's reliance upon the Division Bench judgment of this Court rendered in [CIT v. Murli Agro Products Ltd. \[2014\] 49 taxmann.com 172](#) in that context is, therefore, well placed.[Para 24] **The Division Bench outlined the ambit and scope of the powers conferred by [section 153A](#) and observed that on a plain reading of [section 153A](#), it becomes clear that on initiation of the proceedings under [section 153A](#), it is only the assessment/reassessment proceedings that are pending on the date of conducting search under [section 132](#) or making requisition under [section 132A](#) stand abated and not the assessments/reassessments already finalised for those assessment years covered under [section 153A](#). By a Circular No. 8 of 2003, dated 18-9-2003 (See 263 ITR (St) 61 at 107) the CBDT has clarified that on initiation of proceedings under [section 153A](#), the proceedings pending in appeal, revision or rectification proceedings against finalised assessment/reassessment shall not abate. It is only because, the finalised assessments/reassessments do not abate, the appeal revision or rectification pending against finalised assessment/reassessments would not abate. Therefore, the argument of the revenue, that on initiation of proceedings under [section 153A](#), the assessments/reassessments finalised for the assessment years covered under [section 153A](#) stand abated cannot be accepted. Similarly on made under section annulment of assessment made under [section 153A \(1\)](#) what stands revived is the pending assessment/reassessment proceedings which stood abated as per [section 153A\(1\)](#). **Once it is held that the assessment has attained finality, then the Assessing Officer while passing the independent assessment order under [section 153A](#) read with [section 143 \(3\)](#) could not have disturbed the assessment/reassessment order which has attained finality, unless the materials gathered in the****



course of the proceedings under [section 153A](#) establish that the reliefs granted under the finalised assessment/reassessment were contrary to the facts unearthed during the course of [153A](#) proceedings. If there is nothing on record to suggest that any material was unearthed during the search or during the [153A](#) proceedings, the Assessing Officer while passing order under [section 153A](#) read with [section 143\(3\)](#) cannot disturb the assessment order [Para 28]. The stand of revenue that these observations are made in passing or that they are not binding on instant Court is not agreeable because the essential controversy before the Bench was somewhat different. Revenue urged that was only in relation to the legality and validity of the order of the Commissioner under [section 263](#). been the case, the Division Bench was not required to trace out the history of [section 153A](#) and the power that is conferred thereunder. When the revenue argued before the Division Bench that the power under [section 153A](#) can be invoked and exercised even in cases where the second proviso to sub-section (1) is not applicable that the Division Bench was required to express a specific opinion. The provision deals with those cases where assessment or reassessment, if any, relating to the assessment years falling within the period of six assessment years referred to in sub-section (1) of [section 153A](#) were pending. If they were pending on the date of the initiation of the search under [section 132](#) or making of requisition under [section 132A](#), as the case may be, they abate. It is only pending proceedings that would abate and not where there are orders made of assessment or reassessment and which are in force on the date of initiation of the search or making of the requisition. As that specific argument was canvassed and dealt with by the Division Bench and that is how it was called upon to interpret [section 153A](#), then, each of the above conclusions rendered by the Division Bench would bind the instant Court.[Para 29] Even otherwise, Court is in agreement with the Division Bench when it observes as above with regard to the ambit and scope of the powers conferred under [section 153A](#). Even if the exercise of power under [section 153A](#) is permissible still the provision cannot be read in the manner suggested by the revenue. Not only the finalised assessment cannot be touched by resorting to those provisions, but even while exercising the power can be exercised where a search is initiated under [section 132](#) or books of account, other documents or any assets are requisitioned under after 3 [section 132A](#) after 31-3- 2003. There is a mandate to issue notices under section 153(1)(a) and assess or reassess the total immediately preceding the assessment year come of such search is conducted or requisition is made Six assessment years relevant to previous year in which Thus, crucial words ‘search’ and ‘requisition’ appear in the substantive provision and the provisos. That would throw light on the issue of



applicability of the provision. It being enacted to a search or requisition that its construction would have to be accordingly. That is the conclusion reached by the Division Bench in [Murli Agro](#) (supra). These are the conclusions which can be reached and upon reading of the legal provisions in question.[Para 30] Therefore, the Special Bench's understanding of the legal provision is not perverse nor does it suffer from any error of law apparent on the face of the record. [Para 31] Further, revenue would submit that the above observations and conclusions of the Special Bench are specifically disapproved in [CIT v. Anil Kumar Bhatia \[2012\] 24 taxmann.com 98/211 Taxman 453 \(Delhi\)](#). However, this argument is not found to be accurate. Upon reading of the observations of the Delhi High Court as a whole and in entirety, it is not possible to agree with revenue that the High Court of Delhi reached a conclusion different than the view taken by the Division Bench.[Para 35].”

8.4 The hon'ble Bombay High Court in yet another case of [Gurinder Singh Bawa \(2017\)\(79 taxmann.com 398\)\(Bom\)](#), held that the unabated assessments (finalized assessments) cannot be touched by resorting to the provisions of [sec.153A](#) of the Act unless some incriminating materials relating to the said assessments, which are contrary to and/or not disclosed during regular assessment proceedings, are found. Relevant parts are extracted below:

"5. On further appeal before the Tribunal, the assessee interalia challenged the validity of the assessment made under [Section 153A](#) of the Act. This on account of the fact that no assessment in respect of the six assessment years were pending so as to have abated. The impugned order accepted the aforesaid submission of the respondent-assessee by interalia placing reliance upon the decision of the Special Bench of the Tribunal in [Al-Cargo Global Logistics Ltd.](#) rendered on 6 July 2012. The Tribunal in the impugned order further held that no incriminating material was found during the course of the search. Thus the entire proceedings under [Section 153A](#) of the Act were without jurisdiction and therefore the addition made had to be deleted on the aforesaid ground. The impugned order also thereafter considered the issues on merits and on it also held in favour of the respondent-assessee.



6. Mr. Kotangale, the learned Counsel for the revenue very fairly states that the decision of the Special Bench of the Tribunal in Al-Cargo Global Logistics Ltd. was a subject matter of challenge before this Court as a part of the group of appeals disposed of as [CIT v. Continental Warehousing Corporation \(Nhava Sheva\) Ltd.](#) [2015] 374 ITR 645/58 taxmann.com 78/232 Taxman 270 (Bom.) upholding the view of the Special Bench of the Tribunal in Al- Cargo Global Logistics Ltd. Consequently, once an assessment has attained finality for a particular year i.e. it is not pending then the same cannot be subject to tax in proceedings under [Section 153A](#) of the Act. This of course would not apply if incriminating materials are gathered in the course of search or during proceedings under [Section 153A](#) of the Act which are contrary to and/or not disclosed during regular assessment proceedings.

