IN THE INCOME TAX APPELLATE TRIBUNAL,
DELHI BENCH: 'DB' NEW DELHI

BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER
AND
SHRI NAVEEN CHANDRA, ACCOUNTANT MEMBER

ITA Nos. 243 to 251/DDN/2026
(Assessment Years: 2014-15 to 2022-23)

Joint Commissioner of Income Tax (OSD) Central Circle Dehradun 51/2, Rajpur Raod, Dehradun Uttarakhand – 248 001	**Vs.**	**Ramesh Kumar** M/s. Bal Mukund Ramesh Kumar Najibabad Road, Kotdwara Pauri, Uttarakhand-246 149
		PAN: ADDPK 2394P
(Appellant)		**(Respondent)**

And
CO Nos.5 to 13/DDN/2026
(Assessment Years: 2014-15 to 2022-23)

Ramesh Kumar M/s. Bal Mukund Ramesh Kumar Najibabad Road, Kotdwara Pauri, Uttarakhand-246 149	**Vs.**	**Joint Commissioner of Income Tax (OSD)** Central Circle Dehradun 51/2, Rajpur Raod, Dehradun Uttarakhand – 248 001
PAN: ADDPK 2394P		
(Appellant)		**(Respondent)**

Assessee by	Ms. Ananya Kapoor, Adv. Ms. Sakshi Rustagi, Adv. and Shri Adit Taneja, Adv.
Department by	Shri Mohan Lal Joshi, Sr. D.R.(VC)

Date of hearing	20.08.2026
Date of pronouncement	01.09.2026

ORDER

PER BENCH:

This matter pertains to a consolidated batch of nine appeals instituted by the Revenue, alongside nine corresponding Cross Objections filed by the Assessee. These proceedings are preferred against the consolidated appellate order passed by the Learned Commissioner of Income Tax (Appeals), Noida, on February 2, 2026, under Section 250(6) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act'). The impugned appellate order arises from multiple assessment orders passed by the Deputy Commissioner of Income Tax (DCIT), Central Circle, Dehradun, pursuant to Section 147 and Section 147 read with Section 143(3) of the Act, covering the Assessment Years spanning from 2014-15 to 2022-23, as detailed in the schedule below:

- **A.Y. 2014-15 to A.Y. 2020-21:** February 26, 2024
- **A.Y. 2021-22:** March 21, 2024
- **A.Y. 2022-23:** March 2, 2024

2. Since the above captioned appeals and cross objections were heard together and the facts in issues are identical, all the 9 appeals and 9 cross objections are being disposed of by this common order for the sake of convenience and brevity.

3. The grounds of appeal raised by the Revenue across all nine appeals are identical, differing only in the specific amounts involved

for each year. The grounds in ITA 243/DDN/2026 for AY 2015-16, taken as a lead year, are reproduced below:

1. *"Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in deleting the addition of Rs. 6,22,80,0231- made on account of unaccounted purchases.*
2. *Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in deleting the application of section 69B on the unaccounted purchases made by the assessee.*
3. *That the order of Ld. CIT(A)-3, Noida being erroneous in law and facts be set aside and order of the A.O. be restored.*
4. *That the above grounds are without prejudice to each other and appellant craves leave to add, alter or amend any ground or grounds on or before the date of hearing of appeal."*

4. The following grounds of appeal raised by the assessee in his all Cross Objections, CO 6/DDN/2026 for AY 2015-16, taken as lead year, are as under:

