IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "K(SMC)", MUMBAI

**BEFORE SHRI OM PRAKASH KANT, ACCOUNTANT MEMBER AND SHRI ANIKESH BANERJEE, JUDICIAL MEMBER**

**ITA No.8320/Mum/2025**
**(Assessment year: 2021-22)**

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| **Suraj Kumar**<br>Shop no.6, 91, Mahadev Temple Chawl, P.B Marg, Grant Road Mumbai, Mumbai Central H.O. Maharashtra-400008<br>**PAN:BILPP6709D** | **vs** | **DCIT, C.C.4(2), Mumbai**<br>Kautilya Bhavan, C41-43, Avenue 3, near Videsh Bhavan , G Block BKC, Gilban Area, Bandra Kurla Complex, Bandra East, Mumbai-400051 |
| **APPELLANT** | | **RESPONDENT** |

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| Assessee by | : | Shri Bharat Kumar |
| Revenue by | : | Shri Ashish Kumar (CIT DR) |
| Date of hearing | : | 18/06/2026 |
| Date of pronouncement | : | 23/06/2026 |

**O R D E R**

**Per:Anikesh Banerjee (JM):**

The instant appeal of the assessee filed against the order of the Ld. Commissioner of Income Tax (Appeal)-52 [for brevity the "Ld. CIT(A)"], order passed under section 250 of the Income Tax Act 1961 (for brevity 'the Act') for Assessment Year 2021-22, date of order 01.09.2025. The impugned order emanated from the order of the Ld. Deputy Commissioner of Income Tax C.C.4(2), Mumbai (for brevity the 'Ld. AO') order passed under section 143(3) of the Act date of order 27.03.2022.

2. The assessee filed the revised grounds which are as follows:

*"1. On the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in confirming the addition of Rs. 5,00,000 made by the learned Assessing Officer ("Ld. AO"), without properly appreciating the facts, evidences and explanations placed on record and the applicable provisions of the Act.*

*2. On the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in enhancing the assessed income of the appellant by a sum of Rs. 19,58,230, without accepting submission of appellant which the enhancement is illegal, arbitrary and bad in law.*

*3. On the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in directing the Ld. AO to initiate proceedings for alleged violation of section 269SS, which is bad in law.*

*4. On the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in upholding the action of the Ld. AO despite the fact that the appellant was not afforded effective and meaningful opportunity of cross-examination of the person(s) and of the material relied upon by the Ld. AO, thereby violating the principles of natural justice.*

*5. On the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in placing reliance on the basis of certain documents and information allegedly gathered behind the back of the appellant, without furnishing copies of the same to the appellant and without granting an opportunity to rebut or explain the same, rendering the impugned order contrary to the principles of natural justice and bad in law.*

*6. The appellant craves leave to add to, alter, amend, substitute, modify and/or delete any of the above grounds of appeal and to raise such further or other grounds at or before the time of hearing of this appeal, as may be deemed fit and necessary."*

3. The brief facts of the case are that the assessee filed the original return by declaring total income Rs.7,28,410/-. A search and seizure action u/sec. 132 of the Act was conducted on 17.03.2021 in Rubberwala Group and other. During the search action, it is gathered that the assessee has purchased a shop no 86 at 2nd Floor, located in Platinum Mall building, Girgaon Mumbai with agreement value of Rs.18,9,050/- where as the stamp duty value determined by the stamp duty authority amount to Rs.13,20,680/-. The investigating authority found that the amount of Rs.24,58,230/- was paid in cash on acquisition of property in three installments for AY 2020-21 & AY 2021-22 amount to Rs.5,00,000/- & Rs.19,58,230/- respectively. Finally the assessment was completed u/sec. 143(3) of the Act. In the assessment proceeding the Ld. AO found that the premises was developed by M/s Rubberwala Housing and Infrastructure Ltd. (RHIL), its promoter and director and Shri Tabrez Shaikh and key employee of the RHIL Shri Imran Ansari who was handling sale and registration of shop in Platinum Mall Project of RHIL were covered. On statement of oath, Shri Imran Ansari had admitted that total price of the shops contained cash component and banking channel component and these components are decided by Shri Tabrez Shaikh. He further admitted that the said data maintained by him in excel sheet are related to sale of shops in Platinum Mall. The Ld. AO confirmed the addition amount to Rs. 5,00,000/- for payment cash related AY 2020-21 u/sec 69 of the Act. The aggrieved assessee filed an appeal before the Ld. CIT(A). The Ld. CIT(A) upheld the observations of the Ld. AO and enhanced the addition related balance cash payment amount to Rs. 19,58,230/- in impugned assessment year. Being aggrieved the assessee filed an appeal before us.

