

IN THE INCOME TAX APPELLATE TRIBUNAL "PATNA" BENCH, PATNA

**BEFORE SHRI DUVVURU RL REDDY, VP
AND
SHRI RAJESH KUMAR, AM**

ITA Nos.289 to 291, 301/Pat/2025

(Assessment Years: 2020-21, 2022-23, 2023-24, 2021-22)

Dy. Commissioner of Income

Tax (Central circle)
Income Tax office, 4th floor,
Central circle, Near Nehru
Stadium, Sikandarpur,
Muzaffarpur-842001, Bihar

(Appellant)

Vs.

Rajesh Kumar Agarwal, HUF
Pankaj Market, Near Girijesh
Agency, HPO-Muzaffarpur-
842001, Bihar

(Respondent)

PAN No. AAVHR6470E

ITA No. 302/Pat/2025

(Assessment Years: 2021-22)

Rajesh Kumar Agarwal, HUF
Pankaj Market, Near Girijesh
Agency, HPO-Muzaffarpur-
842001, Bihar

(Appellant)

Vs.

Dy. Commissioner of Income
Tax (Central circle)
Income Tax office, 4th floor,
Central circle, Near Nehru
Stadium, Sikandarpur,
Muzaffarpur-842001, Bihar

(Respondent)

Assessee by : Shri Siddarth Agarwal, AR
Revenue by : Shri Md. AH Chowdhary, DR

Date of hearing: 27.11.2025
Date of pronouncement: 18.02.2026

ORDER

Per Rajesh Kumar, AM:

These are appeals preferred by the assessee and Revenue against the orders of the Commissioner of Income-tax (Appeals), Patna-3, (hereinafter referred to as the "Ld. CIT(A)") all even dated 28.04.2025 for the AYs 2020-21, 2021-22, 2022-23, 2023-24.

A.Y. 2020-21**ITA No. 289/PAT/2025**

2. First of all, we shall take for adjudication ITA No. 289/PAT/2025 A.Y. 2020-21. The grounds raised are extracted below:

"1. That on the facts and in the circumstances of the case and in law, the Ld. CIT(A)-3, Patna erred in deleting the addition of Rs. 7,33,57,570/- being undisclosed business income from sale of Raj Niwas Pan Masala.

2. That on the facts and in the circumstances of the case and in law, the Ld. CIT(A)-3, Patna erred in deleting the addition of Rs. 8,96,750/- being bogus commission income.

3. That on the facts and in the circumstances of the case and in law, the Ld. CIT(A)-3, Patna erred in not considering the observation of the Special Auditor, in which he reported that no conclusive evidence regarding exempted sale, exempted purchase, commission income and expenses shown in the profit and loss account of M/s Maa Annapurna Enterprises were produced by the assessee during the course of special audit.

4. That on the facts and in the circumstances of the case and in law, the Ld. CIT(A)-3, Patna erred in not considering the fact that during the course of search and survey action no stock of food grain items (tax free items) were found in any of the godowns of the assessee. That no books of account were found at the time of the search and survey action in the business premises of the assessee. That Sri Suresh Kumar alias Khetan, brother-in-law of Sri Rajesh Kumar Agarwal and associate, in his statement on oath dated 04.08.2022 in reply to question number 41 categorically stated that M/s Maa Annapurna Enterprises is only a paper company and that it has been devised to accommodate the unaccounted income generated from the Raj Niwas Pan Masala business.

5. That the order of the Ld. CIT(A)-3, Patna being erroneous in law and on facts is to be vacated and the order of the AO be restored.