1. *That the notice dated 29.03.2023 issued under Section 148 of the Income-tax Act, 1961 ("the Act") by the Assessing Officer ("AO") as well as the assessment order dated 26.02.2024 passed under Section 147 of the Act, are illegal, bad in law, barred by time limitation and without jurisdiction. The notice is issued without satisfying the preconditions stipulated under Section 147/149/151 of the Act, rendering the entire reassessment proceedings and the assessment order void ab initio and non-est.*
2. *That the assessment order passed under Section 147 of the Act is void ab initio as the mandatory prior approval granted by the Addl. CIT, Central Range, Meerut under Section 148B of the Act, was accorded in a mechanical manner, without independent application of mind, and without examining the material on record, rendering the entire proceedings and the order null and void.*
3. *That, the notice under Section 148 of the Act is issued without recording the reasons and without bring on record any material/incriminating material having bearing on the taxable income of the Assessee for each Assessment Year.*
4. *That the reassessment proceedings are illegal, bad in law and barred by limitation, having been initiated in violation of the provisions of Section 148 and 149 of the Act read with the fourth proviso to Section 153A of the Act. That the conditions as stipulated to invoke the provision of Section 148 and 149 of the Act are not satisfied.*

5. *That, the notice issued under Section 148 of the Act, is illegal and without jurisdiction having been issued by the Jurisdictional AO in contravention to provisions of Section 151A of the Act read with Notification No. 18/2022/File No. 370142/S.O. 1466(E) dated 29.03.2022 and the amendment introduced by Finance Act, 2026 is prospective and thus has no applicability in the present facts.*
6. *That, the assessment order passed by the Assistant Commissioner of Income Tax, Central Circle, Dehradun is illegal, bad in law and without jurisdiction as no valid order under Section 127 of the Act was passed. The notice under Section 148 was issued by the ITO, Kotdwar and the order is passed by Assistant Commissioner of Income Tax, Central Circle, Dehradun rendering the proceedings and the order illegal and bad in law.*
7. *That, the addition made in the assessment order dated 26.02.2024 is illegal and bad in law. The alleged addition made by the AO basis third party material and dumb documents is unsubstantiated and without any corroborative evidence and is merely on the basis of surmises and conjectures.*
8. *That, the AO has erred in making the addition of under Section 69B of the Act read with Section 115BBE which has no applicability on the facts of the instant case. The said addition being based on a purported loose sheet/ tally is vague, generic, unsubstantiated, without any legal and justifiable basis and thus liable to be deleted.*
9. *That, the addition being based on digital data, without the certificate under Section 65B of the Evidence Act, 1872, is illegal, bad in law and unsustainable.*
10. *That, the addition having been made without supplying and confronting the material relied upon by the AO and without giving opportunity to cross examine, is illegal, bad in law and not sustainable in the eyes of law.*
11. *That, the AO has failed to be appreciate that all documents were duly filed and the sale/purchases were substantiated and no defects/infirmities have been point out in the evidences/details/documents submitted by the Assessee. Even the books of accounts have not been rejected and thus the addition made is illegal and liable to be deleted.*
12. *That, the CIT(A) has erred in upholding the addition by stating that only the profit element is to be taxed without appreciating that the Assessee has not undertaken the alleged transaction and in the absence of any transaction, no income is liable to tax.*

That Assessee craves leave to add, amend, alter or vary from the aforesaid grounds of appeal at or before the time of hearing."

5. As the assessee has taken legal ground questioning the validity of assumption of jurisdiction u/s 147, we decided to take up the

assessee's CO first. The assessee has taken several legal grounds such as:

i) requirement of escaped income being 50 lakhs for A.Ys 2014-15 to 2018-19;

ii) absence of 'asset' which is likely to be 50 lakh or more as per 4th Proviso to Section 153A(1) of the Act for AY 2014-15 to 2016-17;

iii) the detailed seized material found from the 3rd party not entered in the books of accounts of the assessee, not been entries in the books of accounts as per the provision of 149(1)(b)(iii) of the Act for A.Ys 2014-15 to 2018-19.

iv) Assessment order for AY 2022-23 passed under section 143(3) being illegal as the assessment had to be completed under section 147 of the Act.

v) for all the AYs under consideration that cross examination being not provided to the assessee despite request.

vi) addition of unaccounted purchase cannot be made u/s 69B

vii) Unsigned excel sheet seized from 3rd party without any corroborative material has no evidentiary value.

viii) On merits, the CIT(A) correctly held that the unaccounted purchases would have led to sale and the AO can make addition only of the profit embedded in the bogus purchases.