4. The Ld. AR filed a written note containing **pages 1 to 16**, which has been placed on record. The Ld. AR contended that the assessee has categorically denied having made any cash payment to RHIL in connection with the purchase of the said commercial property. It was further submitted that no opportunity of cross-verification was granted to the assessee in respect of the additions made by the Ld. AO. The Ld. AR respectfully placed reliance on the order of the Coordinate Bench of the ITAT, Mumbai, in the case of **Ankit Jems (P.) Ltd. vs. ITO** reported in **(2025) 178 taxmann.com 454 (Mum-Trib)**, wherein it was held that an addition under section 69, made solely on the basis of information received from investigation proceedings in another group case, could not be sustained in the absence of any cogent evidence against the assessee, particularly when the assessee had denied the transactions and the purchase records did not reflect any such entries.

5. The Ld. AR further contended that an identical factual issue had already been adjudicated by the Coordinate Bench of the ITAT, Mumbai, in cases arising out of the search conducted in the Rubberwala Group. The Coordinate Bench has consistently held that additions relating to alleged cash payments for the purchase of commercial properties, based solely on third-party statements, cannot be sustained. In support, reliance was placed on the decisions in **Bhavana Vikram Jain vs. ACIT** (**ITA Nos. 6363 & 6364/Mum/2025**, order dated **10.12.2025**), **Akhraj Pukhraj Chopra vs. DCIT** (**ITA Nos. 5553 & 5555/Mum/2025**, order dated **12.11.2025**), and **Kulsum Aaqib Memon vs. DCIT** (**ITA No. 6540/Mum/2025**, order pronounced on **06.01.2026**). In all these cases, the Coordinate Bench of the ITAT has taken a consistent view that, in the absence of

any cogent incriminating material, additions made merely on the basis of excel sheets or third-party statements are unsustainable.

6. The Ld. AR respectfully relied on the order of the Coordinate Bench of ITAT Mumbai in case of **Pravin Khetaram Purohit vs. DCIT** in **ITA Nos. 4742 to 4744/Mum/2025** date of pronouncement **15/10/2025**. The identical fact is adjudicated by the Bench & relevant observations are reproduced as below:-

*"11. From the above we find that the Coordinate bench has consider the same facts and rightly decided the issue in favour of the assessee and since the facts of the present case are also identical with the facts of Rajesh Jain's (supra) case, therefore the said decision will be application on the facts of the present case as well. Moreover, the assessee categorically denied having paid any amount in cash over and above the agreement value. The AO has neither confronted assessee with any of the material found during the search on Rubberwala group and even no evidence or seized document has been referred to where any name of the assessee has been explicitly mentioned on account of paying any 'on-money.*

*12. Although it has been claimed in the order of assessment that the assessee had paid on money, but again no such statement has been confronted, neither the seized material/documents/pendrive was confronted to the assessee nor the copy of statement of Key person was confronted.*

*13. Therefore, in our view, the information if any found in the pendrive etc., cannot be considered as 'credible evidence', unless they have been corroborated with any other evidence. Since the assessee was not provided with the adverse material, if any, based on which notice u/s 153 of the Act, was issued, in our view, it hampers the primary and fundamental requirement of natural justice.*

