

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

**BEFORE SMT. BEENA PILLAI, JUDICIAL MEMBER  
AND  
SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER**

**ITA Nos. 3233, 3232 & 3229/MUM/2025  
Assessment Years: 2012-13 to 2014-15**

Govind Corporation 4 <sup>th</sup> Floor, 139, Seksaria Chambers, Nagindas Master Road, Fort, Mumbai – 400001.  (PAN: AADFG2152N)	Vs.	DCIT, CC-8(1), Mumbai
(Appellant)		(Respondent)

Present for:

Assessee : Shri Madhur Agrawal, Advocate and  
Shri Pankaj Jain, CA

Revenue : Shri Swapnil Choudhary, Sr. DR

Date of Hearing : 06.01.2026

Date of Pronouncement : 09.03.2026

**ORDER**

**PER GIRISH AGRAWAL, ACCOUNTANT MEMBER:**

These appeals filed by the assessee against the order of CIT(A)-50, Mumbai, vide order nos. ITBA/APL/S/250/2024-25/1074711566(1), ITBA/APL/S/250/2024-25/1074749571(1) and ITBA/APL/S/250/2024-25/1074752057(1) dated 19.03.2025, dated 20.03.2025, respectively, passed against the assessment order by DCIT, CC-8(1), Mumbai, u/s. 143(3) r.w.s. 147 of the Income-tax Act (hereinafter referred to as the “Act”), dated 28.03.2023 and 31.03.2023, respectively, for Assessment Year 2012-13 to 2014-15.

**ITA NO. 3233/MUM/2025 (A.Y. 2012-13)**

2. Grounds taken by assessee are reproduced as under:

*“Ground.no.1*

*The Commissioner of Income tax (Appeals)-50, Mumbai (herein referred to as CIT (A)) erred in holding that the DCIT, Central Circle 8(1) (herein referred to as ld. Assessing Officer) was right in reopening the assessment under section 148 of the Act. The Appellants submit that the conditions precedent to reopening of the assessment are not complied with and the Order passed by the ld. Assessing Officer is without jurisdiction and therefore the reopening of assessment is bad in law and void ab-initio and the Appellants pray that the Order be quashed.*

*Ground no.2*

*Without prejudice to the above, the Appellants submit that the Assessment Order passed by the ld. Assessing Officer under section 143(3) / 148 has been issued without DIN and therefore this Order passed by the ld. Assessing Officer is a nullity in law and the Appellants pray that the same be quashed.*

*Ground no.3*

*Without prejudice to the above, the CIT(A) erred in holding that the ld. Assessing Officer was right in making an addition of Rs 1.97,38,853 under section 69A/69B as being cash applied towards purchase of land at Dhokawade, Alibaug. The Appellant submits that the addition are made purely of surmises and conjectures and in any event, the provisions of section 69A/69B are not applicable to the facts and circumstances of their case. The Appellants therefore pray that the addition made under section 69A/69B should be deleted.*

*Ground no.4 (a)*

*Without prejudice to above, the CIT(A) erred in enhancing the addition under section 69A/69B by Rs. 3,16,292 as being cash applied towards purchase of unregistered land Dhokawade, Alibaug, without providing a show cause notice or a reasonable opportunity of being heard under section 251(2) of the Act. The Appellants therefore submit that the enhancement of Rs. 3,16,292 is bad in law and should be deleted*

*Ground no, 4(b)*

*Without prejudice to above, the CIT(A) erred in enhancing the addition under section 69A/698 by Rs. 3.16.292 as being cash applied towards purchase of unregistered land Dhokawade, Alibaug. The Appellants submit that the provisions of section 69A/698 are not applicable to the facts and circumstances of their case. The Appellants therefore pray that the addition of Rs. 3,16,292 is bad in law and should be deleted.*

*Ground no, 4(c)*

*Without prejudice to above, the CIT(A) erred in enhancing the addition under section 69A/69B by Rs. 3,16,292 as being cash applied towards purchase of unregistered land at Dhokawade, Alibaug. The Appellant submits that the enhancement made by the CIT(A) is based on incorrect findings and therefore the addition of Rs. 3,16,292 be deleted.*

Ground no. 5

*The Ld. ld. Assessing Officer erred in levying interest under section 234B of the Act. The Appellant prays that the interest under section 234B of the Act be deleted or consequentially reduced.”*

**ITA NO. 3232/MUM/2025 (A.Y. 2013-14)**

2.1. Grounds taken by assessee are reproduced as under:

Ground no. 1

*The Commissioner of Income tax (Appeals)-50, Mumbai (herein referred to as CIT (A)) erred in holding that the DCIT, Central Circle 8(1) (herein referred to as ld. Assessing Officer) was right in reopening the assessment under section 148 of the Act. The Appellants submit that the conditions precedent to reopening of the assessment are not complied with and the Order passed by the ld. Assessing Officer is without jurisdiction and therefore the reopening of assessment is bad in law and void ab-initio and the Appellants pray that the Order be quashed.*

Ground no.2

*Without prejudice to the above, the CIT erred in holding that ld. Assessing Officer was right in making an addition of Rs. 2,04,85,198 under section 69A/69B as being cash applied towards purchase of land at Dhokawade, Alibaug. The Appellant submits that the addition are made purely of surmises and conjectures and in any event the provisions of section 69A/69B are not applicable to the facts and circumstances of their case. The Appellants therefore pray that the addition made under section 69A/69B should be deleted.*

Ground no. 3(a)