6. The ld DR has vehemently relied on the orders of the AO.

7. Before we adjudicate, a brief factsheet of additions made is reproduced as under:

<table>
<tr><th>Sr no</th><th>Asst.Year</th><th>Addition made by AO u/s 69B (In INR) (alleged unaccounted purchases)</th><th>Addition made by AO for alleged undisclosed profit (In INR)</th><th>Action by CIT(A)</th></tr>
<tr><td>1</td><td>2014-15</td><td>3,68,81,488/-</td><td>1,36,461/-</td><td rowspan="9">The CIT(A) has held that the alleged unaccounted purchases would have led to sales and the AO has already separately made an addition on the profit as well. Hence, the CIT(A) deleted the addition of alleged unaccounted purchases and restricted the addition only to the profit element and to the extent of the addition made on profit by the AO. Reliance in this regard is placed on several judicial precedents correctly followed by the CIT(A) wherein it has been held that only the profit element can be brought to tax.</td></tr>
<tr><td>2</td><td>2015-16</td><td>6,22,80,023/-</td><td>2,36,664/-</td></tr>
<tr><td>3</td><td>2016-17</td><td>6,48,95,020/-</td><td>3,05,006/-</td></tr>
<tr><td>4</td><td>2017-18</td><td>4,96,27,412/-</td><td>2,87,838/-</td></tr>
<tr><td>5</td><td>2018-19</td><td>5,79,52,937/-</td><td>2,54,992/-</td></tr>
<tr><td>6</td><td>2019-20</td><td>4,76,87,294/-</td><td>2,09,824/-</td></tr>
<tr><td>7</td><td>2020-21</td><td>3,77,36,909/-</td><td>1,62,268/-</td></tr>
<tr><td>8</td><td>2021-22</td><td>3,62,47,164/-</td><td>1,12,366/-</td></tr>
<tr><td>9</td><td>2022-23</td><td>1,45,36,561</td><td>39,248/-</td></tr>
</table>

Given the facts as above, we shall now deal with the various legal grounds taken by the assessee. We find with regard to the first argument for AY 2014-15 to 2018-19, that the condition of escaped income being 50 lakh or more u/s 149(1) for issuance of notice under section 148 not satisfied, the assessee has submitted as under:

> It is respectfully submitted that section 149 of the Act prescribes the time limit for issuance of notice under section 148. In terms of section 149, where three years, but not more than ten years, have elapsed from the end of the relevant assessment year, a notice under section 148 can be issued only where the AO is in possession of books of account or other documents or evidence which reveal that the income chargeable to tax, which has escaped assessment, amount to or is likely to amount to 50 lakh or more.
> In the present case, the aforesaid statutory threshold of ₹50 lakh is admittedly not satisfied. It is pertinent to note that the AO himself, in the impugned assessment order, has accepted that the alleged unaccounted purchases would necessarily have resulted in corresponding sales and has, accordingly, proceeded to make an addition additionally in respect of the profit allegedly embedded in such transactions.

In paragraph 6.4 of the impugned order, the AO has himself observed that the assessee was engaged in the business of purchase and sale of mustard oil and that the mustard oil purchased by the assessee would correspondingly have been sold in the course of business for earning profit. The AO has thus proceeded on the express premise that the alleged unaccounted purchases did not remain with the assessee, but were subsequently sold in the ordinary course of me assessee's business. It is only on this basis that the Assessing Officer has proceeded to determine and bring to tax the profit allegedly earned on such p and sale transactions.

It is respectfully submitted that, for the purposes of section 149, the relevant consideration is not the gross value of the alleged transaction or the quantum of purchases, but the quantum of "income chargeable to tax" which has escaped assessment. The expression employed by the legislature is "income chargeable to tax", and not the value of the underlying purchase or sale transaction. Therefore, where the Assessing Officer himself accepts that the alleged purchases have resulted in corresponding sales, the income, if any, chargeable to tax on such transactions can only be the real income/profit arising therefrom and not the gross value of the purchases.