7. In view of the above, on issue of jurisdiction itself the issue stands concluded against the revenue by the decision of this Court in [Continental Warehousing Corpn. \(Nhava Sheva\) Ltd.](#) (supra). In the appeal before us, the revenue has made no grievance with regard to the impugned order of the Tribunal holding that in law the proceedings under [Section 153A](#) of the Act are without jurisdiction. This in view of the fact that no assessments were pending, so as to abate nor any incriminating evidence was found. The grievance of the revenue is only with regard to finding in the impugned order on the merits of the individual claim regarding gifts and deemed dividend. However once it is not disputed by the revenue that the decision of this Court in [Continental Warehousing Corporation \(Nhava Sheva\) Ltd.](#) (supra) would apply to the present facts and also that there are no assessments pending on the time of the initiation of proceedings under [Section 153A](#) of the Act. The occasion to consider the issues raised on merits in the proposed questions becomes academic.

8. In the above view, the questions as framed in the present facts being academic in nature, do not give rise to any substantial question of law. Thus not be entertained."

8.5 Similar decision has been rendered by **Hon'ble Delhi High Court in the case of [CIT Vs Kabul Chawla 380 ITR 573\(Delhi\)](#).**

The Hon'ble Court has summarized the legal position with regard to the provisions of [sec.153A](#) of the Act as under:-



"37. On a conspectus of [Section 153A\(1\)](#) of the Act, read with the provisos thereto, and in the light of the law explained in the aforementioned decisions, the legal position that emerges is as under:

i. Once a search takes place under [Section 132](#) of the Act, notice under Section 153 A (1) will have to be mandatorily issued to the person searched requiring him to file returns for six AYs immediately preceding the previous year relevant to the AY in which the search takes place.

ii. Assessments and reassessments pending on the date of the search shall abate. The total income for such AYs will have to be computed by the AOs as a fresh exercise.

iii. The AO will exercise normal assessment powers in respect of the six years previous to the relevant AY in which the search takes place. The AO has the power to assess and reassess the 'total income' of the aforementioned six years in separate assessment orders for each of the six years. In other words there will be only one assessment order in respect of each of the six AYs "in which both the disclosed and the undisclosed income would be brought to tax".

iv. Although Section 153 A does not say that additions should be strictly made on the basis of evidence found in the course of the search, or other post-search material or information available with the AO which can be related to the evidence found, it does not mean that the assessment "can be arbitrary or made without any relevance or nexus with the seized material. Obviously an assessment has to be made under this Section only on the basis of seized material."

v. In absence of any incriminating material, the completed assessment can be reiterated and the abated assessment or reassessment can be made. The word 'assess' in Section 153 A is relatable to abated proceedings (i.e. those pending on the date of search) and the word 'reassess' to completed assessment proceedings.

vi. Insofar as pending assessments are concerned, the jurisdiction to make the original assessment and the assessment under Section 153A merges into one. Only one assessment shall be made separately for each AY on the basis of the findings of the search and any other material existing or brought on the record of the AO.

vii. Completed assessments can be interfered with by the AO while making the assessment under Section 153 A only on the basis of some incriminating material unearthed during the course of search or requisition of documents or undisclosed income or property discovered in the course of search which were



not produced or not already disclosed or made known in the course of original assessment."

8.6 The Hon'ble Supreme Court in the case of **Abhisar Buildwell (P) Ltd.,(2023)454 ITR 212/ 293 Taxman 141/ 332 CTR 385/ 225 DTR 105 (SC)** has now authoritatively settled this position by holding, in clear and unequivocal terms, that in the absence of incriminating material found during the course of search, no addition can be made in respect of completed or unabated assessments while framing an assessment under [section 153A](#) of the Act. The legal consequence flowing from the aforesaid pronouncement is that the jurisdiction of the Assessing Officer to disturb a completed assessment under [section 153A](#) is inextricably linked to the discovery of incriminating material during the search conducted at the premises of the assessee. Absent such material, the jurisdiction itself fails. Hon'ble Apex Court in the case of **Sinhgad Technical Education Society in CIVIL APPEAL NO. 11080 OF 2017 (Arising out of SLP (C) NO. 25257 of 2015)** has held that [section 153C](#) can be invoked only when incriminating materials assessment year-wise are recorded in satisfaction note which is missing here. Therefore, the proceedings drawn [u/s 143\(3\)](#) as against [153C](#) are invalid for want of any incriminating material found.



8.7 We may add here that the coordinate benches of various tribunals including Mumbai ITAT have taken similar stand. Reference could be made of **Smt Anjali Pandit vs. ACIT (ITA No.3028 to 3032/Mum/2011 & others - order dated 17.11.2016)**.

8.8 We find that there is no dispute with regard to the facts that the assessments relating to the assessment years under consideration fall under the category of "unabated assessments". There is also no dispute that the department did not unearth any incriminating material relating to unexplained cash credits of loans and interest on loans and hence the AO, in the absence of any incriminating material relating to the above said additions, could not have made any addition in unabated assessment years. Whereas the provisions of [sec.153A](#) of the Act provide for issuing of notice [u/s153A](#) of the Act for six assessment years immediately preceding the year of search and thereafter, the AO shall assess or reassess the total income for the above said six years. This section further provides that all pending assessment or re-assessment pending as on the date of search shall abate. Hence the assessments of the assessment years falling within the period of above said six years which are not pending, i.e., which have attained finality shall not abate. The question as to whether the AO is entitled to interfere with such



kinds of unabated/completed/finalized assessments or not without there being any incriminating material found during the course of search has been consistently held to be in favour of the assessee in several courts of law as stated in the preceding paras. Therefore, the issues in hand are no more res integra in as much as pending assessments are concerned, the jurisdiction to make original assessment and assessment u/s 153A merge into one and only one assessment for each assessment year shall be made separately on the basis of the findings of the search and any other material existing or brought on the record of the AO. In respect of non-abated assessments, the assessment will be made on the basis of books of account or other documents not produced in the course of original assessment but found in the course of search, and undisclosed income or undisclosed property discovered in the course of search. Broadly speaking, incriminating material must be material which is discovered as a direct result of the search under [section 132](#) of the Act, found at the premises of the assessee or under his control, relating to the assessment year in question, and indicative of undisclosed income or assets not disclosed in the regular books of account or returns of income. It is equally well settled that mere suspicion, conjecture, or inference drawn from material found in the case of a third party does



not satisfy the test of incriminating material, nor does a post-search analytical exercise, howsoever elaborate, elevate itself to the status of incriminating material, if it is not based on something tangible unearthed during the search at the assessee's premises.