*Without prejudice to above, the CIT(A) erred in enhancing the addition under section 69A/69B by Rs. 19,29,380 as being cash applied towards purchase of unregistered land at Dhokawade, Alibaug, without providing a show cause notice or a reasonable opportunity of being heard under section 251(2) of the Act. The Appellants therefore submit that the enhancement of Rs. 19,29,380 is bad in law and should be deleted.*

Ground no. 3(b)

*Without prejudice to above, the CIT(A) erred in enhancing the addition under section 69A/69B by Rs. 19,29,380 as being cash applied towards purchase of unregistered land at Dhokawade, Alibaug, The Appellant submits that the provisions of section 69A/69B are not applicable to the facts and circumstances of their case. The Appellants therefore pray that the addition of Rs. 19,29,380 is bad in law and should be deleted.*

Ground no. 3(c)

*Without prejudice to above, the CIT(A) erred in enhancing the addition under section 69A/69B by Rs. 19,29,380 as being cash applied towards purchase of unregistered land at Dhokawade, Alibaug. The Appellants submits that the enhancement made by the CIT(A) is based on incorrect findings and therefore the addition of Rs. 19,29,380 be deleted.*

Ground no. 4

*The Ld. ld. Assessing Officer erred in levying interest under section 234B of the Act. The Appellant prays that the interest under section 234B of the Act be deleted or consequentially reduced.*

### **ITA NO. 3229/MUM/2025 (A.Y. 2014-15)**

2.2. Grounds taken by assessee are as under:

Ground no.1

*The Commissioner of Income tax (Appeals)-50, Mumbai (herein referred to as CIT (A)) erred in holding that the DCIT, Central Circle 8(1) (herein referred to as ld. Assessing Officer) was right in reopening the assessment under section 148 of the Act. The Appellants submit that the conditions precedent to reopening of the assessment are not complied with and the Order passed by the ld. Assessing Officer is without jurisdiction and therefore the reopening of assessment is bad in law and void ab-initio and the Appellants pray that the Order be quashed*

Ground no.2

*Without prejudice to the above, the CIT(A) erred in holding that the ld. Assessing Officer was right in making an addition of Rs. 1,36,25,646 under section 69A/69B as being cash applied towards purchase of land at Dhokawade, Alibaug. The Appellants submit that the addition are made purely of surmises and conjectures and in any event provisions of section 69A/69B are not applicable to the facts and circumstances of their case. The Appellants therefore pray that the addition made under section 69A/69B should be deleted.*

Ground no.3 (a)

*Without prejudice to above, the CIT(A) erred in enhancing the addition under section 69A/69B by Rs. 17,71,235 as being cash applied towards purchase of unregistered land at Dhokawade, Alibaug, without providing a show cause notice or a reasonable opportunity of being heard to the Appellants under section 251(2) of the Act. The Appellants therefore submit that the enhancement of Rs. 17,71,235 is bad in law and should be deleted.*

Ground no.3 (b)

*Without prejudice to above, the CIT(A) erred in enhancing the addition under section 69A/69B by Rs 17,71,235 as being cash applied towards purchase of unregistered land at Dhokawade, Alibaug. The Appellants submit that the provisions of section 69A/69B are not applicable to the facts and circumstances*

*of their case The Appellants therefore pray that the addition of Rs. 17.71.235 is bad in law and should be deleted*

*Ground no.3(c)*

*Without prejudice to above, the CIT(A) erred in enhancing the addition under section 69A/69B by Rs. 17,71.235 as being cash applied towards purchase of unregistered land at Dhokawade, Alibaug. The Appellant submits that the enhancement made by the CIT(A) is based on incorrect findings and therefore the addition of Rs. 17.71,235 be deleted.*

*Ground No.4*

*Without prejudice to above, the CIT (A) erred in restricting the benefit of telescoping to Rs. 1.15,96,000 as against Appellants claim of Rs. 1,36,25,646. The Appellants submit that since the sources has been explained the CIT (A) ought to have allowed Rs. 1,36,25,646 and the Appellants pray that the ld. Assessing Officer be directed to allow telescoping of Rs. 1,36,25,646 and delete the entire addition under section 69A/69B of the Act.*

*Ground no. 5*

*The Ld. ld. Assessing Officer erred in levying interest under section 234B of the Act. The Appellant prays that the interest under section 234B of the Act be deleted or consequentially deleted.”*

3. The present set of three appeals emanates from the reassessment orders passed pursuant to search and survey operations conducted in the group cases of the Estate Investment Company Pvt. Ltd. (Estate) and its connected entities, (hereinafter referred to as the Sakseria Group of companies). Since the core issues, factual substratum, and legal contentions are substantially common across these years, therefore, are clubbed together and are being disposed of by this consolidated order. The addition made is towards undisclosed income under section 69A/69B on account of unaccounted investment in land situated at Dhokawade, Alibaug.

3.1. For the sake of convenience, appeal for the Assessment Year 2012-13, i.e., ITA No. 3233/Mum/2025 is taken up as the lead matter and our finding given herein will apply *mutatis mutandis* in the appeals for the other two assessment years also.

4. At the outset, ld. Counsel for the assessee pointed out that the issue contested in these three appeals of the assessee are squarely covered by its own case by the decision of Coordinate Bench for Assessment Year 2015-16 and Assessment Year 2021-22 in ITA Nos. 3230 and 3232/Mum/2025, order dated 28.10.2025. In this judicial pronouncements of the Coordinate Bench in assessee's own case, the facts, issues and the reasoning adopted by the ld. Assessing Officer are *pari materia* to the present case before us. In the assessment years for which assessee is in appeal before us, addition have emanated from the same set of excel sheet and the same statements recorded during the course of proceedings with only variations in the quantum of addition made, alleged to be unaccounted investment in the land parcel at Dhokawade, Alibaug. On confrontation of this factual position before the ld. Sr. DR, it was fairly accepted that the evidential foundation, nature of seized material and the manner in which assessment has been made are identical. Accordingly, before adopting the observations and findings from the aforesaid order of the Coordinate Bench, we take note of the factual position in the appeal before us by taking the lead case of Assessment Year 2012-13 for the sake of avoiding ambiguity on the factual position.