The aforesaid position is further fortified by the fact that even the learned Commissioner of Income-tax (Appeals) has restricted the addition to the profit element allegedly embedded in the impugned purchase and sale transactions. Thus, the ultimate income alleged to have escaped assessment is confined to the real income/profit attributable to the said transactions and is admittedly below ₹50 lakh in each of the relevant assessment years.

Accordingly, even proceeding on the assumption that the alleged transactions constitute income which had escaped assessment, the quantum of such income is admittedly below the statutory threshold of ₹50 lakh prescribed under section 149 for issuance of notice beyond the period of three years from the end of the relevant assessment year.

It is therefore respectfully submitted that the AO could not have invoked the extended limitation prescribed under section 149 in the facts of the present case. Once the AO himself accepted that the alleged unaccounted purchases were subsequently sold and that only the profit element arising from such transactions constituted the alleged escaped income, the relevant amount for determining the applicability of section 149 could only be such real income/profit and not the gross value of the alleged purchases. Since such income was below ₹50 lakh in each assessment year, the statutory conditions for reopening the assessment beyond three years were not satisfied. Consequently, the notices issued under section 148, being beyond the period of three years and in the absence of escaped income of ₹50 lakh or more in the relevant assessment year, are without jurisdiction and liable to be quashed.

Assessment Year	Addition of Alleged undisclosed purchases by the AO	Addition of Profit by the AO	More than Rs. 50 lakhs ?
2014-15	3,68,81,488/-	1,36,461/-	No.

2015-16	6,22,80,023/-	2,36,664/-	No.
2016-17	6,48,95,020/-	3,05,006/-	No.
2017-18	4,96,27,412/-	2,87,838/-	No.
2018-19	5,79,52,937/-	2,54,992/-	No.

Reliance is placed on the following decisions-

1. Chandra Mohan vs ACIT ITA No. 7 to 14/DDN/2026 (ITAT, Dehradun)- Relevant Paras: 25, 26 and 27 (arising from the same search and similarly placed Assessee) (Pg. 483-521 of Case law compilation)- Hon'ble Court has held that reopening beyond 3 years is not permissible as Rs. 50 lakh threshold under section 149(1)(b) is not satisfied and thus consequently reopening is bad in law.
2. Manjeet Kaur Duggal v. ITO W.P.(C) 3405/2023 [Delhi High Court]- Relevant Paras: 17-24
3. Nitin Nema vs PCIT [2023] 458 ITR 690 (Madhya Pradesh)- Relevant Para: 9

8. The assessee is engaged in the business of trading in mustard oil. The genesis of the additions for AY 2014-15 to 2018-19, made by the AO, in assessee's case, traces its root from the search and seizure operation conducted in the case of Ravinder Oil Group on 02.06.2022 wherein incriminating material/loose paper were found and seized from the laptop recovered from the premise of the group. On Perusal of the laptop data, it was found that a Sanjeev tally account was maintained in this laptop wherein two types of entries were made- the cash sales as well as sale made through cheque. It was found that only the sales made through cheque were accounted for in the books of account of Ravinder Oil Group and the cash sales made were not recorded in its books of accounts. The assessee was one of the entities to whom cash sales were made by Ravinder Oil Group which was not disclosed by the assessee in its books of account. With such

information of unaccounted purchase made from M/s Ravinder Oil Group, the AO issued notices u/s 148 dated 29.03.2023 for the AY 2014-15 to 2018-19.