8.9 A careful and close reading of the assessment orders reveals that the AO has not identified even a single incriminating document, which evidenced the alleged cash loans or the earning of interest thereon being unaccounted since they were undisputedly recorded and disclosed in the regular books of account. The assessment orders are conspicuously silent on this foundational requirement. Instead, the entire edifice of the additions rests upon a ledger seized during the course of a search and the statement of Sri H.Patel recorded under [section 132\(4\)](#) in the which to our mind, he did not indicate any element of wrong doing by the assessee as he also accepted that the loans were indeed taken and were reflected in the regular books of account. Such materials cannot automatically assume the character of incriminating material in the hands of the assessee.

9. Considering all the facts and the circumstances of the case, rival submissions and the ratio of judicial decisions discussed, we are of



the view that the order passed by the ld.CIT(A) is not in consonance with the provisions of law and the ratio laid down by the courts of law. Accordingly, he was not justified in upholding the additions which are not based on any incriminating materials unearthed during search and seizure operation. Thus the appellate order is set aside allowing the **ground no.2 and 3** of the appeal. The AO is directed to delete the impugned additions. **Ground no.1** pertaining to the plea of quashing the order does not require any adjudication and is left open.

9.1 In the result, **appeal of the assessee is allowed.**

**10.IT(SS)A/3242/MUM/2025(AY 2017-18)**

1. *That, the learned CIT(A)-11, Pune has grossly erred in not considering the impugned block assessment order passed is against natural justice and bad in law. The AO may please be directed to annul the impugned block assessment order.*
2. *That, the learned CIT(A)-11, Pune is not justified in upheld the addition of Rs.5,36,610 (correct Rs.5,96,233), being interest on so-called non-genuine deposit accepted from Nilmani Barter Pvt. Ltd. u/s.68 r.w.s. 115BBE on the basis of non incriminating material and the explanation along with cogent supporting submitted to the entire satisfaction of the AO. The Assessing Officer may please be directed to delete such addition.*

11. The return of income for the year under consideration was filed declaring income of Rs. 1,90,05,960/-. In response to notice u/s. 153A of the Act, the assessee filed return declaring an income of Rs. 1,90,05,960/-. The assessment u/s. 143(3) r.w.s. 153A of the Act was



completed by making an addition of Rs. 5,36,610/- u/s. 68 of the Act, being the interest credited in the accounts of loan creditor namely M/s. Vansh & Co. According to the ld.CIT(A), perusal of the assessment order suggested that the said addition was made by the AO by noting that the said interest was credited to the accounts of loan creditor namely M/s. Vansh & Co., on the loan raised in earlier years. While making this addition, the AO followed his findings for AY 2016-17. The ld.CIT(A) observed that the contentions raised for the year under consideration were similar to those raised for AY 2016-17. All these contentions had been considered while deciding the appeal for AY 2016-17 in preceding paras.

11.1 From the facts stated above, it is clear that the impugned addition based is also not in respect of any incriminating materials as claimed by the assessee. Therefore, our decision for AY 2016-17(supra) applies *mutatis mutandis* to the present appeal also. **Thus, the appeal stands allowed.**

## **12.IT(SS)A/3243/MUM/2025(AY 2020-21)**

1. That, the learned CIT(A)-11, Pune has grossly erred in not considering the impugned block assessment order passed is against natural justice and bad in law. The AO may please be directed to annul the impugned block assessment order.



2. That, the learned CIT(A)-11, Pune is not justified in upheld the addition of **disallowance of legitimate revenue expenditure of Rs. 50376/- u/s.37(1) of the IT Act.** The Assessing Officer may please be directed to delete such addition.

13. The return of income for the year under consideration was filed declaring loss of Rs. 2,62,154/-. Being a search year, the said return was selected for scrutiny. The assessment u/s. 143(3) of the Act was made. The AO made a disallowance of Rs. 4,52,961/- u/s. 37(1) of the Act by observing that the assessee firm had booked no revenue from business operation and claimed expenses of Rs.4,52,961/- in its P&L Account. Since, no revenue from business was being offered, the assessee should have capitalized these expenses. The assessee had not provided any details regarding running and under construction project. Further, it was seen that the assessee firm was adopting Project completion method and hadnot booked any revenue. Accordingly, expenses spent of Rs.4,52,961/- onaccount of Interest on loan was disallowed u/s 37(1) of the Act and capitalized.

14. During the appellate proceedings before the Id.CIT(A), the assessee submitted that it had incurred revenue expenditure of Rs.4,52,961/-. The same was correctly claimed as the expenditure incurred was relating to the business of the assessee and the revenue



was to accrue in next year. The AO cannot disallow the legitimate claim of revenue expenditure of Rs. 4,52,961/- under the presumption that it is capital expenditure. The Id.CIT(A) observed that the AO held that no revenue had been shown in the P&L Account and therefore, the interest expenses amounting to Rs. 4,14,905/- and NonAgriculture tax (NA Tax) amounting to Rs. 38,056/- could not be allowed as revenue expenditure and same needs to be capitalized. The assessee was engaged in real estate development and no revenue had been recognized in the P&L Account. It was also seen that a total amount of Rs. 2,74,72,141/- had been capitalized as WIP, being cost of land, part of interest expenses, advocate fee, etc. Since the NATax was paid on land, therefore, same constituted project expenses and same should be capitalized in WIP and could not be allowed as revenue expenses. Therefore, the disallowance of Rs. 38,056/- on account of NA Tax was upheld. To sum up, out of the disallowance of Rs. 4,52,961/- made by the AO, the addition of Rs. 4,02,585/- was directed to be deleted and balance addition of Rs. 50,376/- was upheld.

15. On careful consideration of the above facts, we do not find any infirmity in the appellate order which is therefore **upheld**.



**16. In the result, appeals of the assessee for AYs 2016-17 and 2017-18 are allowed while appeal in AY 2020-21 is dismissed.**

### **Pride Infrastructure**

#### **17.IT(SS)A/3309/MUM/2025(AY 2014-15)**

1. *That, the learned CIT(A)-11, Pune has grossly erred in not considering the impugned block assessment order passed is against natural justice and bad in law. The AO may please be directed to annul the impugned block assessment order.*
2. *That, the learned CIT(A)-11, Pune is not justified in upholding the addition Rs.11,00,000, being so-called non genuine deposit accepted from HJ Realty Infrastructure u/s.68 r.w.s.115BBE on the basis of non-incriminating material and the explanation along with cogent supporting submitted to the entire satisfaction of the AO. The Assessing Officer may please be directed to delete such addition.*

18. The above two appeals are directed against the assessment orders passed u/s 143(3) r.w.s. 153C of the Act for AYs.2014-15 and 2015-16. The issues involved in both these appeals are common, therefore both the appeals are being decided vide this common order. The appeal for A.Y. 2014-15 is being taken up as Lead year. The brief facts of the case are that the assessee is a firm engaged in the business of Construction/real estate development. A Search and Seizure action u/s 132 of the Act was conducted on Patel RPL Realty group of cases on 08/08/2019. During the search operation, documents regarding unsecured loans raised by various entities of Patel RPL Realty Group



from various shell entities were found and seized. As per the assessment order, during the year under consideration, the assessee received an unsecured loan of Rs. 11,00,000/- from M/s. H. J. Realty & Infrastructure. During the assessment proceedings, the assessee was asked to substantiate the genuineness of said loan and in response to this, the assessee filed copy of confirmation and copy of bank account of the loan creditors. The AO issued notices u/s. 133(6) of the Act to the loan creditor and as mentioned in the assessment order, the said notice was returned unserved by the postal authorities. After discussing various case-laws regarding the section 68 of the Act, the AO held that the above loan amounting to Rs. 11,00,000/- was not genuine. Accordingly, an addition of Rs. 11,00,000/- was made u/s. 68 of the Act.

