IN THE INCOME TAX APPELLATE TRIBUNAL
'SMC' BENCH, JAIPUR
(PHYSICAL HEARING)

Before: Shri T.R. Senthil Kumar, Judicial Member
And Shri Prakash, Accountant Member

ITA No: 177/JPR/2026 **Assessment Year: 2022-23**

Sanjay Kumar Sharma M/s R. P. Brushes, Near SBI Bank Makrana Road in front of Evershine Marble Private Limited, Kishangarh **PAN: BLFPS2648M** **(Appellant)**	Vs	Income Tax Officer, Ward -1, Kishangarh **(Respondent)**

Assessee Represented: Sh. Prateek Jain, CA and
Sh. Gaurav Sagtani, CA
Revenue Represented: Ms. Aarti Rawat, Addl. CIT

Date of hearing : 03-08-2026
Date of pronouncement : 12-08-2026

आदेश/ORDER

PER : PRAKASH, ACCOUNTANT MEMBER:-

1. This appeal by the assessee is directed against the order of the learned Commissioner of Income Tax (Appeals) [hereinafter referred to as "the CIT(A)"] dated 19.11.2025 for the Assessment Year 2022-23 arising out of the assessment order dated 15.03.2024 passed by the Assessing Officer

(hereinafter referred to as "the AO") under section 143(3) read with section 144B of the Income Tax Act, 1961 (hereinafter referred to as "the Act"),

2. The grounds of appeal raised by the assessee before us in the memorandum of appeal in Form No. 36 read as under:

> *1. On the facts and in the circumstances of the case and in law, the learned Commissioner of Income Tax (Appeals) erred in confirming the assessment order dated 15.03.2024 passed under section 143(3) read with section 144B of the Income Tax Act. The impugned order is bad in law, contrary to the provisions of the Act and violative of the principles of natural justice.*
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> *2. On the facts and circumstances of the case, the learned CIT(A) erred in confirming the addition of Rs. 20,57,000 under section 69A as unexplained money, even though no cash, no unexplained receipts and no incriminating material were ever found from the appellant. The entire addition made by the AO and confirmed by the CIT(A) is not supported by any tangible material, is based on mere suspicion and third party information and cannot be sustained in law. The AO wrongly relied on data which was neither maintained by the appellant nor found from the appellant's premises. No handwriting, signature, admission or link has been shown to establish that the seized material pertains to the appellant. The entire addition is based only on loose sheets, handwritten notes and mobile screenshots seized from a third party, Baba Group. Such third party documents have no evidentiary value unless independently verified and corroborated.*
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> *3. That the third party documents were never confronted in full and complete copies of Annexure A and Annexure B, which were relied upon by the learned AO, were never supplied to the appellant, which violates the mandatory requirement of providing all relied upon documents. No cash or unexplained money was ever found, seized, deposited or traced to the appellant. The basic requirement of section 69A showing possession or ownership of money is completely absent. All payments from Baba Super Minerals were received through banking channels, fully recorded*

in books, reconciled and accepted by the GST authorities. Therefore, the allegation of cash returned is purely presumptive and unsupported by any evidence.

4. That the allegation of inflated sales is factually incorrect. The turnover is duly recorded, GST accepted, supported by bills and audited, and has not been disputed by any authority. Once sales are recorded and taxed, they cannot be treated as unexplained without concrete evidence. The learned AO ignored the fact that the assessee has already included the sales in its revenue and paid tax thereon. Treating the same amount again as unexplained money under section 69A of the Act amounts to taxing the same income twice. The learned AO was not justified in making an addition without rejecting the books of account under section 145(3), furnishing the seized material to the assessee and establishing any nexus between the assessee and the alleged unaccounted transaction.

5. That the entire addition is founded on third party material, yet no opportunity of cross examination of the concerned persons from Baba Group was given, which affected the principles of natural justice and the settled legal position laid down by various Courts. The addition is based on assumptions and suspicions without any nexus or supporting material linking the appellant to any unaccounted money. Suspicion cannot substitute evidence.

6. On the facts and circumstances of the case, the learned CIT(A) erred in sustaining the disallowance of Rs. 1,30,376 under section 40A(3) without examining the business requirements and the applicability of Rule 6DD. The books of account were accepted, purchases were genuine and the payments were small amounts made to regular suppliers. No adverse inference was justified.