9. We note that section 149(1)(a) prescribes time limit for issuance of notice u/s 148 upto only three years from the end of the relevant assessment year. The provisions of section 149(1)(b), however, extends the period upto ten years from the end of the relevant assessment year with certain conditions. The conditions are that a notice under section 148 can be issued only where the AO is in possession of books of account or other documents or evidence which reveal that the 'income chargeable to tax', which has escaped assessment, amount to or is likely to amount to 50 lakh or more. We find from the assessment order of the AO, that the AO himself has accepted the unaccounted purchases have resulted in corresponding sales and therefore has considered the profit embedded in the unaccounted purchases as well as the unaccounted purchases, as escaped income. We find from the above chart that the profit embedded in the unaccounted purchases, represents the "income escaping assessment". Further, we find that the "income escaping assessment" are less than Rs 50 lakh for the A.Ys. 2014-15 to 2018-19. Following the decision of ***Chandra Mohan V ACIT*** (supra), we hold that, the A.Ys. 2014-15 to 2018-19, being beyond

the period of three years from the end of relevant assessment year, do not satisfy the statutory condition of “income chargeable to tax”, being ₹50 lakh or above in each assessment year. We are of the considered view therefore, that the notices issued under section 148, being beyond the period of three years and in the absence of escaped income of ₹50 lakh or more in the relevant assessment year, are without jurisdiction and are quashed accordingly.

10. The assessee’s other legal ground that the condition of escapement of "asset" under Fourth Proviso to Section 153A(1) of the Act for AY 2014-15 and AY 2015-16 and AY 2016-17, being not satisfied, rendering the reopening illegal, is rendered academic in view of our quashing of notices u/s 148 for AY 2014-15 to 2018-19 herein above.

11. Similarly, the legal ground that the "Sanjeev Tally" data is not an "entry in the books of accounts" and no limb of Section 149(1)(b) has been satisfied/invoked, for AY 2014-15 to AY 2018-19, is also rendered academic in view of our quashing of notices u/s 148 for AY 2014-15 to 2018-19 herein above.

12. With respect to the assessment order for AY 2022-23 having been passed under Section 143(3) and not under Section 147/148 of the Act which is illegal and bad in law, the assessee submitted as under:

> The assessment order for the captioned AY has been passed under Section 143(3) of the Income-tax Act, 1961 ("the Act"), which is a nullity, since the

captioned A.Y was required to be assessed in accordance with the special mechanism prescribed under Section 148 of the Act. Pursuant to the search, the AO was required to issue a notice under Section 148 of the Act before proceeding with the assessment. As held in Montage Enterprises Pvt. Ltd. v. DCL ITA No. 5458/Del/2025), the only permissible statutory course was to issue notice under Section 148; hence, the assessment framed directly under Section 143(3). without following the procedure prescribed under Section 148 and without issuing a notice under Section 148 is void ab initio and liable to be quashed.

Further, while passing the assessment order under Section 143(3) of the Act, the AO further obtained approval from the JCIT (as mentioned in the assessment order) which itself is an act of illegality as if no notice is issued under Section 148 and jurisdiction is not assumed under Section 148, then there was no basis for the AO to obtain an approval. As no approval is required or contemplated by law for passing an order under Section 143(3) of the Act, seeking an approval when passing an order under Section 143(3) is itself illegal. In Chemical Agencies v. ACIT (ITA No. 7092/Del/2025), Delhi ITAT held that obtaining such non-statutory approval constitutes impermissible interference with the AO's independent quasi-judicial function and vitiates the assessment. Thus, the JCIT's approval cannot cure the jurisdictional defect and, rather, independently renders the assessment order void. Even in the case of Vimal Kumar vs. DCIT (ITA No. 4830/Del/2026) recently on 12.08.2026,1 Delhi ITAT has taken the same view.

The relevant judgments relating to this issue are as follows:
1. *Montage Enterprises Pvt. Ltd. v. DCIT, ITA No. 5458/Del/2025 [ITAT Delhi]- Relevant Paras: 3-5*
2. *Pradeep Kumar Agarwalla v. DCIT, ITA Nos. 6158/Del/2025 & 6959/Del/2025 [ITAT Delhi] - Relevant Paras: 8-11*
3. *Chemical Agencies v. ACIT, ITA No. 7092/Del/2025 [ITAT Delhi]- Relevant Paras: 5-9*
4. *Mirha Exports Pvt. Ltd. v. DCIT, ITA Nos. 5795-5804/Del/2025 & 8131-8135/Del/2025 [ITAT Delhi]- Relevant Para: 22*