5. Facts of the case are that assessee is a firm formed on 25.03.2000. It is engaged in the business of investment and trading in shares, derivative trading, investment in mutual funds, immovable property, etc. It is a part of the Seksaria Group of companies. The flagship company of the group is the Estate which holds rights in lands situated at Mira, Bhayander and Ghodbunder near Mumbai. A search and Seizure/Survey action u/s 132/133A of the Act was conducted on the Estate at 4th floor, Seksaria Chambers, Nagindas Master Road, Fort,

Mumbai and other related entities on 07.10.2021. Neither seizure nor warrant for search was conducted/issued in the case of assessee. During search and seizure action, various incriminating documents and digital evidences in the form of data backup were seized in the case of Estate. Since information contained in the material/data so seized was alleged to be related to the assessee, notice u/s.148 of the Act was issued on assessee on 23.01.2023 for the year under consideration. Assessee filed its return of income u/s.148 of the Act on 08.02.2023, reporting total income at Rs.13,72,500/-.

5.1. During the course of aforesaid search proceedings, an excel sheet related to land at Dhokawde, Alibaug was found in the computer of Tarun N Seksaria (TNS) which is reproduced by the ld. Assessing Officer in para no 52.1 in the impugned assessment order. Statement of TNS on oath was recorded during the course of search under section 132 in the case of Estate. The relevant Question no. 19 of the statement of TNS is reproduced below for ready reference. TNS during the course of assessment has withdrawn the said statement.

*Q.19. Kindly explain what A and B are in the abovementioned column. Also explain who is PDG, SPG EI & GC and what are these entries.*

*Ans. Sir, A is the amount paid in cheque to register the land and B is the cash paid to complete the transactions. PDG is short for Pratap Dattatray gambhir, SPG is short for Shilpa Pratap Gambhir, EI is short for the Estate Investment Company Pvt. Lt. And GC is short for Govind Corporation. Shilpa Pratap Gambhir is wife of Late Shri Pratap Gambhir. She is also my business partner in Ms Veda Real Estate Corporation Pvt. Ltd. And legal heir in Veda Trade Infra LLP in place of her Late husband Shri Pratap Gambhir.*

5.2. Ld. Assessing Officer has, partly relied on the statement of TNS and alleged that the amount mentioned in column no. B of the said excel sheet represent the payment made in cash. Contention of the assessee is that the said amount mentioned in column no. B represents

a notional calculation of the expected return on the land, registered in Dhokawde which has not been accepted by the ld. Assessing Officer.

6. On the above stated facts which are identical to those already dealt by the Coordinate Bench in assessee's own case (supra), the Coordinate Bench exclusively dealt with the findings of the ld. Assessing Officer, analysed the seized material in the form of excel sheet which forms the basis for the impugned additions. It has also taken note of the contents of the statements recorded during the course of search, as well as their retraction on which no independent verification was made nor any corroborative contemporaneous records were unearthed to substantiate the alleged cash outflows. The Coordinate Bench also took note of findings of ld. CIT(A) and extensively dealt with the submissions made by the Counsel of the assessee on all the aspects of the additions made, by making reference to several judicial pronouncements. These observations are extracted below for ready reference.

*"4. The controversy, in essence, centers upon additions made on the basis of certain excel sheets found during the course of search, the evidentiary worth of the statements recorded under section 132(4), and the consequential additions of unexplained investments under section 69A/69B of the Act.*

*5. Brief facts as culled out from the records are that the assessee is a part of the Sekseria Group of Companies. Assessee is a private limited company. The Company has been aggregating land parcels in and around Dhokawade for over a decade.*

*6. On 7th October, 2021, the Investigation Wing of the Department conducted a search and survey action under section 132 of the Act at the premises of the Sekseria Group of Companies which included the assessee situated on the 4<sup>th</sup> Floor of Seksaria Chambers, Nagindas Master Road, Fort, Mumbai. The search extended over multiple days and encompassed various group entities and individuals associated with the Sekseria Group and their business concerns. During the course of the operation, certain Excel-based management information sheets were found and seized. These documents, according to the Department, contained notings suggestive of cash investment for acquisition of land at Dhokawade. Statements of Mr. Nandkumar Kudilal Sekseria (NKS), and Mr. Tarun Sekseria (TNS) were recorded contemporaneously and in the days following the search, forming the bedrock of the Assessing Officer's inference regarding unaccounted income in the case of Assessee.*

7. In the case of Assessee, the Assessing Officer drawing primarily upon these excel statements which were found and seized on 07/10/2021 and based on the statements of TNS and NKS made additions under section 69A/69B

8. The statements recorded during the course of the search are as under:

Sr. No.	Deponent	Statement Recorded at	Statement dated	Q.Nos
1	Tarun Nandkumar Seksaria (TNS)	Sakseria building, Marine Drive, Mumbai-400020	09.10.2021	Q1-Q 31
2.	Nandkumar Kudilal Seksaria (NKS)	Sakseria Building, nagindas master Road, Mumbai 400001.	11.10.2021	Q.1 to Q.30
3.	Nandkumar Kudilal Seksaria (NKS)	Air India Building, (Income Tax)	04.04.2022	Q.1 to Q.12

8.1. Various Excel sheets were recovered from the computer of Mr.Tarun Sakseria[ TNS] , which indicated notings pertaining to lands situated at Kolgaon, Dhokawade, Agarsure and Dapoli.