*14. As far as the information claimed in pendrive is concerned, the same was not found from the possession of the assessee but was found as per order of assessment, during the search and seizure conducted in the case of third party therefore, in the absence of corroborative evidence to establish that the contents of pendrive are correct and authenticated to the extent assessee paid 'on-money' in cash, no addition can be made and even otherwise during the entire reassessment proceedings the veracity and reliability of the data recorded in the pendrive was not checked or tested. Therefore, in such a scenariono addition is warranted in the case of assessee. Reliance in this regard has been placed on the decision in case of*

*HeenaDashrathJhanglani ITA no.1665/Mum./2018 (Assessment Year: 2007-08) wherein the Coordinate Bench of ITAT had decided the issue in favour of assessee and the relevant portion is being reproduced herein below:"*

7. The Ld.AR advanced his argument and relied on the order of the Coordinate Bench of ITAT Mumbai 'D' Bench in the case of **Dimple Shailesh Jain vs DCIT,** in **ITA No.6732 and 6733/Mum/2025** date of order 01.09.2025. The relevant paragraph no.12 of the said order is reproduced as below:

*"12. Having heard the parties and perusing the material available on record and giving thoughtful consideration to the peculiar facts and circumstances of the case and rival claims of the parties, it is observed that from the assessment order that it clearly appears that the Assessing Officer made the addition mainly on the basis of the excel sheet retrieved from pen drive recovered from the premises of Mr. Ansari, the statement of Mr. Ansari, wherein he admitted receipt of the cash component by the company, and the statement of the Director of the RHIL Group, wherein he admitted statement made and the Excel sheet prepared by Mr. Ansari, as true and offered income 8% of the cash amounts/component, as unaccounted receipts."*

8. The Ld. AR filed the written note. The relevant part of the written note in support of his argument is reproduced as below:-

*"3. The Learned Assessing Officer has placed reliance on the statement of Shri Imran Ansari, wherein alleged cash payments aggregating to Rs. 24,58,230/- have been mentioned. However, a careful reading of the said statement reveals that it pertains to a group of 24 shops booked by Shri NareshBhajwad at different floors, namely first, second, and fourth floors.*

*4. In response to Question No. 50 during the course of search, Shri Imran Ansari categorically stated that Shop Nos. 1 and 2 were booked by Shri Naresh Bhajwad on 03.02.2017 directly with Shri Tajrez Shaikh, CMD of Rubberwala Housing Infrastructure Ltd. Further, Shri Tajrez Shaikh clarified that the fourth-floor shops were booked by him. Thus, the statement does not establish any nexus with the assessee's purchase of Shop No. 86 on the second floor during the relevant assessment year.*

*5. It is submitted that the reliance placed by the Learned AO and the CIT(A) on the said statement is misplaced, as the facts narrated therein pertain to transactions much prior to the* *impugned assessment year and to different units. No direct evidence has been brought on record to demonstrate that the assessee paid any on-money in cash.*

*6. During the course of search, the assessee had stated that he was aware only of the cheque payment of Rs. 5,00,000/- as reflected in his bank statement. The alleged admission regarding cash payment was made under confusion and without proper understanding, as the assessee is not well-educated and was under stress during the search proceedings. Even otherwise, the alleged admission was vague, indicating that "Rs. 4-5 lakhs may have been paid in cash," which is inconsistent with the figures mentioned in the statement of Shri Imran Ansari.*

*7. Subsequently, during assessment proceedings, the assessee retracted the said statement and clarified that the entire consideration was paid through banking channels only. It is a settled position of law that a mere admission, without corroborative evidence, cannot form the sole basis for addition.*

*8. The Learned AO has made the addition purely on the basis of such uncorroborated admission, without bringing any independent evidence on record. Further, the Learned CIT(A) has enhanced the income based on an alleged Excel sheet, which, in the absence of authentication and corroboration, cannot be treated as conclusive evidence for making or enhancing an addition.*