13. With respect to the argument that the assessment for A.Y. 2022-23 having been made under section 143(3) and not under section 147/148 of the Act is void, we find substantial force in the argument of the assessee. We find that a search and seizure operation u/s 132 of the Act was conducted in the case of Ravinder Oil Group on 02.06.2022

wherein incriminating material/excel sheet were found and seized which related to the assessee. Pursuant to the search u/s 132 on Ravinder Oil Group, the AO was required to initiate the proceedings under section 148 of the Act as per the provisions of Explanation 2(iv) of section 148 of the Act and issue notice u/s 148 of the Act instead of following the proceedings of assessment u/s 143(3) of the Act. Following the decision of ***Montage Enterprises Pvt. Ltd. v. DCIT*** (supra), we hold that the only permissible statutory course was to issue notice under Section 148 and pass an assessment order thereafter u/s 147/144B of the Act. In view of the judicial precedent therefore, the assessment framed directly under Section 143(3), without following the procedure prescribed under Section 148 and without issuing a notice under Section 148, is considered as void ab initio and accordingly quashed. The ground of assessee is allowed.

14. With respect to the arguments for all AYs that opportunity for cross-examination not provided to the Assessee despite repeated requests, the assessee submitted as under:

> It is respectfully submitted that the additions made by the AO are based on third-party digital data. However, the AO has not provided any opportunity of cross-examination of the person from whom such data/material has been retrieved. AO has relied upon such Sanjeev Tally extensively adversely against the Assessee, despite the specific request of the Assessee in this regard vide letter dated 10.02.2024 before the AO. It is also pertinent to mention that in the order of CIT(A) dated 02.02.2026 at Pg. No. 15 and 21 of the PB, the written submission of the Assessee has been reproduced whereby the Assessee has specifically submitted that opportunity of cross-

examination should have been provided to the Assessee in light of principles of natural justice. Reliance in respect of this issue has been placed on the following:

1. Chandra Mohan vs ACIT ITA No. 7 to 14/DDN/2026 (ITAT, Dehradun)- Relevant Paras: 36-37 (arising from the same search and similarly placed Assessee) (Pg. 483-521 of Case law compilation)- Hon'ble Court has noted that denial of Assessee's specific request for cross-examination deprived the Assessee of a fair and a reasonable opportunity. Further, it is legal dictum that the statements/material relied by AO having not being tested through cross-examination, lose their evidentiary value and cannot be the basis for sustaining any addition.
2. M/s Andaman Timber Industries v. Commissioner of Central Excise, Kolkata, Civil Appeal No. 4228 of 2006 [Supreme Court]- PB Pages 525-527
3. CIT v. Ashwani Gupta, ITA 1264 of 2008 [Delhi High Court)- Relevant Paras: 6-7

15. From the perusal of the assessment order and the CIT(A) order, we find that nowhere the assessee had made any specific request for cross examination from Ravinder Oil Group. Further, the assessee's reliance on the decision of ***Chandra Mohan V ACIT*** is misplaced as the facts of ***Chandra Mohan*** is clearly distinguishable. In the case of ***Chandra Mohan***, *(supra),* the assessee had specifically questioned the name of the assessee appearing in the seized material/data and the assessee was denied cross examination to ascertain the name of the assessee despite specific request. In the instant case, the assessee has failed to show any such fact. We therefore find that in the instant case of the assessee, it never made any such case for cross examination nor it presented any evidence to show that it made specific request for

cross examination during the assessment proceedings. This ground is dismissed accordingly.

16. On the issue that the addition of unaccounted purchases cannot be made under Section 69B, and that the Excel sheet/Sanjeev Tally cannot be the basis to make an addition, the same is academic on account of the fact that notice issued u/s 148 of the Act for AY 2014-15 to AY 2018-19 has already been quashed. The issue shall be discussed while dealing with assessment made for AY 2019-20 to AY 2021-22 later in the order.