8.2. The statement of TNS was recorded on each of these excel sheet pertaining to these various land parcels under section 132[4] on 9.10.2021. The land parcel concerning the assessment year under consideration is Dhokawade land.

8.3. The current appeals concerns arises from the statement pertaining to lands at Dhokawade, which are acquired by the Assessee, TNS has stated in response to Q 21 that the amounts mentioned in column 'A' represent amounts paid by cheque and those against col 'B' represent cash derived from the NOCs granted by Estate for release of interest in lands in Mira, Bhayander and Ghodbunder. He has also mentioned that the quantum of cash generation was not known to him and has to be explained by his father Mr Nandkumar Sakseria

8.4. Thereafter the statement of Mr.Nandkumar Sakseria, who is the main person in charge of the Sakseria Group was recorded under section 134[4]. In Q No 20 he was asked for his comments on the statement of TNS, to which he has stated that he has to verify the facts provided by TNS and sought more time.

8.5. Thereafter, the statement of NKS was recorded post search by the ACIT under Section 131 of the Act at Room No. 2007A, 20th Floor, Air India Building, Nariman Point, Mumbai-21 on January 4, 2022. In the statement recorded on January 4, 2022, NKS, inter alia, stated as under:

9. In Q 11, NKS was asked to comment on the statement of TNS, on the excel statement seized, wherein TNS had stated that cash derived from rights/grants of NOC was deployed for purchase of various land parcels.

In response to the same, NKS stated that 'since Tarun has been suffering from various illness from time to time, to keep him busy, I assigned him with the task of land acquisition in Alibaug. All our land dealings were coordinated by local aggregator Late Pratap Gambhir. **To the best of my knowledge these excel statements are estimates of the cost and profits and projections as prepared by Late Pratap Gambhir**'. As mentioned to your good self above, occasionally some quantity of cash may have come from release of rights in eksali lands and may have been given to Pratap Gambhir'

9.1. Both TNS and NKS have retracted their statements vide letters dated 22<sup>nd</sup> December, 2022 and 7<sup>th</sup> February, 2023

### **Analysis of the statement**

10. One crucial point to be noted from the perusal of the statement of TNS is that he has clearly mentioned that the amount invested in Dhokawade land was sourced from Estate Investment and he is not aware of the quantum of such generated by Estate which will be explained by his father, NKS. TNS has also explained the source of this cash as being derived from granting of NOCs by Estate.

10.1. Most importantly, the person in charge of the Group affairs, NKS has categorically denied that the figures in Col 'B' "are cash and has mentioned that these are estimates of the costs and profits and projections prepared by Mr. Pratap Gambhir [PDG] and occasionally some cash may have come from release of rights in Eksali land of Estate. NKS in his statement has also mentioned that TNS was suffering from various ailments as was ill and therefore to keep him occupied NKS had asked him to oversee the acquisitions of lands in Alibaug, which include the lands at Dhokawade belonging to the assessee.

10.2. Both TNS and NKS have retracted their statements vide letters dated 22<sup>nd</sup> December, 2022 and 7<sup>th</sup> February, 2023 during the course of assessment proceedings.

10.3. The retractions of NKS and TNS have been rejected by AO on the ground of delay. The ld. AO, in his elaborate order, narrated that during the course of the search proceedings, multiple diaries and loose sheets were found, each containing cryptic entries in the form of initials, figures, and occasional remarks. These entries, according to the Assessing Officer, chronicled cash investment made by the assessee for acquisition of lands at various places, including Dhokawade. On this premise, the Assessing Officer held that the said payment represented unaccounted investment and, therefore, treated them as unexplained investment under section 69A/69B of the Act.

10.4. Based on this reasoning, the Assessing Officer made additions under section 69A/69B of Rs. 6,70,174 founded almost exclusively on the noting in the excel sheets found in the computer of TNS, the statement of TNS under section 1342[4].

10.5. No independent verification was made from the counterparties purportedly reflected in the respective purchase agreement for purchase of Dhokawade land,

*nor were any corroborative documents or contemporaneous records unearthed to substantiate the alleged cash outflows. The Assessing Officer, nevertheless, inferred a pattern of some stray notings in the diaries which purported to be payments to PDG, who was the land aggregator for the Sekseria Group, entries in the excel sheet and the statement of TNS which was later retracted.*

**Findings of CIT (A)**

11. *When the matter travelled in appeal before the learned Commissioner of Income Tax (Appeals) [“CIT(A)”], the assessee vehemently contested both the factual premise and the legal tenability of the additions under section 69A/69B. It was submitted that the entire edifice of the assessment rested upon the statement of TNS under section 132[4], which was retracted later. It was further urged that the statements recorded under section 132(4) lacked credibility, as they were subsequently retracted with cogent reasons, and that no corroborative evidence whatsoever was found during the search neither cash, nor unaccounted assets so as to lend authenticity to the inferences drawn by the Assessing Officer. The assessee also emphasized that in any case the statement of TNS was debunked by the statement of NKS who was in charge of the whole group where he has categorically mentioned that no cash were paid and the statement merely showed estimation of the increase in the market values of these land parcels which was prepared as a MIS statement for analyzing the potential of the investment made in the land.*

12. *The learned CIT(A), after a detailed consideration of the rival submissions and the seized material, partly accepted the assessee’s alternate contentions that, if at all any cash was invested, it was invested by Estate and therefore the benefit of telescoping was allowed. The CIT(A) however ignored the fact that the statements of TNS had been debunked by NKS and therefore were contradictory and further ignored the fact that the statement of TNS and NKS were retracted. The CIT(A) has also not pondered over the AOs action in not obtaining any third-party confirmations. The Ld. CIT(A) accordingly, confirmed the addition of that in principle the AO was right in making an addition under section 69A/69B but since the assessee had explained the source, he has allowed telescoping to the extent of the addition of Rs.6,70,174 for AY 2015-16*