7. On the facts and circumstances of the case, the order passed by the learned AO is against the procedure prescribed under law and the principles of natural justice, thus liable to be quashed.

8. On the facts and circumstances of the case, the learned AO has erred both on facts and in law in initiating penalty under section 270A and 271AAC(1) of the Act.

> *9. On the facts and circumstances of the case, the learned AO has erred both on facts and in law in levying interest under section 234A, 234B, 234C and 234D of the Act.*
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> *10. That in the light of justice the appellant craves leave to add, alter or amend the grounds of appeal raised before your honour.*

3. Briefly stated, the facts of the case are that the assessee is an individual carrying on the business of manufacturing and trading of brushes and abrasive products under the proprietorship concern M/s R.P. Brushes. For the year under consideration, the assessee filed his return of income on 12.10.2022 declaring total income of Rs. 12,03,370. The case was selected for compulsory scrutiny pursuant to a search and seizure action conducted under section 132 of the Act on 10.02.2022 in the case of the Baba Group. The assessee was neither a searched person nor was any incriminating material found or seized from his possession. On the basis of certain screenshots, notings and electronic data stated to have been recovered from the mobile phone of a third party during the said search, the AO alleged that the assessee had inflated the sales made to M/s Baba Super Minerals from Rs. 17,70,000 to Rs. 38,27,000 and had returned the excess of Rs. 20,57,000 in cash. The AO completed the assessment under section 143(3) read with section 144B of the Act by making an addition of Rs. 20,57,000 under section 69A read with section 115BBE of the Act, treating the alleged cash as unexplained money, and a disallowance of Rs. 1,30,376 under section 40A(3) of the Act in respect of nine cash payments made to various parties. On appeal, the CIT(A), by the impugned order,

dismissed the appeal and confirmed both the additions. Aggrieved, the assessee is in appeal before us.

4. The learned Authorised Representative (hereinafter referred to as "AR") submitted that the entire addition of Rs. 20,57,000 under section 69A of the Act rests solely upon material recovered during a search conducted on the Baba Group, which is a third party, and that no document, mobile phone, electronic device, loose paper, cash or other incriminating material was ever found or seized from the assessee. He submitted that the sales made to M/s Baba Super Minerals stand duly recorded in the regular books of account, are supported by GST invoices, e-way bills, GST returns, ledger accounts and bank statements evidencing receipt through banking channels, and that none of these documents has been found to be false or fabricated. He contended that treating a part of the very same disclosed and taxed sales as unexplained money results in taxing the same income twice, which is impermissible. He further submitted that no cash trail, deposit or movement of funds was established, that no opportunity of cross examination of the persons from the Baba Group was afforded despite specific request, and that the complete Annexure A and Annexure B were never supplied to the assessee. He argued that in the absence of ownership or possession of any money, the jurisdictional condition for invoking section 69A is not satisfied. In support, he relied upon the decision of this Bench in M/s Advance Strips Pvt. Ltd. vs. DCIT, Central Circle-1, Jaipur (ITA No. 1422/JPR/2025, order dated 15.06.2026) and Shri Virendra Singh Ratnawat vs. ACIT, Central Circle-02, Jaipur (ITA Nos. 179 to

181/JP/2022, order dated 01.01.2024). As regards the disallowance of Rs. 1,30,376 under section 40A(3), he submitted that the payments were genuine business payments made to identifiable suppliers, were duly recorded in the books, and were covered by the exceptions under Rule 6DD.

5. The learned Departmental Representative (hereinafter referred to as "DR") relied upon paragraphs 5, 6 and 7 of the assessment order and the findings of the CIT(A). She submitted that the addition rests not on mere suspicion but on specific incriminating material unearthed during the search on the Baba Group, which identified the assessee as one of the parties from whom cash was received back on inflated billing. She further submitted that the disallowance under section 40A(3) of the Act was rightly made, as the cash payments exceeding the prescribed limit stand admitted from the assessee's own cash book and the assessee has failed to demonstrate that they fall within any of the exceptions under Rule 6DD.