6. That the applicant craves to add, alter, delete and modify the grounds of appeal before the Hon'ble ITAT."

2.1. The issue raised in ground no 1 is against the deletion of addition of ₹7,33,57,570/- by Id. CIT(A) as made by the AO by treating income as undisclosed business income from sale of Raj Niwas Pan Masala

2.1.1. The facts in brief are that the assessee is carrying on the business of food grain items and filed the return of income on 04.02.2021 declaring total income of Rs. 25,93,360/-. The Assessing Officer, while passing the assessment order under section 147 dated 28.12.2024 in post search assessment proceedings held that the food grain business carried on in the name of M/s Maa Annapurna Enterprises was non-existent and was merely a paper arrangement devised to channelize unaccounted income generated from the business of Raj Niwas Pan Masala, of which the assessee is a franchisee. A search and seizure action under section 132 was conducted on 03.08.2022 at the residential and business premises of Shri Rajesh Agrawal (HUF) and related persons, including Shri Suresh Kumar alias Khetan (brother-in-law) and Shri Pradeep Kumar Sharma (accountant). The AO observed that during the course of search, no books of account relating to the food grain business were found at any of the searched premises and that no stock of food grains was found in any godown belonging to the assessee. The AO further noted that the assessee stated during search that the books were lying with his Chartered Accountant Shri Ankit Hisaria, who subsequently denied possession of such books through email, a fact which was mainly relied upon by the AO. The AO placed reliance on statements recorded under section 132(4) of Shri Suresh Kumar alias Khetan, recorded on 03.08.2022 and continued on 04.08.2022, and of Shri Pradeep Kumar Sharma, wherein it was alleged that M/s Maa Annapurna Enterprises was only a paper concern and that the food grain business was created to accommodate unaccounted income arising from Raj Niwas Pan Masala business. In particular, the AO relied upon

Question No. 38 and Question No. 41 of the statement of Shri Suresh Kumar Khetan, wherein on 04.08.2022 he stated that no actual business was carried on in Maa Annapurna Enterprises and that the accounts were merely on paper. The AO rejected the assessee's contention regarding retraction and held that the statement recorded on 04.08.2022 represented the final and correct version, observing that the statement was recorded voluntarily in the presence of independent witnesses. The AO also relied upon WhatsApp chats and coupon-based documents seized from SK-01 to SK-19, and on a general analysis that after the ban on pan masala and gutkha in Bihar with effect from 31.08.2019, the assessee continued the business in an unaccounted manner and routed such income through the food grain turnover shown in the HUF concern. Based on the above factors, including the comparative turnover analysis and observations of the special auditor M/s Anant Dokania & Co. LLP appointed under section 142(2A), the AO treated the entire disclosed turnover of Rs. 7,59,50,930/- of M/s Maa Annapurna Enterprises for AY 2020-21 as undisclosed business income from sale of Raj Niwas Pan Masala and, after certain adjustments, made an addition of Rs. 7,33,57,570/-.

2.1.2. The Id. CIT(A) after taking into the submissions and arguments of the assessee allowed the appeal of the assessee.

The Id. CIT (A) held as under:-

"After a thorough examination of the grounds of appeal presented by the appellant against the addition of 7,59,50,930/ made by the Ld. AO during the assessment proceedings, I. find it imperative to address the issues raised with a detailed analysis rooted in legal principles, judicial precedents, and the evidence submitted. The appellant has cogently argued multiple points that challenge the basis of the Ld AO's addition.

The appellant has convincingly demonstrated that the turnover in question, pertaining to trading activities in grain items, was fully disclosed in the audited financial statements submitted to the Income Tax Department. These statements are supported by a comprehensive set of documents including the purchase ledger, sales ledger, sales invoices, cash book, and bank book, all of which were made available during the assessment proceedings. The Ld. AO's decision to impose an addition of entire turnover overlooks the fact that it has already been subjected to taxation, as evidenced by the appellant's records. The principle of taxing income only once is a cornerstone of tax jurisprudence, and no credible evidence has been adduced by the Ld. AO to suggest that this turnover represents anything other than the disclosed grain trading activities. The appellant's submission that these transactions were conducted transparently through banking channels further reinforces the legitimacy of the disclosed turnover leaving no room for an arbitrary addition of this magnitude.