13. *The Assessee have contested the additions which were confirmed by the CIT(A) either substantively or in principle .*

14. *Similar addition has been made in in other assessment years and the summary of additions which have been confirmed by the ld. CIT(A) on the same reasoning which has been contested by the assessee before this Tribunal are as under:-*

Sr.No	Particulars	AY	69A/69B
1	Govind Corporation	2021-22	12,91,971
2	EI Beneficiary Trust	2016-17	1,67,540
3	EI Beneficiary Trust	2017-18	5,02,631
4	EI Beneficiary Trust	2018-19	3,90,935

15. *Apart from the aforesaid grounds on merits of the addition, the Assessee has also raised legal grounds regarding the validity of the Notice under section 148 on the Assessment Order and defective notice issued under section 148.*

**Submissions of the A.R.:**

16. *The matter was argued at length before us. The Assesseees have also filed detailed written synopsis covering the facts and various arguments made before us and a paper book containing a Excel sheets pertaining to purchase of land at Dhokawade and the statement of TNS/NKS as also other relevant documents, which were relied upon during the hearing. Copies of retraction statements are also filed.*

17. *Before us, the learned Authorised Representative (AR) for the assessee opened his arguments with characteristic precision, asserting that the entire assessment proceedings were vitiated by a fundamental misconception of fact and law. He submitted that the Assessing Officer had elevated mere notings in a an excel sheet into conclusive proof of undisclosed income, without undertaking the most rudimentary verification or establishing any nexus between such notings and real-world transactions. The so-called incriminating excel sheet, he stressed, was merely a statement to analyze the increase in the market values in these land parcels prepared by PDG, who was the land aggregator and this fact was specifically mentioned by NKS and was not at all cash paid by the assessee for purchase of these lands as mentioned by TNS in his statement. The AR also mentioned that TNS 's in his statement has stated that he was not aware of the quantum of 'cash' generated and this would be explained by NKS and therefore the statement of NKS prevails over the statement of TNS. NKS in his statement has clearly stated that the statement was prepared by PDG stating the increase in market value of these lands. Consequently, the AR contended that in the absence of corroborative material or supporting evidence the reliance placed by the Assessing Officer upon these excel sheets and the contradictory statements of TNS and NKS , was wholly misplaced and is unsustainable in law.*

18. *The AR further pointed out that the only foundation on which the Assessing Officer sought to ascribe meaning to these noting in the excel sheet was the Statement of TNS recorded on 09/10/2021. The learned counsel invited our attention to the transcript of TNS's statement to demonstrate that it was riddled with conjecture and bereft of any factual basis. He emphasized that the Assessing Officer's action in cherry picking a part of the statement of TNS was an exercise that was, in his words, "factually perverse and legally impermissible."*

19. *The learned counsel also reiterated his submission that the statement of TNS was of no real consequence as it had been categorically denied by NKS the principal person in charge of the company, in his statement dated 4<sup>th</sup> October, 2022 in Q no 11 where has stated that TNS had been suffering from various ailments and he had assigned him the job of coordinating with PDG for land and most importantly the figures in the excel sheets which were stated to be 'cash' was in fact a comparison of the cost and projections of the profits[ market values] in these lands prepared by PDG. The AR also contended that in any case NKS had stated that 'occasionally some cash may have come and given to PDG' which does not mean that all the figures under Col 'B' are cash as presumed by the AO.*

20. *The AR then highlighted that both TNS and NKS had formally retracted their statements during the course of assessment proceedings, through written communications dated 22nd December, 2022 and 7th February, 2023 respectively, giving cogent reasons for such retraction. Despite this, the Assessing Officer had summarily brushed aside these retractions, branding them as*

“afterthoughts,” without affording either individual an opportunity for cross-examination or further clarification. This, he contended, amounted to a flagrant violation of the principles of natural justice. Once a statement is retracted, the law requires the Department to establish its truth through independent corroboration; in the absence of such corroboration, the statement cannot be treated as binding evidence. The AR placed reliance on an array of judicial precedents to fortify his argument that a retracted statement, standing alone and unsupported by any tangible material, lacks evidentiary sanctity and cannot form the sole basis of addition.

21. The AR pointed out that the AO did not bother to analyze and evaluate other entries in the excel sheet and merely considered the amount mentioned in excel sheet as cash investment by relying on the uncorroborated statement of TNS which was later retracted.

22. The AR also made without prejudice submission that AO has cherry picked the statement of TNS to suit his narrative. Had the statement been fully considered, the AO would have been required to take cognizance of the fact that the cash investment was not made by the assessee and therefore no addition could have been made in its hands. The AR vehemently argued that the Assessee has no capacity to generate cash and that the cash was never invested by the Assessee. The AR also pointed out that these facts have been duly accepted by the AO and CIT(A).

22.1. The AR also pointed out that this statement does not mention the years to which it pertains and the action of the AO to extrapolate the total to various assessment years on the basis of the amounts paid by Cheque is devoid of any logic or legal sanctity.