19. Before the Id.CIT(A), the assessee contested the addition on the ground that the AO has made an addition on the basis of ledger account extracted from the "Tally Software being part of regular books of account. The above is not the incriminating material which may kindly be noted. The appellant firm strongly rebutted the findings of the A.O and stated that unsecured loan ledger account appearing in the regular books of account could not be held as incriminating material.



20. It was noticed that the Id.CIT(A) dismissed the ground regarding lack of incriminating materials and upheld the addition observing that the AO had found various discrepancies as mentioned at page 4 and 5 of the assessment order and during the appellate proceedings, the appellant has not rebutted these observations. In view of the facts discussed in the assessment order, it was held that the assessee had failed to substantiate the genuineness of the loan amounting to Rs. 11,00,000/-, therefore, the addition made u/s. 68 of the Act was upheld.

**21.IT(SS)A/3310/MUM/2025(AY 2015-16)**

1. *That, the learned CIT(A)-11, Pune has grossly erred in not considering the impugned block assessment order passed is against natural justice and bad in law. The AO may please be directed to annul the impugned block assessment order.*
2. *That, the learned CIT(A)-11, Pune is not justified in upholding the addition Rs.1,29,00,000/-, being so-called non-genuine deposit accepted from **H J Realty Infrastructure u/s 68 r.w.s.115BBC** of the Act on the basis of **non-incriminating material** and the explanation along with cogent supporting submitted to the entire satisfaction of the AO.. The Assessing Officer may please be directed to delete such addition.*

22. The return of income for the year under consideration was filed declaring Nil income. In response to notice u/s. 153C of the Act. The assessment u/s. 143(3) r.w.s. 153C of the Act was completed by making Addition of Rs. 1,29,00,000/- u/s. 68 of the Act for fresh unsecured loans received from M/s. H. J. Realty & Infrastructures



found noted in the seized documents on the same reasoning as in the AY 2014-15. The ld.CIT(A) upheld the addition u/s 68 of the Act on the basis of his decision in appeal for AY 2014-15(supra).

23. Since we have already on identical facts in the case of **Param Property Developers** in **IT(SS)A /3241/MUM/2025(AYs 2016-17)** above, have categorically held that no addition could be made u/s 153A/153C of the Act in the absence of incriminating materials unearthed during search, our decision therein applies *mutatis mutandis* to similar additions involving AYs 2014-15 and 2015-16.

23.1 In the result, **both the appeals are allowed.**

### **DHARMIK STRUCTUES**

#### **24.IT(SS)A/2873/MUM/2025(AY 2016-17)**

1. That, the learned CIT(A)-11, Pune has grossly erred in not considering the impugned block assessment order passed is against natural justice and bad in law. The AO may please be directed to annul the impugned block assessment order.
2. That, the learned CIT(A)-11, Pune is not justified in upholding the addition of Rs.30,00,000 & interest of Rs.1,45,973 in the case **Chirag Diamond Pvt. Ltd. u/s.68** on the basis of non-incriminating material and the explanation along with cogent supporting submitted to entire satisfaction of the AO. The Assessing Officer may please be directed to delete such addition.

25. The original return of income for year under consideration was filed by the assessee declaring Nil income. In response to notice u/s.



153C of the Act, the assessee filed return of income declaring Nil income. As per the documents seized during the search, during the year under consideration, the assessee received a loan of Rs. 30,00,000/- from M/s. Chirag Diamond Pvt. Ltd. During the assessment proceedings, the assessee was asked to substantiate the genuineness of said loan and in response to this, the assessee filed copy of confirmation, copy of bank account of the loan creditor and the copy of acknowledgement of ITR filed by the loan creditor. The AO issued a notice u/s. 133(6) of the Act to the loan creditor, however, as mentioned in the table at page 6 of the assessment order, no response was received. After examining the documents available with him, the AO held that the said loan of Rs. 30,00,000/- was not genuine. The AO also noted that an amount of Rs. 1,45,973/- was credited in the account of M/s. Chirag Diamond Pvt. Ltd. towards interest. Accordingly, the total amount of Rs. 31,45,973/- (30,00,000 + 1,45,973) was held as unexplained cash credit and an addition of Rs. 31,45,973/- was made u/s. 68 of the Act.

26. Before the Id.CIT(A), the assessee took the same plea that no addition could be made as the AO made an addition on the basis of ledger account extracted from the "Tally Software being part of regular books of account which was not the incriminating material. The



ld.CIT(A) on the same reasoning held that the addition was justified as there was incriminating material.

27. The issue here in remains the same as in the earlier appeals in the case of Param Property Developers (AYs 2016-17). We have already held that no addition could be made as there no incriminating material in existence apart from the ledger copy of account being part pf the regular books of account and the statement of Sri H.Patel. Since we have already on identical facts in the case of **Param Property Developers in IT(SS)A/3241/MUM/2025 (AYs 2016-17)** above, have categorically held that no addition could be made u/s 153A/153C of the Act in the absence of incriminating materials unearthed during search. Our decision therein applies *mutatis mutandis* allowing the appeal.

27.1 The appeal therefore, **stands allowed.**

**28.IT(SS)A/2874/MUM/2025(AY 2017-18)**

1. That, the learned CIT(A)-11, Pune has grossly erred in not considering the impugned block assessment order passed is against natural justice and bad in law. The AO may please be directed to annul the impugned block assessment order.
2. That, the learned CIT(A)-11, Pune is not justified in upheld the addition of Rs.3,38,190/- from **Chirag Diamond Pvt. Ltd. u/s.68** on the basis of



*non-incriminating material and the explanation along with cogent supporting submitted to entire satisfaction of the AO. The Assessing Officer may please be directed to delete such addition.*

29. The grounds raised for the year under consideration are similar to the ground for AY 2016-17. The assessee filed an identical submission for the year under consideration which have been considered while deciding the appeal for AY 2016-17. As the facts for the year under consideration are similar to the facts for AY 2016-17, therefore, our decision therein, the addition of Rs. 3,38,188/- made u/s. 68 of the Act is directed to be deleted in absence of incriminating materials. Decision given in appeal for AY 2016-17 applies *mutatis mutandis* as exactly identical facts are involved and the loan pertained to Chirag Diamonds P.Ltd.