A significant flaw in the Ld AO's approach lies in the selective acceptance of evidence which the appellant has rightly highlighted as lacking logical and legal coherence. The Ld. AO has accepted the purchases of grain items as genuine but has inexplicably rejected the corresponding sales, treating them as either unaccounted or pertaining to an entirely different business-namely, trading in pan masala items. This selective treatment defines the basic tenets of commercial transactions, where purchases and sales are inherently interlinked. The Ld. AO has not carried out independent enquiries to from the parties to establish the trading of food grain as non-genuine despite being furnished all bills, addresses and even geotagged locations. If the purchases are deemed genuine, as the Ld. AO has conceded, it logically follows that the sales arising from those purchases must also be accepted as genuine unless substantiated otherwise with concrete evidence. The Ld. AO's failure to provide any such evidence to justify this dichotomy renders the addition unsustainable the revenue cannot adopt a pick-and-choose approach to evidence without a rational basis, and in this case, no such basis has been established.

The Ld. AO's assertion that the disclosed turnover pertains to an undisclosed business of trading in pan masala items is further undermined by the absence of corroborative evidence. The appellant has astutely pointed out the inherent contradiction in this claim: if the sales were indeed of pan masala and undisclosed, there would necessarily be corresponding undisclosed purchases of pan masala, which the Ld. AO has not identified or substantiated. The appellant has provided evidence that the only purchases of pan masala in question-those from M/s Raj Niwas were made by M/s Sri Balajee Enterprises, a separate entity, and were duly accounted for in that entity's books, as verified by the department. No purchases of pan masala are reflected in the appellant's firm, and the Ld. AO has not produced any material to contradict this fact. This glaring inconsistency, coupled with the lack of any tangible proof linking the appellant's grain sales to pan masala, exposes the addition as a product of conjecture rather than fact. Otherwise also it defies logic that transactions of an unaccounted business in cash would be shown as turnover of food grains.

The appellant's contention that the principles of natural justice were violated carries substantial weight. The Lo AU's findings appear to rest heavily on the special auditor's report, which alleges that the grain sales are a facade for unaccounted pan masala sales. However the appellant has submitted that all documents requested by the special auditor-including books of accounts, sales invoices, party ledgers, and banking

transaction records were provided during the audit. Despite this, the special auditor's conclusions, as adopted by the Ld AO, dismiss this evidence in favour of an unsubstantiated narrative. Furthermore, the appellant's offer to produce parties under Section 131 of the Income Tax Act 1961, for verification, as noted in the submission dated 06.11.2024 was not acted upon by the Ld AO.

The transparency and genuineness of the appellant's business operations are further evidenced by the fact that the majority of transactions were conducted through banking channels with only 5.61% of total purchases made in cash. This high degree of traceability, coupled with the submission of geotagged locations of major business partners and ledger confirmations, establishes the operational credibility of the entities involved. The appellant has also highlighted that these partners such as Shree Balaji Makka Bhandar and Ratanlai Mangilal are established businesses with turnovers exceeding 50 crores, and in some cases 100 crores over more than a decade. The Ld AOs' dismissal of these entities as "paper companies or fronts for the appellant, without any evidence of control or ownership by the appellant, is implausible and unsupported. The special auditor's assumption that transactions totalling over 500 crores across these entities are non-genuine is not only impractical but also lacks any evidentiary foundation. The appellant's turnover, which is significantly lower than that of these entities, further belies the notion that they are mere extensions of the appellant's firm.

The Ld. AO's reliance on minor discrepancies, such as the rounding off of quantities in quintals or rupees on a bill-to-bill basis, to justify the addition is equally untenable. The appellant has clarified that recording quantities in quintals is a standard practice in large-scale grain trading, and rounding off rupees is a discretionary accounting norm, not a legal mandate. These practices, far from being irregularities, are consistent with industry standards and do not detract from the genuineness of the transactions. The special auditor's attempt to inflate these routine practices into evidence of malfeasance is a clear overreach, and the Ld AO's endorsement of this view lacks merit.

Moreover, the Ld. AO's prior conduct in a similar case for Assessment Year 2022-23 where purchases were accepted as genuine but sales were treated as bogus, reveals a pattern of inconsistent reasoning that undermines the present addition. The appellant has rightly questioned the logic of a trader hoarding grain without selling it, a scenario that defies the fundamental purpose of trading. If the purchases are genuine and financed through legitimate means, as the Ld. AO has accepted, the corresponding sales must also be recognized as genuine in the absence of evidence to the contrary.