22.2. The learned Authorized Representative continued his submissions with a meticulous reference to jurisprudence, weaving together a formidable chain of precedents that underscored the impermissibility of making additions solely on the strength of uncorroborated and subsequently retracted statements. He first drew our attention to the decision of the **Hon’ble Bombay High Court in CIT v. Reliance Industries Ltd. [(2020) 261 Taxman 358 (Bom)]**, where the Court had categorically held that a statement recorded during search cannot be relied upon as conclusive evidence unless supported by independent material. In that case, as in the present one, the Assessing Officer had based additions merely on the confession of a third party without any corroboration, which was later retracted. The High Court, affirming the Appellate Tribunal, ruled that when a statement is retracted and no other evidence is adduced, such a statement cannot, by itself, justify the addition. The learned counsel submitted that the ratio of this judgment was directly applicable to the present facts, where the Assessing Officer, resting solely on the statements of TNS, had proceeded to frame the assessment without any verification or corroboration from the alleged payers or any independent third-party evidence.

23. The learned AR next placed reliance on the judgment of the **Hon’ble Jharkhand High Court in Shree Ganesh Trading Co. v. CIT [(2012) 214 Taxman 262 (Jharkhand)]**, wherein it was held that though a statement recorded under section 132(4) constitutes evidence, its reliability and probative worth depend on the surrounding circumstances and corroboration. The Court observed that a bald statement, made without contemporaneous recovery of cash

or assets and later retracted, could not be used to fasten liability. Drawing a parallel, the learned counsel emphasised that in the assessee's case, no incriminating cash or valuables had been discovered in the course of search; yet, the Assessing Officer had proceeded as though the excel sheet were self-proving instruments of truth. Such an approach, he argued, stood condemned by judicial authority.

24. The learned counsel further fortified his argument by citing the judgment of the **Hon'ble Gujarat High Court in Kailashben Chokshi v. CIT [(2010) 328 ITR 411 (Guj.)]**, where it was held that an admission recorded under section 132(4), if retracted, cannot form the sole basis for addition unless supported by corroborative material. The High Court noted that statements extracted under stressful or coercive circumstances, particularly during search at odd hours, often lack voluntariness and hence must be treated with circumspection. The learned AR submitted that this principle had been reiterated in several later pronouncements, including by the coordinate benches of the Tribunal, and represents the settled position of law that mere confessional statements, in the absence of corroboration, are insufficient to sustain additions. He also drew our attention to the *Mahadhan Agritech Ltd. v. ACIT* (ITA No. 2227/Mum/2024) decision, wherein this very Bench had, following the dictum of Harjeev Aggarwal (Delhi High Court) and Jagdish prasad Joshi (Supreme Court), held that retracted statements under section 132(4) lose all probative value unless independently substantiated by evidence.

25. The learned counsel, to reinforce the argument, also referred to the official guidelines issued by the **Central Board of Direct Taxes (CBDT)** itself specifically, **Instruction No. 286/2/2003 dated 10th March 2003** and the subsequent **Circular F. No. 286/98/2013 dated 18th December 2014** both of which explicitly caution the Department against obtaining confessions of undisclosed income during search or survey operations. These circulars direct that assessments must be founded upon material evidence rather than unverified admissions. The counsel submitted that these instructions, being binding on the revenue authorities under section 119 of the Act, constitute a clear administrative mandate that confessional statements, without corroboration, are not to be made the sole foundation of assessment. He therefore urged that the action of the Assessing Officer in the present case anchoring the entire addition upon the retracted statements of TNS was in flagrant violation not only of settled judicial doctrine but of the Board's own directives.

26. The learned Authorised Representative then turned to what he termed the "central infirmity" of the entire assessment the treatment of the seized excel sheet as conclusive documentary evidence. He contended that even if, *arguendo*, the statements under section 132(4) were to be disregarded or viewed with circumspection, the excel sheets themselves, in the absence of any corroboration, were nothing but "dumb documents" incapable of independent evidentiary value. They were not part of the books of account, bore no authentication, and were admittedly prepared by PDG and not by any of the Directors of the assessee. The presumption under section 132(4A), he submitted, applies only to documents found to "belong to" the assessee and does not extend to the private MIS statements of an outsider like PDG. It was emphasized that the Department itself had not demonstrated that the seized excel sheets were maintained under the assessee's instruction or supervision and on the contrary a plain reading of the statements also indicate that these were not prepared by them as the words'

Total land acquisition Proposed' would not have been mentioned had the statement been prepared by the assessee. The Pointed out that this fact corroborates with the statement of NKS that this statement was prepared by PDG.

27. In support of this proposition, the learned AR drew strength from the celebrated decision of the **Hon'ble Supreme Court in Central Bureau of Investigation v. V.C. Shukla & Ors. [Criminal Appeal Nos. 247-256 of 1998]**, wherein it was held that loose sheets or diaries, not being books of account regularly kept in the course of business, are not admissible evidence under section 34 of the Indian Evidence Act. The Court observed that entries made by one person in such documents, unless corroborated by independent evidence, cannot fasten liability on another. This, the AR submitted, was directly applicable to the present case, where the Assessing Officer sought to tax the assessee on the strength of the personal notings of PDG, without establishing authorship, authenticity, or relevance. He also placed reliance on the judgment of the **Hon'ble Supreme Court in Common Cause (A Registered Society) v. Union of India [(2017) 394 ITR 220 (SC)]** the celebrated "Birla-Sahara Diaries" case wherein the Court had categorically held that uncorroborated third-party records found in the course of search have no evidentiary value whatsoever.