**29.1 The appeal therefore, stands allowed.**

**30.IT(SS)A/2875/MUM/2025(AY 2018-19)**

1. *That, the learned CIT(A)-11, Pune has grossly erred in not considering the impugned block assessment order passed is against natural justice and bad in law. The AO may please be directed to annul the impugned block assessment order.*
2. *That, the learned CIT(A)-11, Pune is not justified in upheld the addition of interest of Rs.3,74,713/- in the case of Chirag Diamond Pvt. Ltd. u/s.68 on the basis of non-incriminating material and the explanation along with cogent supporting submitted to the entire satisfaction of the AO. The Assessing Officer may please be directed to delete such addition.*



31. The grounds raised for the year under consideration are similar to the ground for AY 2016-17. The assessee filed an identical submission for the year under consideration which has been considered while deciding the appeal for AY 2016-17. The facts of the case are identical as in the case of Param Property Developers(supra)wherein we have already deleted similar addition in the absence of any incriminating materials resulting from the search and seizure operation. Decision given in appeal for AY 2016-17 applies *mutatis mutandis* as exactly identical facts are involved and the loan pertained to Chirag Diamonds P.Ltd.

31.1 The appeal therefore, **stands allowed.**

32. In the result, **all the above appeals are allowed.**

### **DIA INFRATECH**

33. **IT(SS)A/2812/MUM/2025**

1. That, the learned CIT(A)-11, Pune has grossly erred in not considering the impugned block assessment order passed is against natural justice and bad in law. The AO may please be directed to annul the impugned block assessment order.
2. That, the learned CIT(A)-11, Pune is not justified in upholding the addition Rs.75,00,000 & interest of Rs.4,23,123/- from **Nobel Jewel Pvt. Ltd. u/s. 68** on the basis of non-incriminating material and the explanation along with cogent supporting submitted to the entire satisfaction of the AO. The Assessing Officer may please be directed to delete such addition.



3. That, the learned CIT(A)-11, Pune is not justified in upholding the addition **Rs.80,00,000 & interest of Rs.4,16,615/- in the case of Samarth Export** u/s. 68 on the basis of non-incriminating material and the explanation along with cogent supporting submitted to the entire satisfaction of the AO. The Assessing Officer may please be directed to delete such addition.
4. That, the learned CIT(A)-11, Pune is not justified in upholding the addition **Rs.50,00,000 & interest of Rs.2,48,548/- in the case of Vallabh Diamond Pvt. Ltd. u/s. 68** on the basis of non-incriminating material and the explanation along with cogent supporting submitted to the entire satisfaction of the AO. The Assessing Officer may please be directed to delete such addition.

### **34.IT(SS)A/2813/MUM/2025**

1. That, the learned CIT(A)-11, Pune has grossly erred in not considering the impugned block assessment order passed is against natural justice and bad in law. The AO may please be directed to annul the impugned block assessment order.
2. That, the learned CIT(A)-11, Pune is not justified in upholding the addition of Rs.9,45,646/-, being interest paid to **Nobel Jewel Pvt. Ltd. u/s. 68** on the basis of non-incriminating material and the explanation along with cogent supporting submitted to the entire satisfaction of the AO. The Assessing Officer may please be directed to delete such addition.
3. That, the learned CIT(A)-11, Pune is not justified in upholding the addition of interest of Rs.10,09,994/- paid to **Samarth Export u/s. 68** on the basis of non-incriminating material and the explanation along with cogent supporting submitted to the entire satisfaction of the AO. The Assessing Officer may please be directed to delete such addition.
4. That, the learned CIT(A)-11, Pune is not justified in upholding the addition of interest of Rs.6,29,826/- to **Vallabh Diamond Pvt. Ltd. u/s. 68** on the basis of non-incriminating material and the explanation along with cogent supporting submitted to the entire satisfaction of the AO. The Assessing Officer may please be directed to delete such addition.

35. These two appeals are directed against the assessment orders passed u/s143(3) r.w.s 153C of the Act for A.Y 2016-17 to 2017-18. The issues involved in both these appeals are common, therefore they



appeals are being decided vide this common order. The brief facts of the case are that the assessee is a Partnership Firm engaged in the business of Construction/real estate development and is part of Patel RPL Realty Group. In this case, like other cases dealt with in preceding paras, the addition was made in respect of Unsecured loan u/s 68 of the Act. All the above loans arise from the said ledger found during search and the addition was made taking into account the statement of Sri H.Patel and also because the said entities were alleged to be bogus shell companies i.e. Nobel Jewels Pvt Ltd, Samartha Exports and Vallabh Diamonds Pvt Ltd. As in the earlier case, the main plea of the assessee was that these transactions were already disclosed in the regular books of account and there was nothing like incriminating material in existence on the basis of which any addition could be made.

36. The facts of the case are identical as in the case of Param Property Developers(supra)wherein we have already deleted similar addition in the absence of any incriminating materials resulting from the search and seizure operation. Decision given therein applies *mutatis mutandis* as exactly identical facts are involved.

36.1 Accordingly, **we allow both the above appeals.**



**RAPID INFRATECH****37.IT(SS)A/2814/MUM/2025(AY 2011-12)**

1. That, the learned CIT(A)-11, Pune has grossly erred in not considering the impugned block assessment order passed is against natural justice and bad in law. The AO may please be directed to annul the impugned block assessment order.
2. That, the learned CIT(A)-11, Pune is not justified in upholding the addition of Rs.69,00,000 & interest of Rs.86,193 u/s.68 on the basis of non-incriminating material and the explanation along with cogent supporting submitted to the entire satisfaction of the AO. The Assessing Officer may please be directed to delete such addition.

38. The above appeals is directed against the assessment orders passed u/s 143(3) r.w.s 153A of the Act for A.Ys.2011-12. The brief facts of the case are that the assessee is a company engaged in the business of Construction/real estate development. The original return of income for year under consideration was filed by the assessee on 24.07.2011 by declaring an income of Rs. 3,54,751/-. A Search and Seizure action u/s 132 of the Act was conducted on **Patel RPL Realty group of cases** including the assessee on 08.08.2019. As the authorization u/s. 132 of the Act was issued in the name of the assessee also, therefore, a notice u/s. 153A of the Act was issued to the assessee on 17.09.2021. In response to this, the assessee filed his return of income u/s. 153A of the Act declaring total income of Rs. 3,54,751/-.





search and seizure operation. Decision given therein applies *mutatis mutandis* as exactly identical facts are involved.