The turnover and GP for various years is as under:

Particulars	AY			
	2020-21	2021-22	2022-23	2023-24
Rajesh Agarwal HUF				
Total Sales	7,59,30,930.00	11,65,05,760.00	9,45,62,368.00	8,71,59,903.00
Gross profit	56,13,926.00	74,85,012.00	64,42,771.00	59,82,937.00
Gross profit ratio	7.39%	6.42%	6.81%	6.86%

Even if for argument's sake it is assumed that the appellant was engaged in trading of Pan Masala in the garb of food grain business what is to be brought to tax is the income. Even if the source of an income is from undisclosed source, the net income

only can be subjected to tax Income can be taxed only to the extent of benefit of capitalization. In no business entire turnover can be income. The approach of the AO is high handed and against the basic tenets of taxation.

in light of the foregoing. I find that the addition of 7,59,50,930/- is unsustainable on both factual and legal grounds. The appellant has discharged their burden of proof by providing comprehensive documentation, transparent banking records, and a cogent rebuttal to the special auditor's claims. In contrast the Ld. AO has failed to substantiate the addition with any credible evidence, relying instead on assumptions and an inconsistent application of evidence.

The Principles of natural justice, the requirement of corroborative proof, and the coherence of commercial logic all favour the appellant's position. Hence, the addition is hereby deleted and ground No. 2 is allowed."

2.1.3. The Id. DR vehemently submitted that the assessee was engaged in the business of trading in Pan Masala under the garb of doing food grain business the evidences where of were found during the course of search . This is also corroborated by the fact that during the course of search no books of account whatsoever and stock of foodgrain items were found. The Id. DR therefore strongly submitted that even during the course of special audit u/s 142(2A) of the Act the auditor have expressed their opinion that the assessee was not doing the business of food grains. On the issue of non rejection of books of accounts not even doubting the purchases , the Id. DR prayed before the bench that the appeals may be restored to the file of the AO so that all these procedural infirmities could be rectified.

2.1.4. Per contra, the AR submitted that the Special Audit Report had been misconstrued and misapplied by the Assessing Officer. It was explained that all documents, books of account, vouchers, ledgers, bank statements, and explanations called for by the Special Auditor during the course of audit proceedings were duly produced and made available. The assessee emphasized that there was no non-compliance on its part during the special audit proceedings.

2.1.4.1. It was further submitted that the Special Audit Report merely contained general observations and expressions of doubt, using phrases such as “no conclusive evidence” and “appears to be”, and did not record any definitive or categorical finding holding the sales, purchases, commission income, or expenses to be bogus or fictitious. The assessee further submitted that a special audit report does not override statutory books of account, audited financial statements, or primary documentary evidence maintained in the regular course of business. It was submitted that the role of the Special Auditor is limited to assisting the Assessing Officer by verifying records, and that the report cannot substitute the independent application of mind required to be exercised by the AO under the Act.

2.1.4.2. The AR contended that the Special Auditor had not pointed out any specific defect, falsification, inflation, suppression, or manipulation in the books of account. No instance of bogus purchase, fictitious sale, false commission receipt, or unverifiable expense was identified or quantified by the auditor. In the absence of such specific adverse findings, the assessee submitted that the AO was not justified in drawing sweeping conclusions solely on the basis of the audit report.

2.1.4.3. The Id AR submitted that the Assessing Officer, while framing the assessment under section 147 vide order dated 28.12.2024, alleged that during the course of search and seizure action conducted under section 132 on 03.08.2022, no stock of food grain items was found in any of the godowns of the assessee and that no books of account relating to the food grain business of M/s Maa Annapurna Enterprises were found at the business premises. On

this basis, the AO inferred that the food grain business claimed by the assessee was non-existent.