28. The learned counsel further cited a line of decisions from the jurisdictional and coordinate benches to reinforce the "dumb document" principle. Reference was made to **Principal CIT v. Umesh Ishrani [(2019) 108 taxmann.com 437 (Bom)]**, where the Hon'ble Bombay High Court upheld the Tribunal's finding that rough, unauthenticated notings in seized diaries, unaccompanied by corroborative evidence, could not justify addition under sections 68 or 69A. He also drew our attention to **Harish Textile Engineers Ltd. v. DCIT [(2015) 63 taxmann.com 66 (Bom)]**, and **DCIT v. Padmashree Dr. D.Y. Patil University [(2024) 159 taxmann.com 353 (Mum Trib)]**, both reiterating that such scribbled records, unless validated through substantive inquiry, are mere dumb documents. The AR thus submitted that the legal landscape on this issue is unequivocal: dumb documents, being self-serving, incomplete, or untested, cannot by themselves be a foundation for addition, particularly when the statements accompanying them have been retracted and no further corroboration is forthcoming.

29. Having thus traversed the legal authorities, the learned AR concluded that the entire assessment was built on conjecture and surmise. The Assessing Officer, he submitted, had not summoned or examined any of the alleged receivers of cash or payers of cash, though their details were available. No corroboration, direct or circumstantial evidence was adduced; and yet, the assessee was visited with enormous additions merely on the strength of what were, at best, an MIS statement or a loose sheet. To uphold such additions, he urged, would be to elevate suspicion to the level of proof, an approach that has been consistently disapproved by Courts. The learned AR therefore prayed that the additions sustained by the CIT(A) under section 69A/69B be deleted in toto, and that the assessment itself, founded on invalid notice and defective notice, be declared void ab initio.

6.1. After elaborately considering material on record and the submissions made before it, the Coordinate Bench took its decision to

hold that entire premise of Id. Assessing Officer is based on the statements of TNS who has alleged to have explained entries in the excel sheet found during the search. To this effect, it noted that facts are *ipso facto* same and are identical in the case of Tarun Nandkumar Seksaria (TNS) in ITA No. 3216/Mum/2025 decided by another Coordinate Bench vide order dated 28.10.2025, relating to the same land situated at Dhokawade which also is based on exact same facts and material. The addition so made was thus, deleted.

7. In this regard, we perused the judicial pronouncement made in the case of Tarun Nandkumar Seksaria (*supra*) which also deals with identical additions on the same factual matrix, as the common facts on all these additions relate to lands at Dhokawade and also land at Dapoli in the case of Tarun Nandkumar Seksaria. The additions made are on the basis of excel sheets or on loose papers which are not self-explanatory but purely based on statements recorded during the course of search of Tarun Nandkumar Seksaria (TNS) and contradicted by Nandkumar Seksaria (NKS). In this regard, findings of the Coordinate Bench in the case of Tarun Nandkumar Seksaria (*supra*) are extracted below:

*“50.4. The mere discovery of excel sheet and loose sheets which are not even prepared by the assessee and remain uncorroborated by any external evidence, cannot, by itself, form the sole basis for an addition. Particularly so when the authorship and authenticity of such documents are in dispute. The Investigation Wing, which carries out the search, may record statements or seized documents; however, the same are merely inputs for further enquiry. Once the material is transmitted to the jurisdictional Assessing Officer, it becomes incumbent upon him to apply his own independent mind and conduct proper enquiry to determine whether such statements or seized documents can lawfully lead to any addition.*

*50.5. The Assessing Officer cannot act as a mere forwarding agent of the report or view expressed by the Investigation Wing and mechanically incorporate the same in his assessment order without exercising his own judgment as to whether such information or view can legitimately form the*

*foundation of an addition within the four corners of law. At best, the information and material emanating from the Investigation Wing may serve as a trigger or starting point to issue a show-cause notice and seek an explanation from the assessee. But once the assessee has rebutted those materials including any recorded statement with cogent reasons, the Assessing Officer must judiciously evaluate such explanation and undertake at least a prima facie enquiry to test the correctness of the rebuttal and strengthen the evidentiary base of the material relied upon.*

*50.6. If he fails to do so, sustaining any addition solely on the basis of such material gathered from the search cannot be justified. In the present case, the statements and documents relied upon by the Department have been effectively rebutted and controverted with cogent reasoning, as elaborated in detail above. The Assessing Officer, functioning as a quasi-judicial authority, is bound to apply his mind independently and adjudicate the issue in a fair and reasoned manner.*

*50.7. The presumption under section 132(4A) is, at best, a limited and rebuttable presumption applicable only in the context of seizure and custody, and cannot, by itself, elevate a private employee's scribbles into proof of income chargeable to tax. The Assessing Officer's reliance on extrapolation—extending the inference drawn from a uncorroborated excel sheet and the loose sheet amounts more to conjecture than to judicial reasoning.*

*51. This concern is further magnified when the foundation on which the said addition was made i.e. Statement of TNS has been retracted and no further examination or cross-verification has been undertaken. In light of these circumstances, the very evidentiary substratum of the additions evaporates, leaving behind nothing but suspicion. The Assessing Officer's approach of brushing aside the retractions as afterthoughts, without testing their veracity through examination or cross-questioning, constitutes a serious procedural infirmity.*

*51.1. This infirmity is all the more pronounced in the present case because the seized material is neither self-explanatory nor independently corroborated. The Assessing Officer's duty extends beyond mere reproduction of search findings; he must verify the surrounding facts and determine whether any such statements or diary notings are supported by independent evidence. Yet, in this case, he did not examine any of the persons purportedly involved in the statements, who were identified by TNS and were the supposed recipients of cash.*

*51.2. At the very least, there should have been some independent corroborative material such as bank statements, agreements, receipts, or documents evidencing any actual cash transaction or confirmation brought on record. The entire addition has been founded upon untested statements and cryptic notings. Such a method of assessment, built on conjecture and*

*devoid of corroboration, cannot withstand judicial scrutiny. An addition resting purely on suspicion and unsupported inference is antithetical to the settled principles of evidentiary assessment and the doctrine of fair adjudication.*