42. In the result, appeal of the **assessee stands allowed.**

**43.IT(SS)A/2815/MUM/2025(A.Y. 2012-13)**

1. That, the learned CIT(A)-11, Pune has grossly erred in not considering the impugned block assessment order passed is against natural justice and bad in law. The AO may please be directed to annul the impugned block assessment order.
2. That, the learned CIT(A)-11, Pune is not justified in upholding the addition of Rs.80,00,000 & interest of Rs.1,05,337/-u/s.68 on the basis of non-incriminating material and the explanation along with cogent supporting submitted to the entire satisfaction of the AO. The Assessing Officer may please be directed to delete such addition.

44. The return of income for the year under consideration was filed declaring income of Rs. 23,60,340/-. The assessment u/s. 143(3) r.w.s. 153A of the Act was completed by making an addition of Rs. 81,05,337/- u/s. 68 of the Act, being the bogus unsecured loans raised during the year from M/s MSV Fiscal Services Pvt. Limited and M/s Everline Projects Pvt. Limited, and interest credited in the account of these loans.

45. The assessee claimed as in other cases already deal with that the addition could not be made as there was no incriminating material



since the impugned loans were already recorded in the regular books of account.

46. The facts of the case are identical as in the case of Param Property Developers(supra)wherein we have already deleted similar addition in the absence of any incriminating materials resulting from the search and seizure operation. Decision given therein applies *mutatis mutandis* as exactly identical facts are involved.

47. In the result, appeal of the **assessee stands allowed.**

**48. IT(SS)A/2816/MUM/2025(AY 2013-14)**

1. That, the learned CIT(A)-11, Pune has grossly erred in not considering the impugned block assessment order passed is against natural justice and bad in law. The AO may please be directed to annul the impugned block assessment order.
2. That, the learned CIT(A)-11, Pune is not justified in upholding the addition of Rs. 13,83,641 on account of so-called non-genuine loans u/s.68 on the basis of non-incriminating material and the explanation along with cogent supporting submitted to the entire satisfaction of the AO.. The Assessing Officer may please be directed to delete such addition.

49. The return of income for the year under consideration was filed declaring income of Rs. 48,59,079/-. In response to notice u/s. 153A of the Act, the assessee filed return of income declaring an income of Rs.48,59,079/-. The assessment u/s. 143(3) r.w.s. 153A of the Act was completed by making an addition of Rs. 13,83,641/- u/s. 68 of the Act,



being the interest credited in the accounts of loan creditors namely M/s.MSV Fiscal Services Pvt Limited, M/s Ever Line Projects Pvt Limited and M/s Intercity Builders Pvt. Limited. A perusal of the assessment order suggested that the said addition was made by the AO by noting that the said interest was credited to the accounts of loan creditors namely M/s. MSV Fiscal Services Pvt Limited, M/s Ever Line Projects Pvt Limited and M/s Intercity Builders Pvt. Limited, on the loans raised in earlier years. While making this addition, the AO has followed his findings for AY 2012-13. The Id.CIT(A) noted that the AO had considered this amount as unexplained credit and made addition u/s. 68 of the Act. According to him, the amount of interest payable on bogus unsecured loan could not be added u/s. 68 of the Act. Rather, the same needed to be disallowed by treating as bogus expenditure, if any deduction for such interest was claimed in the return of income. In this regard, it was seen from the profit and loss account filed that total amount of Rs. 53,53,042/- had been claimed as deduction as interest paid on loans indicating that the appellant had claimed interest paid to these loan creditors as deduction. Therefore, in his view, the interest paid to M/s. MSV Fiscal Services Pvt Limited, M/s Ever Line Projects Pvt Limited and M/s Intercity Builders Pvt. Limited was liable to be



disallowed u/s. 37(1) of the Act. Further, the AO was directed to verify the copies of ledger accounts of these loan creditors and disallow the correct amount of interest expenditure.

50. Since the principal amounts have already been directed to be deleted as in the appeal for AY 2012-13, no addition or disallowance of interest thereon could be justified. The facts of the case are identical as in the case of Param Property Developers (supra) wherein we have already deleted similar addition in the absence of any incriminating materials resulting from the search and seizure operation. Decision given therein applies *mutatis mutandis* as exactly identical facts are involved.

50.1 In the result, appeal of the **assessee stands allowed.**

**51. IT(SS)A/2817/MUM/2025(A.Y. 2014-15)**

1. *That, the learned CIT(A)-11, Pune has grossly erred in not considering the impugned block assessment order passed is against natural justice and bad in law. The AO may please be directed to annul the impugned block assessment order.*
2. *That, the learned CIT(A)-11, Pune is not justified in upholding the addition of Rs.13,83,642/- on account of so-called non-genuine loans u/s.68 on the basis of non-incriminating material. The Assessing Officer may please be directed to delete such addition.*



52. The return of income for the year under consideration was filed declaring income of Rs. 1,78,49,970/-. The original assessment u/s 143(3) of the Act was completed at a total income of Rs. 1,80,39,220/-. In response to notice u/s. 153A of the Act, the assessee filed return by declaring an income of Rs. 1,78,49,970/-. The assessment u/s. 143(3) r.w.s. 153A of the Act was completed by making an addition of Rs. 13,83,642/- u/s. 68 of the Act, being the interest credited in the accounts of loan creditors namely M/s. MSV Fiscal Services Pvt Limited, M/s Ever Line Projects Pvt Limited and M/s Intercity Builders Pvt. Limited. While making this addition, the AO has followed his findings for AY 2012-13. During the appellate proceedings, the appellant had raised contentions similar to AY 2012-13. To sum up, the interest payable to the bogus loan creditors namely, M/s. MSV Fiscal Services Pvt Limited, M/s Ever Line Projects Pvt Limited and M/s Intercity Builders Pvt. Limited, cannot be added u/s. 68 of the Act. However, same is liable to be disallowed u/s. 37(1) of the Act. Further, the AO is directed to verify the copies of ledger accounts of these loan creditors and disallow the correct amount of interest expenditure. The ground no. 2 is disposed accordingly.



53. The facts of the case are identical as in the case of Papram Property Developers(supra)wherein we have already deleted similar addition in the absence of any incriminating materials resulting from the search and seizure operation. Decision given therein applies *mutatis mutandis* as exactly identical facts are involved. Since the principal amounts have already been directed to be deleted as in the appeal for AY 2012-13,no addition or disallowance of interest thereon could be justified.