*9. The identical issue has been considered by various Coordinate Benches of the Hon'ble Mumbai Tribunal, wherein it has been consistently held that such additions are not sustainable in law. The ratio laid down in these decisions squarely applies to the present case.*

*10.It has been held that loose sheets or Excel data, which are not self-explanatory or corroborated by independent evidence, cannot be relied upon to make additions. Further, where such material is in the nature of third-party evidence, no adverse inference can be drawn against the assessee without affording an opportunity for cross-examination, as mandated by principles of natural justice.*

*11.Additionally, reliance placed on the alleged admission of the builder is misplaced, particularly when such statement has not been subjected to cross-examination by the assessee. It is pertinent to note that the relevant order of the Hon'ble ITAT in the builder's case, which has been duly placed in the paper book by the assessee, also supports the contention that such uncorroborated material cannot form the sole basis for making an addition.*

*12. Without prejudice to the foregoing, it is respectfully submitted that even assuming, without admitting, that any alleged cash component was involved in the impugned transaction, the* *same could, at the highest, pertain only to Financial Year 2019-20 relevant to Assessment Year 2020-21, since the initial payment itself was made on 18.09.2019. Further, even as per the statement recorded from the assessee, any alleged cash payment is stated to relate to the period 2018-2019. In view of these undisputed factual aspects, the impugned addition made in Assessment Year 2021-22 is wholly without jurisdiction, legally untenable, and contrary to the material on record.13. It is a well-settled position of law that income, if at all chargeable to tax, must be assessed in the correct and relevant assessment year. The charging provisions under the Income-tax Act do not permit taxation of income in an arbitrary or incorrect year. Further, where the Ld. Assessing Officer seeks to rely upon a statement as evidence, the contents of such statement must be applied consistently and in its entirety. The Ld. Assessing Officer cannot selectively rely upon a statement to draw an adverse inference while disregarding the specific period to which such alleged income pertains. Having accepted the statement as a basis for making the addition, it is not open to the Assessing Officer to take a contradictory stand by taxing the same in a different assessment year than what is evident from the statement itself. Such an approach is contrary to settled legal principles, arbitrary in nature, and liable to be struck down.*

*14.In view of the above facts and legal position, the addition made by the Learned AO and enhanced by the Learned CIT(A) is arbitrary, unsupported by evidence, and liable to be deleted."*

9. The Ld. DR argued and contended that the RHIL group had accepted the cash transactions with the parties. So, the cash transactions are duly accepted on basis of the recorded statement. Though the RHIL declared the cash component during the search action and declared net profit @8% and paid the tax. So, the Ld.DR supported and relied upon the orders of the revenue authorities. He respectfully relied on the order of the Hon'ble Gujrat High Court in case of **Kamleshbhai Dharamshibhai Patel vs. CIT** reported in **[2013] 31 taxmann.com 50 (Guj)**. The Ld. DR invited our attention in relevant paragraph of the impugned appellate order which is reproduced as below:-

*"8.8 Further, at the same time, it is seen that full facts were not placed before the Hon'ble ITAT and it has also not been examined that Excel sheet clearly stated the agreement value as well cash component both. Imran Ashfaque Ansari was employee of Rubberwala group and his statement was also recorded on oath at his residence. Vide question no. 11 of the said*

*statement dt. 17.03.2021, Imran Ansari was questioned about his roles and responsibilities in M/s. Rubberwala Housing & Infrastructure Ltd (RHIL). In response, he stated that he had been working with Rubberwala group of entities since 2010 and inter-alia handling sale and registration of the shops in "Platinum Mall" Project of M/s. Rubberwala Housing & Infrastructure Ltd (RHIL, that he was handling said excel sheet. It was not case where unrelated person statements were recorded. This statement was further reinforced by Shri Tabrez Ahmed Shaikh, Director and Promoter of RHIL, in his post-search deposition dated 19.08.2021. He verified the contents of the Excel file and affirmed the truth of Shri Imran Ansari's statement. Moreover, the Rubberwala Group itself admitted to having received such on-money (cash component), offered the same as additional income, and paid taxes thereon."*