*52. We therefore hold that the Assessing Officer, in relying solely upon unverified excel sheet, loose sheet and uncorroborated statements, has traversed beyond the permissible confines of evidentiary inference. The seized excel sheet and loose sheet, as earlier discussed, are incapable of interpretation without contextual evidence, and the statements upon which reliance was placed stand nullified by valid retraction. The confluence of these infirmities absence of corroboration, failure to summon and cross-examine, and the intrinsic vagueness of the documents compels us to conclude that the additions made towards alleged capital gains and unexplained money are devoid of factual and legal foundation. In the result, the additions sustained under the head "Unexplained Investment U/s 69A/69B " and capital gains addition of Rs.2,14,50,000 cannot be upheld and are hereby deleted.*

7.1. For the purpose of bringing assurance on the fact that issue relating to land at Dhokawade, Alibaug existed even in the case of Shri Tarun Nandkumar Seksaria (supra), reference can be made to ground no.2 of his appeal which deals with the addition of Rs.63,12,686/- in this regard. The same is extracted below for ready reference:

**Ground no.2**

*Without prejudice to the above, the CIT(A) erred in holding that the AO was right in making an addition of Rs. 63,12,686 under section 69A/69B as being cash applied towards purchase of land at Dhokawade, Alibaug. The Appellants submit that the addition are made purely of surmises and conjectures and in any event, provisions of section 69A/69B are not applicable to the facts and circumstances of their case. The Appellants therefore pray that the addition made under section 69A/69B should be deleted.*

8. In the conspectus of the above deliberations which evidently demonstrates identical fact pattern in the present appeal before us when compared with what has already been dealt by the Coordinate Bench in assessee's own case (supra) and also in the case of Tarun Nandkumar Seksaria (supra), we respectfully following the same, delete the addition made in the hands of the assessee of Rs.1,97,38,853/-

u/s.69A/69B as cash applied towards purchase of land at Dhokawade, Alibaug. Ground No.3 raised by the assessee is allowed.

9. Ground no.4 with its sub-grounds relate to addition made u/s.69A/69B being cash applied towards purchase of un-registered land at Dhokawade, Alibaug by resorting to enhancement u/s. 251(2) by the ld. CIT(A). In this regard, we perused the order of ld. CIT(A) dealing with enhancement to this effect. We note that this enhancement is also based on the entries recorded on the same excel sheet which formed the basis for making addition already dealt by us while adjudicating on ground no.3 in the above paragraphs. In this regard, ld. CIT(A) noted in para-20.3 that *“As per the notings on the excel sheet, the total investment of cash for un-registered areas is Rs.162.58 lakhs, out of which 106.70 lakhs is paid by Pratap Gambhir and Rs.55.88 lakhs is for other expenses.”* Furthermore, assessee has asserted before us that the said enhancement has been resorted to in violation of the provisions contained in section 251(2) which required providing a reasonable opportunity of being heard to the assessee which has not been complied with.

9.1. We find that ld. CIT(A) has made this enhancement based on the working which were already furnished by the assessee explaining the working of proportionate cash investment made by it in different years. In this respect, no show cause notice is said to have been issued to the assessee to explain its case, as contemplated in section 251(2). Furthermore, the addition by way of enhancement arises out of the same excel sheet which has already been dealt by us while dealing with ground no.3 as well as by the Coordinate Bench in assessee's own case referred above. In view of these factual positions and provision of the

Act, enhancement so made by Id. CIT(A) is not tenable and is therefore, deleted. Ground no.4 along with its sub-grounds are allowed.

10. Ground no.5 raised by the assessee is consequential in nature and therefore needs no separate adjudication. Ground no.1 and 2 deals with the legal and jurisdictional issues which have also been dealt by the Coordinate Bench in assessee's own case (supra). Ground no.2 in the present case specifically deals with the issues relating to Documents Identification Number (DIN). We note that amendments are proposed in the Finance Bill, 2026 in this regard. Accordingly, keeping the proposed amendments relating to this ground in perspective, we leave open this issue for adjudication with liberty to the assessee to take it up in appropriate circumstances, if so warranted. Ground no.1 though deals with legal and jurisdictional issues is general in nature and since merits of the case have been held in favour of the assessee, in terms of our above observations and findings, the same is also left open.

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

12. Other two appeals for Assessment Year 2013-14 and 2014-15 are on identical fact pattern, emanating from the same set of excel sheet and statements recorded during the search except for variation in the quantum of addition. These two appeals are also allowed in terms of our observations and findings noted in above paragraphs while adjudicating the appeal in Assessment Year 2012-13. Our observations and findings on each of the issue arrived at for the first year shall apply *mutatis mutandis* in respect of the other two years also.

12.1. In appeal for Assessment Year 2014-15, assessee has raised ground no.4 claiming telescoping of Rs.1,36,25,646/- as against the

benefit being restricted to Rs.1,15,96,000/-. Since, addition made u/s.69A/69B contested in ground no.2 has already been allowed in favour of assessee on the merits, this ground has been rendered infructuous. Accordingly, the same is dismissed as infructuous.

13. In the result, appeals for these two years are also allowed.

Order is pronounced in the open court on 09 March, 2026

Sd/-  
(Beena Pillai)  
Judicial Member

Sd/-  
(Girish Agrawal)  
Accountant Member

*Dated: 09 March, 2026*

*MP, Sr.P.S.*

Copy to:

- 1 The Appellant
- 2 The Respondent
- 3 DR, ITAT, Mumbai
- 4 Guard File
- 5 CIT

BY ORDER,

(Dy./Asstt.Registrar)  
ITAT, Mumbai