54. In the result, appeal of the **assessee stands allowed**

### **SHREE SHAJANAND ENTREPRISES**

55. **IT(SS)A /3244/MUM/2025(A.Ys. 2017-18)**

1. *That, the learned CIT(A)-11, Pune has grossly erred in not considering the impugned block assessment order passed is against natural justice and bad in law. The AO may please be directed to annul the impugned block assessment order.*
2. *That, the learned CIT(A)-11, Pune is not justified in upholding the addition of Rs.4,75,000/- (2,75,000/- + 2,00,000/-) on the basis of **chits found & seized**. The Assessing Officer may please be directed to delete such addition.*

56. It may be stated here that three appeals have been filed which are all directed against the assessment orders passed u/s 143(3) r.w.s.



153A of the Act for A.Ys. 2017-18, 2018-19 & 2019-20. The issues involved in all these three appeals are common, therefore all three appeals are being decided vide this common order. A Search and Seizure action u/s 132 of the Act was conducted on Patel RPL Realty group of cases including the assessee on 08/08/2019. As the authorization u/s. 132 of the Act was issued in the name of the assessee also, therefore, a notice u/s. 153A of the Act was issued to the assessee. In response to this, the assessee filed its return of income u/s. 153A of the Act by declaring total income of Rs. 64,70,360/-.

57. During the search operation, documents related to cash receipts from the customers were found and seized as bundle no. 10/party AB-1. When confronted with the Shri Nikul Patel, Sales Manager, accepted that these documents represented receipts issued to the customers for the cash received by the said firm. Subsequently, the statement of Shri Nikul Patel was confronted with Shri Hiren Patel (a key person of Patel RPL Realty Group) and he confirmed the statement given by Shri Nikul Patel. Accordingly, during the assessment proceedings, the assessee was issued a show cause notice and in the absence of any explanation from the assessee, a total addition of Rs.



4,75,000/- being two cash receipts amounting to Rs. 2,75,000/- and Rs. 2,00,000/- was made u/s. 69A of the Act.

58. The ld.CIT(A) in the subsequent appeal, observed from the assessment order i) perusal of the seized document page 2 of bundle 10 of AB1, it was seen a receipt dated 24.09.2016 was issued to Mr. Ranjeet Chauhan against Cash payment of Rs.2,75,000/- on account of other charges. In the statement recorded on oath during the course of Search action Shri. Nikul Patel clearly stated that this is a cash receipt of Rs.2,75,000/- mentioned as “other charges” from Ranjeet Chauhan, Building no. 06, Flat no. 204, Jainam Residency. Jainam Residency was the project developed by assessee itself. A specific show cause was issued to the assessee and asked to submit the relevant account reflecting the receipts are being recorded in the regular books of account. It is also pointed out when Hiren Patel was confronted with Nikul Patel’s statement he accepted and confirmed the statement given by him to be true and correct. In response to the show cause nothing has been brought on record by the assessee nor filed any explanation how it is recorded in regular books of account. Therefore, the said receipts amounting of Rs.2,75,000/- were nothing but unexplained cash receipts. Accordingly, the same was treated as unexplained money in the hands



of assessee u/s 69A of the Act and taxed as per the provisions of section 115BBE of the Act.

(ii) On perusal of the page 13 of bundle 10 of AB 3(1) it is seen that, a receipt is issued on 24.09,2016 by project Jainam Residency. In the statement recorded on oath during the course of Search action Shri. Nikul Patel (Sales Manager) had clearly stated that this was a cash receipt of Rs.2,00,000/- mentioned as “other charges” from Dashrath Chauhan, Buildingno. 06, Flat no. 204, Jainam Residency. Jainam Residency is the project developed by assessee itself. A specific show cause notice was issued to the assessee but nothing had been brought on record by it nor filed any valid explanation how it is recorded in regular books of account. Therefore, the said receipts amounting of Rs.2,00,000/-were nothing but unexplained cash receipts. Accordingly, the same was treated as Unexplained Money in the hands of assessee u/s.69A of the Act.

58.1 The ld.CIT(A) observed that the addition made by the AO was based on the cash receipts issued to customers which were seized during the search operation as bundle no 10/party no. AB-1. Further, the sales manager in the statement recorded u/s. 132(4) had accepted that



these seized documents were receipts issued to the customers for cash received from the buyers of the flats in the project namely, Jainam Residency. The relevant portion of the statement of Shri Nikul Patel recorded on 09.08.2019 was reproduced in the order. Subsequently, the seized bundle no. 10/party no. AB-1 was confronted to Shri Hiren B. Patel, a key person of Patel RPL Realty Group and in response to question no. 18 of the statement recorded on 09.08.2019, he accepted that cash was received from the customers of project Jainam Residency. Thereafter, statement of Shri Nikul Patel was also confronted to him and in reply to question no. 22, 23 and 24, he accepted that Shri Nikul B. Patel was collecting cash for various projects of the group on his directions. When asked as to whether the said cash has been accounted in the regular books of accounts of respective entities, Shri Hiren Patel could not give any satisfactory reply. The above discussion clearly suggested that the addition for unaccounted cash received by the appellant was based on incriminating seized material found and seized during the search operation.

58.2 The second ground raised by the appellant before the Id.CIT(A) was regarding the merits of addition of Rs. 4,75,000/- (2,75,000 + 2,00,000) made u/s. 69A of the Act. The facts leading to



said addition have already been discussed in this order. During the appellate proceedings, the appellant has submitted inter alia that these collections were made by Mr. Nikul Patel. Looking to the long-standing relation with an employee, Mr. Hiren Patel might have ratified the collection. But truly speaking, the collection was made by him on his own. It seemed that the same was towards the extra civil work got done by the customers. Therefore, the AO was not justified in taking cognizance of the same in the hands of the assessee firm. The excess amount collected for all the above-mentioned years by the Sales Head Shri Nikul Patel may be considered in his own hands. Alternatively, since the amount collected is towards the Extra Work done on behalf of the customers, the % of profit (reasonably 8%) may be replaced. Thus, by applying this analogy, the addition made by the AO would be restricted to profit amount. It was requested either to consider the above amount in the hands of Nikunj Patel or to estimate the profit @ 8% in the hands of the appellant firm.

58.3 The ld.CIT(A) observed that perusal of the seized material, i.e. page no. 2 of bundle no. 10/party no. AB-1 suggested that this was a receipt issued to Mr. Ranjit Chowhan for an amount of Rs. 2,75,000/- for flat no. 204, building no. 6 in Jainam Residency which had been



developed by the appellant firm. Similarly, theseized page no. 13 of bundle no. 10 is regarding receipt of Rs. 2,00,000/- for flat no.301 in building no. 5, Jainam Residency. It is further seen that the sales manager Shri Nikul Patel in the statement recorded u/s. 132(4) has explained the said receipts are regarding the cash received from customers. This had been confirmed by Shri Hiren B. Patel in his statement. It was further seen that these two statements had not been retracted till date. Thus, these statements recorded u/s. 132(4) carried immense evidentiary value. It was further noted that the appellant had not denied the receipt of cash amount of Rs. 4,75,000/- (2,75,000 + 2,00,000). The only contention was that these amounts were received against the extra civil work got done by the customers and therefore, only the profit element i.e. 8% of these cash receipts should be considered as income. In this regard, the Id.CIT(A) observed that although, the appellant had claimed that only profit element of these unaccounted receipts should be considered as income but no evidence regarding any expenditure incurred over and above what had been recorded in the books of account, had been filed by the appellant. Neither the appellant had pointed out towards any seized documents indicating any unaccounted expenditure incurred by the firm. In such



circumstances, it could not be presumed that the appellant incurred any unaccounted cash expenditure for which the unaccounted cash of Rs. 4,75,000/- was received. In such circumstances, whole of the unaccounted cash receipts was liable for tax and the contention of the appellant of applying a profit rate could not be accepted. In view of this discussion, addition of Rs. 4,75,000/- made by the AO was upheld.