10. The Ld. DR further argued and invited our attention in impugned appellate order paragraphs 9.10 to 12. The observation of the Ld. CIT(A) is reproduced as below:

*"9.10 Even if in the absence of a diary in the possession of buyer (as claimed by the employee of the Rubberwala Group) cannot disproves the entire case is fallacious. The addition was not based on the alleged diary alone, but on robust and corroborated digital evidence, supported by multiple sworn depositions and voluntarily admitted by the developer group.*
*9.11 Accordingly, given the detailed evidentiary support, corroboration by key persons, and admission by the builder group, the addition made by the AO is legally and factually justified.*
*9.12 In view of the above discussion and in light of settled legal principles and judicial precedents, I find no merit in the contentions raised by the appellant. Therefore, issue raised is hereby dismissed.*
*10. Further, the appellant has requested for the personal hearing in case of adverse finding and to make more understanding of the facts. However, this office has already offered an opportunity for personal hearing through various notices issued from time to time. But the appellant has not opted for the same. There is no any confusion in understanding the facts of the cases and submission made by the appellant. So, the further opportunity to present the case is not tenable/required as the case is based on solid evidence and material in hand. Further the appellant in its sworn statement itself admitted that the cash was cash loan from his wife and his mother. The same was also submitted during the course of assessment proceedings. Therefore, the AO is directed to invoke section 269SS of the Act for accepting cash loan.*

*11 In view of the discussion made above, it is evident that the appellant has paid cash of Rs. 24,58,240/- against the said shop. The evidence of cash payment is based on corroborative* *digital evidence, multiple sworn depositions and voluntary admissions of developer groups on the basis of investigation carried out by the Inv. Wing. Therefore, the issues raised by the appellant against the SCN is not moreover relevant in the present case of the appellant. Therefore, the addition of Rs. 5,00,000/- made by the AO is not only sustained but also enhanced by an amount of Rs. 19,58,230/- on the basis of above discussion. In view of discussion made in preceding para the AO is directed to initiate the penalty proceeding u/s 269SS of the Act.*

*12. In light of the above discussion, Ground No. 1 to 4 and issues raised by the appellant against the enhancement notice stand Dismissed and the addition made by the AO is also ENHANCED."*

11. Per Contra, the Ld.AR contended that the identical fact was duly considered by the Hon'ble Gujrat High Court in the case of **PCIT vs Kaushik Nanubhai Majithia** in **R/Tax Appeal No.20 of 2024** date **06.03.2024**. The relevant paragraphs 2 and 3 are reproduced as below:

*"2. The excel sheet, according to the learned Counsel for the Revenue, contained the details of payment made by the assessee to the developer, with respect to which tax had been paid by the developer before the Settlement Commissioner. The findings returned by the CITA and ITAT on the issue is sought to be assailed on the ground that the payment of tax by the developer, in whose premises search was conducted, before the Settlement Commissioner, with respect to the amount entered in the excel sheet found from the possession of the assistant working with the developer, is sufficient proof of the transaction between the assessee and the developer.*

*3 We find inherent fallacy in this submission, inasmuch as, there is no basis for conducting proceedings against the assessee merely for the fact that the developer had paid tax on the amount shown in the excel-sheet. There is no adjudication with regard to the payment, which was shown in the excel-sheet to the effect that the same was actually paid by the assessee to the developer. Even otherwise, the concurrent findings returned by the CITA and ITAT are that the document found from the premises of the third party namely excel-sheet, which is the basis of the proceedings was without any signature and there is no corroborative material to substantiate the said document. The nature of the document has not been explained by the Assessing Officer while proceeding against the assessee. The statements of the persons recorded during search with reference to the alleged, seized material, was not provided to the assessee and hence, the entire proceedings under Section 153C of the IT Act of 1961 stood vitiated."*