2.1.4.4. The Id AR submitted that the AO further placed heavy reliance on the statement of Shri Suresh Kumar alias Khetan, brother-in-law of the assessee, recorded under section 132(4) on 04.08.2022, particularly reply to Question No. 41, wherein Shri Khetan allegedly stated that M/s Maa Annapurna Enterprises was only a paper concern and that it had been devised to accommodate unaccounted income generated from the business of Raj Niwas Pan Masala. Treating this statement as conclusive, the AO held that the absence of stock and books during search, coupled with the said statement, established that the food grain business was sham and that the disclosed turnover represented undisclosed income.

2.1.4.5. The Id AR submitted that the books of account were duly maintained in the regular course of business and were subsequently produced during the assessment proceedings as well as before the Special Auditor appointed under section 142(2A). It was emphasized that non-availability of books at the exact moment of search cannot lead to an adverse inference when the same books were later produced, examined, and no defect was pointed out therein. The assessee also pointed out that the Assessing Officer did not reject the books of account under section 145(3), which itself demonstrated that the books were accepted as reliable.

2.1.4.6. With regard to the alleged non-availability of stock, the assessee submitted that the search was conducted on 03.08.2022, whereas the assessment year under consideration was AY 2020-21, and therefore the absence of stock on the date of search could not logically or legally negate transactions already completed during FY

2019-20. It was pointed out that the AO did not identify any discrepancy in opening stock, purchases, sales, or closing stock for the relevant year, nor was any excess or suppressed stock detected for the year under consideration.

2.1.4.7. In respect of the reliance placed on the statement of Shri Suresh Kumar alias Khetan, the assessee submitted that the said statement was general in nature, did not quantify any undisclosed income for AY 2020-21, and was not supported by any seized documentary evidence. It was further submitted that Shri Khetan had given inconsistent statements on different dates, and that the statement relied upon by the AO was subsequently retracted by way of a sworn affidavit, which was placed on record before the appellate authority. The assessee emphasized that no seized material, financial record, or cash trail was brought on record by the AO to link the said statement with the disclosed food grain turnover or to establish that the same represented undisclosed pan masala income for the relevant assessment year.

2.1.5. We have heard the rival submission and perused the material on including the materials seized, during the course of search, statement recorded u/s 132(4) of the Act or special audit report u/s 132A of the Act. We note that M/s Maa Annapurna Enterprises was engaged in a genuine and regular business of trading in food grain items and that the entire turnover of Rs. 7,59,50,930/- for the relevant previous year was duly recorded in the regular books of account maintained in the ordinary course of business. We note that the said books of account were audited under section 44AB by chartered Accountant and that the audited financial statements were filed along with the return of income originally filed under section

139(1) and again in response to notice under section 148 on 13.04.2024. We note that the books of accounts comprising the cash book, bank book, journal, general ledger, party-wise purchase and sales registers, copies of sales invoices, purchase bills, and bank statements, were duly produced during the course of assessment proceedings and were also made available to the Special Auditor appointed under section 142(2A). We also note that the majority of sales and purchases were through banking channels, with proper narration and linkage to corresponding invoices. We also note that confirmations from several parties were on record and that no defect, discrepancy, or inflation in either purchases or sales were pointed out by the AO or by the Special Auditor. We also note that the books of account were accepted and even the purchases shown by the assessee were also not disbelieved. We have failed to understand as to how the total sales shown by the assessee could be added to the income of the assessee without doubting the purchases in the books of accounts. Besides the AO did not invoke the provisions of section 145(3) to reject the books of account. Undoubtedly no stocks were found of food grains items on the premises of the assessee nor were the books of accounts found by the search team, but the absence of books of account or physical stock on the date of search i.e., 03.08.2022, could not, by any stretch of logic, invalidate or negate the business transactions already completed during FY 2019-20 relevant to AY 2020-21, especially when the assessment year under consideration had long concluded by the date of search. It was highlighted that the AO did not identify any discrepancy in opening stock, purchases, sales, or closing stock for the relevant year, nor was any adverse material found to show suppression or inflation of turnover during the period under consideration. With regard to the