59. Before us, the Id.AR has reiterated the same contentions as made before the appellate authority and claimed that no addition could be made or alternatively only profit percentage could be added. On due consideration, we do not find any merit in the contentions of the assessee as there is no basis for claiming expenditure against the receipts. The addition has been made on the basis of incriminating materials unearthed during search. As such addition is fully justified. The facts narrated in the appellate order makes it clear that the entries recorded in the seized papers could not be explained by the assessee in any manner. As such his finding is affirmed. In so far as the contention that only profit element need to be added, the same has been dealt with the appellate authority in cogent manner before upholding the addition. We do not find any infirmity in the appellate order which is upheld. Both



the grounds of appeal stand dismissed. **The appeal is therefore, dismissed.**

**60. IT(SS)A/3245/MUM/2025(2018-19)**

1. *That, the learned CIT(A)-11, Pune has grossly erred in not considering the impugned block assessment order passed is against natural justice and bad in law. The AO may please be directed to annul the impugned block assessment order.*
2. *That, the learned CIT(A)-11, Pune is not justified in upholding the addition of Rs.4,50,000/- on the basis of chits found & seized. The Assessing Officer may please be directed to delete such addition.*
3. *That, the learned CIT(A)-11, Pune is not justified in upholding the addition of Rs.1,93,600/- on the basis of chits found & seized. The Assessing Officer may please be directed to delete such addition.*

61. The return of income for the year under consideration was filed on 27.09.2018 by declaring income of Rs. 22,15,630/-. In response to notice u/s. 153A of the Act, the assessee filed return of income on 28.09.2020 by declaring an income of Rs. 22,15,630/-. The assessment u/s. 143(3) r.w.s. 153A of the Act was completed by making an addition of Rs. 6,43,600/- u/s. 69A of the Act, being the unaccounted cash receipts as per seized pages no. 20 and 21 of bundle no. 10/party no. AB-1. It related to the addition of Rs. 6,43,600/- (1,93,600 + 4,50,000) made on the basis of seized page no. 20 and 21 of bundle no. 10/party no. AB-1. According to the Id.CIT(A), perusal of the assessment order suggested that the facts leading to addition in the year under



consideration were similar to facts for AY 2017-18. It is seen that on the seized pages, the details of amount received in cash was clearly mentioned. The AO made addition of Rs.6,43,600/- (1,93,600 + 4,50,000) on the basis of seized page no. 20 and 21 of bundle no. 10/party no. AB-1. During the appellate proceedings, the assessee filed a submission which was found identical to the submission filed for AY 2017-18. As the facts for the year under consideration were similar and the appellant had raised similar contentions, therefore, following his decision for AY 2017-18, the addition of Rs. 6,43,600/- made by the AO was upheld by the ld.CIT(A).

62. On careful consideration of the facts, we find that the issue has already been elaborately dealt with by the ld.CIT(A) in appeal of preceding which has also been upheld by us. Since the facts and the circumstances remain the same, we uphold the decision of the ld.CIT(A) dismissing all the grounds of appeal in this regard.

63. In the result, appeal of the **assessee is dismissed.**

**64. IT(SS)A/3246/MUM/2025(AY 2019-20)**

*1. That, the learned CIT(A)-11, Pune has grossly erred in not considering the impugned block assessment order passed is against natural justice and*



*bad in law. The AO may please be directed to annul the impugned block assessment order.*

*2. That, the learned CIT(A)-11, Pune is not justified in upholding the addition of Rs.10,00,000/- on the basis of chits found & seized. The Assessing Officer may please be directed to delete such addition.*

65. The return of income for the year under consideration was filed declaring loss of Rs. 6,26,171/-. In response to notice u/s. 153A of the Act, the assessee filed return of income declaring a loss of Rs. 6,26,171/-. The assessment u/s. 143(3) r.w.s. 153A of the Act was completed by making an addition of Rs. 6,43,600/- u/s. 69A of the Act, being unaccounted cash receipts as per seized page no. 18 of bundle no. 10/party no. AB-1. 27. The addition of Rs. 10,00,000/- made on the basis of seized page no. 18 of bundle no. 10/party no. AB-1. The ld.CIT(A) observed that perusal of the assessment order suggested that the facts leading to addition in the year under consideration were similar to facts for AY 2017-18. During the appellate proceedings, the appellant filed a submission which was identical to the submission filed for AY 2017-18. As the facts for the year under consideration were similar and the appellant had raised similar contentions, therefore, following his decision for AY 2017-18, he upheld the addition.



66. On careful consideration of the facts, we find that the issue has already been elaborately dealt with by the Id.CIT(A) in appeal of preceding of AY 2017-18 which has also been upheld by us. Since the facts and the circumstances remain the same, we uphold the decision of the Id.CIT(A) dismissing all the grounds of appeal in this regard and dismissing the appeal.

67. In the result, **all the above appeals are dismissed.**

Order pronounced in the open court on **20/02/2026.**

Sd/-

**NARENDER KUMAR CHOUDHRY**  
(न्यायिक सदस्य / JUDICIAL MEMBER)

Sd/-

**PRABHASH SHANKAR**  
(लेखाकार सदस्य/ACCOUNTANT MEMBER)

Place: मुंबई/Mumbai

दिनांक /Date 20.02.2026

Lubhna Shaikh / Steno

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त / CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण DR, ITAT,  
Mumbai
5. गार्ड फाईल / Guard file.



ITA No. 3241 3242 3243 3309 3310 3244 3245 3246 2873 2874 2875 2812 2813  
2814 2815 2816 2817 /Mum/2025

A.Y. 2011-12, 2012-13, 2013-14, 2014-15, 2015-16, 2016-17, 2017-18, 2018-19, 2019-20, 2020-21  
Param Property Developers and Ors.

सत्यापित प्रति //True Copy//  
आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt. Registrar)  
आयकर अपीलीय अधिकरण/ ITAT, Bench,  
Mumbai.