6. We have heard the rival contentions and perused the material available on record, including the paper book with 145 pages filed by the learned AR. The first issue for our consideration is the addition of Rs. 20,57,000 made under section 69A read with section 115BBE of the Act. It is not in dispute that the assessee was not the person searched, and that the entire foundation of the addition is the screenshots, notings and electronic data stated to have been found in the mobile phone of a third party during the search on the Baba Group. It is equally not in dispute that no cash, and no incriminating material of any kind, was found from the possession of the assessee, and that no

independent enquiry was carried out to establish that the assessee had in fact returned any cash. The sales made to M/s Baba Super Minerals stand recorded in the books of account of the assessee and are reflected in the invoices, e-way bills, GST returns and bank statements produced before the lower authorities, and the sale consideration was admittedly received through banking channels. No material has been brought on record to establish any trail of cash movement from the assessee, or any nexus between the assessee and the alleged unaccounted transaction independent of the third party record.

7. The provisions of section 69A of the Act can be invoked only where the assessee is found to be the owner of any money, bullion, jewellery or other valuable article which is not recorded in the books of account. The ownership, or at least the possession, of such money is thus the sine qua non for invoking the section. In the present case, no money was found in the possession of the assessee and nothing has been brought on record to establish that the assessee was ever the owner of the alleged sum of Rs. 20,57,000. The addition proceeds entirely on the inference drawn from a third party record, without the jurisdictional fact of ownership being established. We are also unable to accept the approach of treating a portion of the sales already recorded and offered to tax as unexplained money, as it results in taxing the same receipt twice.

8. The issue is squarely covered by the decision of this Bench in M/s Advance Strips Pvt. Ltd. vs. DCIT (ITA No. 1422/JPR/2025, order dated 15.06.2026), wherein, on materially similar facts, an addition founded on electronic records

and chats recovered from third parties during a search was deleted. The Bench held as under:

> *"23. Even on factual merits, the additions made by the lower authorities cannot be sustained. The entire addition rests upon uncorroborated, third-party WhatsApp chats, digital images exchanged between Shri Vishal Kothari and Shri Vimal Jain. None of these individuals are directors, employees, or authorized representatives of the assessee company. The Ld. AR, in this respect, has submitted that the WhatsApp chat exchanged between third parties hold zero probative value against the assessee in the absence of independent, corroborative material. He has submitted that the WhatsApp chats relied upon by the AO are nothing but "dumb documents". They do not contain the name of the assessee company ("M/s Advance Strips Pvt. Ltd."), nor do they bear any signature of the buyer, nor do they clearly bifurcate any negotiated deal into a "cash component" and a "cheque component" with verifiable dates. The Ld. AR rightly relied upon the decisions in RRJ Securities Ltd. (380 ITR 612 Del) and Sinhgad Technical Education Society (397 ITR 344 SC), which firmly establish that uncorroborated "dumb" documents, loose sheets, and electronic extracts hold no evidentiary value unless backed by independent material establishing a direct nexus with the assessee. Further, no satisfaction was recorded regarding the integrity of the electronic records as per Section 65B of the Evidence Act, as elucidated by the Hon'ble Supreme Court in Anvar P.V. v. P.K. Basheer. Though, the assessment proceedings under the Income-tax Act are summarily in nature and strict rules of Evidence Act are not applicable, however, in the peculiar facts and circumstances of this case, in the absence of any corroborative material, denial of opportunity to rebut such third party evidence and denial of opportunity of cross examination, the applications of these laws of evidence, in our view, will be attracted. The mention of "Steel Syndicate" (a proprietorship of a director) cannot automatically leads to any presumption that any unaccounted (on money) has been paid on behalf of the assessee. The company and its directors are distinct legal entities. There is no evidence available on record to allege that the*

assessee company utilized its funds to make any cash payment on the purchase of plots. We find force in the above submissions of the Ld. AR of the Assessee.

24.Furthermore, the AO has completely failed to establish any trail of cash movement either from the possession of the assessee or to the seller. No evidence of unaccounted investments, unexplained expenditure, or day-to-day cash ledgers belonging to the assessee has been found. As held by the coordinate bench in the case of SKZ Developers LLP vs. DCIT (ITA No. 1677/Ahd/2024 vide order dated 09.01.2026), treating loose digital sheets and WhatsApp chats as conclusive proof of actual transaction value without any supporting, corroborating, or legally admissible evidence is legally unsustainable".