statements relied upon by the AO, we observe that the Ld. CIT(A) recorded a finding that Shri Suresh Kumar alias Khetan had given inconsistent and self-contradictory statements over two different dates, namely 03.08.2022 and 04.08.2022. It was pointed out that in the earlier portion of the statement recorded on 03.08.2022, Shri Khetan had acknowledged the existence of food grain transactions, whereas in the subsequent statement recorded on 04.08.2022, he made sweeping allegations that the business was merely on paper. We also note that that the later statement was subsequently retracted by Shri Suresh Kumar Khetan by way of a sworn affidavit, which was duly placed on record before the appellate authority, thereby nullifying its evidentiary value. It was further submitted that the statements relied upon by the AO were general in nature, did not quantify any undisclosed income for AY 2020-21, and were not supported by any seized document, cash trail, stock discrepancy, or purchase-sale mismatch. The assessee specifically demonstrated that none of the seized WhatsApp chats or coupon-based documents (SK-01 to SK-19) established any nexus between the disclosed food grain turnover of Rs. 7.59 crore and any alleged unaccounted sale of Raj Niwas Pan Masala. It was reiterated that no evidence of undisclosed purchases, cash receipts, parallel books of account, or movement of unaccounted funds was brought on record by the AO, and that the entire addition was founded on suspicion, conjecture, and post-search assumptions rather than on tangible material.

2.1.5.1. We note that the Id. CIT(A) noted that the Assessing Officer, while framing the assessment under section 147 vide order dated 28.12.2024, placed heavy reliance on the Special Audit Report obtained under section 142(2A) from M/s Anant Dokania & Co. LLP. The AO observed that the Special Auditor had reported that no

conclusive evidence was found in respect of exempted sales, exempted purchases, commission income, and expenses reflected in the profit and loss account of M/s Maa Annapurna Enterprises. Relying predominantly on these observations, the AO proceeded to draw adverse inferences against the assessee and treated the disclosed business transactions as non-genuine, without carrying out any independent verification or analysis of the material and explanations furnished by the assessee during the assessment proceedings. The AO treated the observations of the Special Auditor as determinative and conclusive, and on that basis proceeded to disregard the books of account and documentary evidences produced by the assessee, even though the audit report itself did not record any categorical finding that the transactions were fictitious or false.

2.1.5.2. We note that the Ld. CIT(A)-3, Patna, after a comprehensive examination of the assessment order passed under section 147, the material seized during the course of search and seizure action, the statements recorded under section 132(4), the special audit report obtained under section 142(2A), and the detailed written submissions and documentary evidences furnished by the assessee, recorded a categorical finding that the Assessing Officer had failed to bring on record any cogent, tangible, or corroborative material to establish that the disclosed turnover of food grain business carried on by M/s Maa Annapurna Enterprises represented undisclosed sale of Raj Niwas Pan Masala. The Ld. CIT(A) observed that the entire inference drawn by the AO was based on assumptions arising out of search-related circumstances and general allegations, without any direct or indirect evidence linking the disclosed turnover of Rs. 7,59,50,930/- with unaccounted pan masala sales for the relevant assessment year.

2.1.5.3. We also note that the Ld. CIT(A) specifically took note of the fact that the Assessing Officer had accepted the purchase transactions as genuine, had not identified any undisclosed purchases, excess stock, unexplained cash generation, or parallel books of account, and yet proceeded to reject the corresponding sales. The appellate authority held that such an approach was internally inconsistent, illogical, and arbitrary, and contrary to the settled principles governing assessment proceedings. It was observed that in the absence of any finding of undisclosed purchases or cash flow, the rejection of sales alone could not be sustained. We note that the Ld. CIT(A) categorically held that additions based solely on statements, without supporting documentary evidence or material corroboration, are legally unsustainable. In view of the above findings, the appellate authority rejected the reliance placed by the AO on the alleged non-availability of stock/books and on the statement of Shri Suresh Kumar alias Khetan, and held that no adverse inference could be drawn on this basis. Considering the facts and circumstances as discussed above we are inclined to uphold the order of . Ld. CIT(A) on this issue by dismissing the appeal of the Revenue.