17. With respect to the argument that notice under section 148 for all years (AY 2014-15 to AY 2021-22) gave only 30 days period as against the prescribed 3 months period which is an illegality, the assessee submitted as under:

> It is humbly submitted that a perusal of all notices on record will show that the AO has given only 30 days time to file the ROI which is against the statutory mandate as the Section itself prescribes that 3 months have to be given. The provisions of section 148 as stood at the relevant time read as under:
> ********
>
> Interpreting this aspect, ITAT in the case of DCIT, Raipur vs. Anand Kumar Agarwal, ITA No.707/RPR/2025, order dated 05.08.2026 has quashed the proceedings and held that the same is illegality in law. ITAT has held-
>
> *"14. We find the Hon'ble Bombay High Court in the case of CIT vs. Ramsukh Motilal (supra) while quashing the notice issued u/s 34 of the Income Tax Act, 1922 giving the assessee to comply with its requirement within a period of less than 30 days is invalid and the illegality cannot be waived by the assessee since a defect in its was not procedural but a condition precedent to the assumption of jurisdiction.*

> *15. Although the above decision was rendered under the Income Tax Act, 1922, still the ratio laid down in the aforementioned decision in our opinion, holds good, for the Income Tax Act, 1961. Since the Assessing Officer in the instant case has admittedly given a period of 90 days from the date of notice i.e. 28.03.2024 instead of giving 3 months clear time from the end of relevant month, therefore, such notice issued u/s 148 of the Act is invalid and therefore, all proceedings based on such invalid notice are liable to be quashed being null and void."*
>
> The notices for AY 2014-15 (Pg 257), AY 2015-16 (Pg 795-796), AY 2016-17 (Pg 1277), AY 2017-18 (Pg 1721), AY 2018-19 (Pg 2184), AY 2019-20 (3053), AY 2020-21 (Pg 3277) and AY 2021-22 (Pg 3864) of the paper book are already on record.

18. To adjudicate on the issue, it would be prudent to reproduce the provision of law u/s 148, during the relevant period i.e., prior to 01.04.2023, as under:

> *"Issue of notice where income has escaped assessment.*
> *148. Before making the assessment, reassessment or recomputation under section 147, and subject to the provisions of section 148A, the Assessing Officer shall serve on the assessee a notice, along with a copy of the order passed, if required, under clause (d) of section 148A, requiring him to furnish return in __such period, as may be specified in such notice,__ a return of his income or the income of any other person in respect of which he is assessable under this Act during the previous year corresponding to the relevant assessment year, in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed; and the provisions of this Act shall, so far as may be, apply accordingly as if such return were a return required to be furnished under section 139"*

We find that the notices u/s 148 of the Act under question, for AYs 2014-15 to AY 2021-22, prescribing 30 days for filing the return, were issued on 29.03.2023. It would be clear from the provision of law, existing prior to 01.04.2023, the period allowed for filing return was at the discretion of the AO who would prescribe "***__such period, as may be specified in such notice".__*** It was only vide amendment in Section 148 of the Act, brought in by the Finance Act 2023 with effect from 01.04.2023, notice for reassessment is required to be issued by the AO requiring the assessee to furnish within ***"a period of three months from the end of the month in which such notice is issued or such further period as may be allowed by the Assessing Officer on the basis of an application made in this regard by the assessee"***. This means that prior to 01.04.2023, the AO was empowered to grant 30 days for filing the return. We therefore find no legal infirmity in the issuance of notice u/s 148 of the Act for AY 2014-15 to AY 2021-22 on this count. The ground is accordingly rejected.