9. Similarly, in Shri Virendra Singh Ratnawat vs. ACIT (ITA Nos. 179 to 181/JP/2022, order dated 01.01.2024), the Bench held that where no cash or valuable article is found in the possession of the assessee, an addition under section 69A of the Act cannot be sustained merely on the strength of electronic notings, since the ownership of money that is the foundation of section 69A is not established. If in that case, where the electronic record was found in the assessee's own mobile phone, the addition could not be sustained for want of physical recovery, the case of the present assessee, against whom the material was found in the possession of a third party, stands on a much stronger footing.

10. The Hon'ble Delhi Bench of the Tribunal in DCIT v. Yograj Arora (ITA No.2440/Del/2022) has categorically held that the sine qua non for invoking Section 69A is the establishment of ownership of the alleged unexplained money. The Tribunal held that where no cash was found in the possession of

the assessee and the Assessing Officer merely presumed that the cash was available with the assessee without bringing any supporting material on record, the basic requirement of Section 69A remained unfulfilled and the addition was unsustainable.

> *"9. Admittedly, it is not a case in which the assessee was found to be in possession of the cash of Rs. 1.45 crore in search operation. Therefore, it cannot be presumed that the assessee was the owner of the said cash. To attract the provisions of section 69A sine qua non is "ownership" of money etc. which has not been recorded in the books of account. The Ld. AO has made only presumption that the said cash was 'available with the assessee' without bringing on record any material in support thereof. Not only that he went a step further and presumed that the assessee paid the said cash to his brother H.K. Arora only on the basis of conjecture and surmises. The assessee offered explanation for the noting made on page 30 of Annexure A-8 duly supported by the documentary evidence which has been rejected by the Ld. AO in total disregard of all the facts, circumstances and the evidence in the case as ordained by the CBDT in its Circular (supra). To apply the provisions of section 69A by the Ld. AO without satisfying the conditions precedent is not sustainable."*

11. In view of the foregoing, we are of the considered opinion that the addition of Rs. 20,57,000 made under section 69A read with section 115BBE of the Act rests on uncorroborated third-party material, without any independent evidence establishing the ownership or possession of the alleged money by the assessee, and without any nexus being established between the assessee and the alleged unaccounted transaction. The finding of the CIT(A) that the seized material carries a higher evidentiary value cannot cure the absence of the jurisdictional fact necessary for invoking section 69A. The addition is therefore unsustainable in law and is directed to be deleted. Grounds No. 2 to 5 are accordingly allowed.

12. The next issue, raised in Ground No. 6, is the disallowance of Rs. 1,30,376 under section 40A(3) of the Act. From the cash book produced by the assessee, the AO has tabulated nine payments made in cash to single parties in a single day in excess of the prescribed limit of Rs. 10,000, aggregating to Rs. 1,30,376.

The factum of these cash payments is not in dispute; it emanates from the assessee's own books of account. The bar under section 40A(3) of the Act operates on the mode of payment, and the genuineness of the expenditure or the identity of the payee does not, by itself, take the payment outside its purview once the payment in cash exceeds the prescribed limit. The relief from the rigour of the section is available only where the case falls within one of the exceptions enumerated in Rule 6DD of the Income Tax Rules, 1962. The assessee has done no more than invoke Rule 6DD in general terms and has not demonstrated, with reference to the nature of each payment, that it falls within any of the clauses of that Rule. The contention that the issue was beyond the scope of the proceedings is also without merit, since the case was selected for compulsory scrutiny and the AO was well within his jurisdiction to examine the cash book. In these circumstances, we find no infirmity in the disallowance sustained by the CIT(A), and the same is confirmed. Ground No. 6 is dismissed.

13. Ground No. 8, which challenges the initiation of penalty under section 270A and section 271AAC(1) of the Act, is premature at this stage and does not require adjudication. Ground No. 9, relating to the levy of interest under sections 234A, 234B, 234C and 234D of the Act, is consequential in nature. Grounds No. 1, 7 and 10 are general in nature and require no separate adjudication.

14. In the result, **the appeal filed by the assessee is partly allowed**.

Order pronounced in the open court on 12-08-2026

Sd/-	**Sd/-**
(T.R. SENTHIL KUMAR)	**(PRAKASH)**
JUDICIAL MEMBER	**ACCOUNTANT MEMBER**

Dated 12/08/2026

*Ganesh Kr., Sr. PS

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT
6. Guard file.

By order/**आदेश से**,

सहायक पंजीकार

आयकर अपीलीय अधिकरण, जयपुर