2.2. The issue raised in Ground No. 2 is against the deletion of Rs. 8,96,750/- which was made by the AO on account of bogus commission income.

2.2.1. The Assessing Officer, while framing the assessment under section 147 vide order dated 28.12.2024, made an addition of Rs. 8,96,750/- on account of commission income earned by the assessee, alleging the same to be bogus in nature. The AO observed that the commission income credited in the profit and loss account of

the assessee was not satisfactorily explained and, therefore, treated the same as non-genuine. The addition was made without referring to any incriminating material found during the course of search and seizure action conducted on 03.08.2022, and without bringing on record any independent evidence to demonstrate that the commission income was fictitious or had not actually accrued to the assessee. Notwithstanding the fact that the said commission income was duly credited in the books of account, reflected in the audited financial statements, and offered to tax in the return of income, the AO proceeded to add the same again to the total income of the assessee.

2.2.2. The Id. CIT(A) after considering the contentions of the assessee as well as of the revenue and taking into account the factual matrix of the case allowed the appeal of the assessee on this issue by observing and holding as under:

"The appellant has convincingly demonstrated that the commission income in question was fully disclosed in the income Tax Return (ITR) and the accompanying audit report submitted in compliance with the provisions of the Income Tax Act, 1961. The documentation provided by the appellant, including the ledger account reflecting the commission income, a duly executed commission agreement, bank statements substantiating the receipt of the income, and additional supporting documents furnished during the assessment proceedings, leaves no room for doubt regarding the transparency and authenticity of the transaction. The Ld. AO's decision to make the addition despite this comprehensive disclosure appears to be an overreach, lacking any substantive basis to challenge the veracity of the submitted evidence. Consequently, I am of the view that the addition is unwarranted and merits deletion, as elaborated below.

The appellant has rightly emphasized that the commission income of 8,96,750/- was neither concealed nor understated a fact borne out by the meticulous documentation submitted during the assessment process. The ledger account provided a clear record of the income, the commission agreement outlined the terms and legitimacy of the transaction, and the bank statements served as independent proof of receipt. These documents were not only submitted in compliance with statutory requirements but were also made available to the Ld. AO for scrutiny during the proceedings. The Ld. AO, however, failed to point out any specific discrepancies or deficiencies in this evidence that would justify treating the income as undisclosed or fictitious. In the absence of

any cogent reasoning or material evidence to dispute the appellant's submissions, the addition appears to be grounded in mere suspicion rather than fact I find that such an approach is contrary to the principles of fair assessment which require the assessing authority to base its conclusions on tangible evidence rather Than unsubstantiated presumptions.

Furthermore, the addition runs afoul of the well-established principle against double taxation enshrined in the Income Tax Act, 1961 Section 4 of the Act delineates the scope of income chargeable to tax and it is a settled legal position that income, once disclosed and subjected to tax, cannot be taxed again on speculative grounds. The appellant has demonstrated that the commission income was duly reported in the ITR and accounted for in the tax computation. By adding this amount to the taxable income, the Ld. AO has effectively sought to tax the same income twice a step that lacks legal sanction and undermines the integrity of the taxation framework. I find this to be a significant error in the assessment order, as it disregards the fundamental tenets of tax law designed to prevent such duplication.

The Ld. AO's assertion that the commission income is "bogus" is particularly troubling, given the complete absence of corroborative evidence to support this claim. The rejection of the appellant's documents-comprising legally binding agreements statements without articulating specific reasons for disbelief amounts to an arbitrary exercise of power. The principles of natural justice demand that any adverse inference drawn against un assessee be backed by a reasoned explanation and an opportunity to rebut the same in this case, the Ld. AO has neither identified flaws in the documentation nor provided the appellant with a fair chance to address any alleged concerns. I am constrained to observe that such an approach not only violates procedural fairness but also shifts the burden of proof onto the assessee, contrary to established jurisprudence. It is the duty of the assessing authority to substantiate any allegation of non-genuineness especially when faced with prima facie valid evidence. The Ld AO's failure to discharge this burden renders the addition legally untenable