19. With respect to arguments on merits, we shall take up only those AYs where the notices u/s 148 has not been invalidated. We have already quashed the notice u/s 148 for AYs 2014-15; 2015-16; 2016-17; 2017-18 and 2018-19 and AY 2022-23. That leaves us with AYs 2019-20; 2020-21 and 2021-22 for adjudication. For the AYs 2019-20; 2020-21 and 2021-22, the argument of the assessee is that the CIT(A) has correctly held the unaccounted purchases would have led to sales and the AO has separately made an addition on the profit as well. The assessee submitted that the CIT(A) correctly deleted the addition of unaccounted purchases and restricted the addition only to the profit element and to the extent of the addition made on profit by the AO.

Reliance in this regard is placed on several judicial precedents, correctly followed by the CIT(A), wherein it has been held that only the profit element can be brought to tax.

1. [2024] Principal Commissioner of Income-tax vs Nandkishor Huaschand Jalan 161 taxmann.com 80 (Gujarat)
2. [2024] Principal Commissioner of Income-tax vs Nandkishor Hulaschand Jalan 161 taxmann.com 81 (SC)
3. [2024] Principal Commissioner of Income-tax vs Max Flex and Imaging Systems Ltd. 161 taxmann.com 775 (Bombay HC)
4. [2022] Principal Commissioner of Income-tax vs S.V. Jiwani 145 taxmann.com 230 (Bombay)
5. [2021] 129 taxmann.com, 257 (Allahabad - Trib.) L.P.R. Construction vs. DCIT
6. [2015] 63 taxmann.com 370, (Ahmedabad - Trib.), DCIT vs. Ashok Weaving Works
7. 2019 (8) TMI 830-ITAT, AGRA, SHRI OM PRAKASH SINGH VERSUS ACIT
8. [2012] 20 taxmann.com 368, (JP)/[2011] 7 ITR(T) 61 (JP), Assistant Commissioner of Income-tax vs. Kanhiya Lal Choudhary
9. [2018] 99 taxmann.com 420 (Rajasthan)/[2017] 399 ITR 463 (Rajasthan) Commissioner of Income- Tax v.Sita Ram Sopra
10. [2018] 92 taxmann.com 26, (Madhya Pradesh) Principal Commissioner of Income-tax v.Praveen Kumar Jain
11. [2013] 35 taxmann.com 214, (Rajasthan), Commissioner of Income-tax, Bikaner v. AshokBehi Bharat Sethi & Party
12. [2013] 33 taxmann.com 315 (Rajasthan) HIGH COURT OF RAJASTHAN Commissioner of Incometax, Bikanerv. Jaimal Ram Kasturi

20. We find that the AO as well as CIT(A) has accepted that the unaccounted purchase have to be countenanced with corresponding sales. We are inclined to agree with the assessee that the CIT(A) has correctly held that the unaccounted purchases would have led to sales and the AO has separately made an addition on the profit as well. In such factual matrix, following the decisions of ***PCIT vs Nandkishor Huaschand Jalan*** (Gujarat); ***PCIT vs Nandkishor Hulaschand Jalan*** (SC) and ***PCIT vs Max Flex and Imaging Systems Ltd***. (Bombay HC),

we are of the considered view, that the entire unaccounted purchase cannot be added and only the profit embedded in the unaccounted purchase is liable to be taxed. We therefore hold that the CIT(A) has correctly deleted the addition of unaccounted purchases and restricted the addition only to the profit element and to the extent of the addition made on profit by the AO. We accordingly sustain the profit determined by the AO, the rate of which ranges from 0.44% to 0.31% on unaccounted purchase, for AY 2019-20; 2020-21 and 2021-22. The grounds are dismissed.

21. In the result, appeal by the Revenue ITA Nos.243 to 251/DDN/2026 are dismissed. The Cross appeal of assessee in CO Nos. 5 to 9 and 13/DDN/2026 are allowed. The CO in 10 to 12/DDN/2026 are dismissed.

Order pronounced in the open court on 01.09.2026.

Sd/-
(SATBEER SINGH GODARA)
JUDICIAL MEMBER

Sd/-
(NAVEEN CHANDRA)
ACCOUNTANT MEMBER

Dated: 01.09.2026
*Priti Yadav, Sr. PS**
Copy forwarded to:
1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, New Delhi