12. We have carefully considered the rival submissions and perused the material available on record. The entire addition under section 69, as well as the enhancement made by the Ld. CIT(A), rests exclusively upon statements recorded from third parties during the search conducted in the case of the Rubberwala Group and certain excel-sheet data allegedly recovered from a pen drive belonging to an employee of the developer group. Admittedly, no incriminating material evidencing any cash payment has been found from the possession of the assessee, nor has any documentary evidence been brought on record establishing that the assessee paid any amount over and above the consideration disclosed in the registered agreement. The statements relied upon by the revenue were neither furnished to the assessee in entirety nor was any effective opportunity of cross-examination granted. Consequently, the addition suffers from a serious violation of the principles of natural justice.

13. We further note that the Coordinate Benches of the Tribunal, while dealing with identical additions arising from the very same search action in the Rubberwala Group, have consistently held that additions based merely on excel sheets, pen-drive data, or third-party statements, without independent corroborative evidence linking the assessee to any undisclosed investment, cannot be sustained. The decisions in **Bhavana Vikram Jain** (supra), **Akhraj Pukhraj Chopra** (supra), **Kulsum Aaqib Memon** (supra), **Pravin Khetaram Purohit** (supra), and **Dimple Shailesh Jain** (supra) have uniformly taken the view that such unverified third-party material lacks evidentiary value in the absence of corroboration and compliance with the requirements of natural justice. The

revenue has not brought on record any distinguishing feature warranting a departure from the aforesaid consistent judicial view.

14. We also find substantial force in the reliance placed by the assessee on the judgment of the Hon'ble Gujarat High Court in **Kaushik Nanubhai Majithia** (supra), wherein it was held that the mere fact that a developer has offered certain amounts to tax or paid tax on alleged on-money receipts does not automatically establish that the purchaser has made corresponding cash payments. The Hon'ble High Court categorically observed that, in the absence of corroborative evidence and where the seized material is recovered from a third party, no adverse inference can be drawn against the assessee merely on the basis of such material. The ratio of the said judgment squarely applies to the facts of the present case.

15. The reliance placed by the Revenue on the decision in **Kamleshbhai Dharamshibhai Patel** (supra) is misplaced and distinguishable on facts. In that case, the addition was supported by direct and cogent evidence establishing undisclosed investment by the assessee. In contrast, the present case is founded solely upon unverified electronic data and third-party statements, without any independent material connecting the assessee with the alleged cash transaction. Therefore, the said decision does not advance the revenue's case.

16. In view of the foregoing discussion, and respectfully following the binding judicial precedents of the Coordinate Benches as well as the ratio laid down by the Hon'ble Gujarat High Court in **Kaushik Nanubhai Majithia** (supra), we hold

that the addition of Rs.5,00,000/- made by the Ld. AO and the enhancement of Rs.19,58,230/- made by the Ld. CIT(A) are unsustainable in law. Accordingly, the impugned appellate order is set aside, and the Ld. AO is directed to delete the entire addition of Rs.24,58,230/- made under section 69 of the Act. Consequently, the direction issued by the Ld. CIT(A) for initiation of proceedings under section 269SS, being consequential to the impugned addition, also does not survive and is hereby vacated. Accordingly, the grounds raised by the assessee are allowed.

17. In the result, the appeal of the assessee bearing **ITA No.8320/Mum/2025** is allowed.

Order pronounced in the open court on 23rd day of June 2026.

Sd/- Sd/-

(OM PRAKASH KANT) (ANIKESH BANERJEE)
ACCOUNTANT MEMBER JUDICIAL MEMBER

Mumbai,दिनांक/Dated: 23/06/2026
SAUMYA*Sr.PS*

**Copy of the Order forwarded to:**

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. आयकरआयुक्त CIT
4. विभागीयप्रतिनिधि, आय.अपी.अधि., मुंबई/DR, ITAT, Mumbai
5. गार्डफाइल/Guard file.

BY ORDER,

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(Asstt. Registrar), **ITAT, MUMBAI**