Moreover, the assessment proceedings afforded the Ld AO ample opportunity to verify the authenticity of the transactions. The appellant has pointed out, and the Commissioner agrees, that no efforts were made to summon the other party involved in the commission agreement or to cross-verify the details provided. The Ld. AO a negligence in conducting a thorough inquiry, despite having both the time and the tools to do so, further underscores the arbitrary nature of the addition I find that this omission reflects a lack of due diligence, which cannot be allowed to prejudice the appellant's rights.

In light of the foregoing. I conclude that the addition of 8,96,750/- is devoid of merit and cannot be sustained. The appellant has fulfilled all obligations under the Income Tax Act. 1961, by disclosing the commission income and supporting it with robust documentation The Ld. AO's decision to disregard this evidence, without offering any credible counterevidence or justification, constitutes a procedural lapse that undermines the fairness of the assessment process The principles of equity and justice, which form the bedrock of lax administration compel the deletion of this addition. Accordingly, addition is deleted and ground no.03 is allowed."

- 2.2.3. After hearing the rival contention and perusing the material available on record, We find that the assessee has credited commission income in the Profit & Loss Account amounting to Rs. 8,96,750/- and offered to same the tax in the return of income. We note that the commission was earned from the normal business activities and was duly accounted for in the books of accounts. The assessee furnished before the AO as well as the Ld. CIT(A) the supporting evidences such as copy of commission agreement/understanding, bank statement ,evidences and receipt etc. We also note that during the course of search no adverse/incriminating material was found suggesting that the commission received by the assessee was bogus. Moreover, the books of accounts were audited by the Chartered Accountant and were also subjected to special audit u/s 142(2A) of the Act. Therefore, we do not find any infirmity/anomaly the order of Ld. CIT(A) and accordingly, uphold the same by dismissing the ground No. 2 of the assessee's appeal.
- 2.3. The issue raised in ground no 3 and 4 are already decided while deciding the ground no 1 and thus, needs no separate adjudication. We have upheld the order of Id. CIT(A). The grounds no. 3 and 4 are dismissed.
- 2.4. The ground no. 5 is consequential and general in nature and requires no adjudication.
- 2.5. The ground no. 6 is again procedural and requires no adjudication.

AYs. 2022-23, 2023-24, 2021-22**ITA Nos.290, 291, 301/PAT/2025**

3. The issues raised in other appeals of the Revenue in ITA Nos. 290, 291, 301/PAT/2025 Assessment Years: 2022-23, 2023-24, 2021-22 respectively are similar to ones as decided by us in ITA No. wherein we have dismissed the appeal of the revenue. Therefore, our decision on various grounds would, mutatis mutandis, apply to these appeals as well. The appeals of the revenue are accordingly dismissed.

A.Y. 2021-22**ITA No. 302/PAT/2025**

4. The only issue raised by the assessee in ITA No.302/PAT/2025 Assessment Year 2021-22 is against the order of Id. CIT(A) dismissing the ground raised by the assessee in respect of addition of Rs. 36,32,782/- made by the AO on account of stamp value and actual value of the property purchased. After hearing the rival contentions and perusing the material on records we observe that the addition was rightly made by the AO and sustained by the Id. CIT(A). Therefore, we are inclined to uphold the order of Id. CIT(A) on this issue. The appeal of the assessee is dismissed.
5. In the result, the appeals of the revenue as well as that of the assessee are dismissed.

Order pronounced on 18.02.2026.

Sd/-
(DUVVURU RL REDDY)
(VICE PRESIDENT)

Sd/-
(RAJESH KUMAR)
(ACCOUNTANT MEMBER)

Kolkata, Dated: 18.02.2026

Sudip Sarkar, Sr.PS



Copy of the Order forwarded to:

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

BY ORDER,

True Copy//

Sr. Private Secretary/ Asst. Registrar
Income Tax Appellate Tribunal, Kolkata