

**IN THE INCOME TAX APPELLATE TRIBUNAL, 'C' BENCH
MUMBAI**

**BEFORE: SHRI AMIT SHUKLA, JUDICIAL MEMBER
&
SHRI ARUN KHODPIA, ACCOUNTANT MEMBER**

**ITA No.2318/Mum/2025
(Assessment Year :2022-23)**

Prashant Prakash Nilawar Flat No.104, C-2, Kumar Parisar, Sahajaanand Kothrud, Pune-411 052	Vs.	ACIT, Circle-6(1) Mumbai
PAN/GIR No.ADGP3445H		
(Appellant)	..	(Respondent)

**ITA No.2896/Mum/2025
(Assessment Year :2022-23)**

DCIT, Circle-6(1) Mumbai	Vs.	Prashant Prakash Nilawar Flat No.104, C-2, Kumar Parisar, Sahajaanand Kothrud, Pune-411 052
PAN/GIR No.ADGP3445H		
(Appellant)	..	(Respondent)

Assessee by	Shri Nishit Gandhi a/w. Ms. Adnya Bhandari
Revenue by	Shri R.A. Dhyani
Date of Hearing	11/09/2025
Date of Pronouncement	28/10/2025

आदेश / O R D E R

PER AMIT SHUKLA (J.M):

These cross-appeals in ITA No. 2318/Mum/2025 filed by the assessee and ITA No. 2896/Mum/2025 filed by the Revenue arise from a common order dated 26.02.2025 passed by the learned Commissioner of Income Tax (Appeals)-54, Mumbai, bearing DIN & Order No. ITBA/APL/S/2024-25/1073753093(1), read with the Corrigendum of even date issued under No. ITBA/APL/S/250/2024-25/1073753093(1) (hereinafter collectively referred to as “the impugned order”). Since both appeals emanate from the same factual matrix and involve overlapping issues, they were heard together and are disposed of by this consolidated order for the sake of convenience and judicial economy.

2. The grounds of appeal raised by the assessee in ITA No. No.2318/Mum/2025 is as under:-

“1. Addition of Rs. 11,20,000/- made u/s 69C of the Act based on seized documents of black pocket diary found from the residence of the appellant:

1.1. On the facts and circumstances of the case and in law, the Ld. CIT(A) erred in confirming the addition to the extent of Rs. 11,20,000/- as unexplained cash expenditure u/s 69C of the Act.

1.2. On the facts and circumstances of the case and in law, the Ld. CIT(A) erred in confirming the addition of Rs.

11,20,000/- without appreciating the facts that the notings in the diary contain only the cash balance available in the bag, and nowhere in the seized documents is it mentioned that the alleged notings contain any such unexplained cash expenditure incurred.

1.3. On the facts and circumstances of the case and in law, the Ld. CIT(A) erred in confirming the addition without any corroborative evidence found suggesting that any such alleged unaccounted expenses were incurred by the assessee. Hence, the addition made of Rs. 11,20,000/- as unexplained expenditure u/s 69C of the Act is liable to be deleted.

2. Addition of unexplained cash-on-hand of Rs. 69,193/- u/s 69A of the Act

2.1. On the facts and circumstances of the case and in law, the Ld. AO erred in confirming the addition of Rs. 69,193/- u/s 69A of the Act by observing that the cash balance of Rs. 69,193/- remained unexplained, without any basis.

2.2. On the facts and circumstances of the case and in law, the assessee submits that the alleged addition made on account of excess cash balance of Rs. 69,193/- is out of the source of cash balance of the assessee's late father, Shri Prakash Nilawar, amounting to Rs. 1,13,90,318/-, which is an undisputed fact in the case of the assessee. Therefore, the addition made u/s 69A of the Income Tax Act, 1961 should be deleted.

3. Grounds of appeal in relation to the addition of Rs. 11,32,420/- made u/s 69B of the Act on account of jewellery found during the course of search

3.1. On the facts and circumstances of the case and in law, the Ld. CIT(A) erred in confirming the addition of Rs. 11,32,420/- (263.83 grams) u/s 69B of the Act.

3.2. On the facts and circumstances of the case and in law, the Ld. CIT(A) erred in confirming the addition without

considering the submissions of the assessee. Considering the age of the mother of the assessee, Mrs. Padma Nilawar (67 years), the age of the assessee, duration of marriage, social and financial status, etc., jewellery of 263.83 grams should be reasonably allowed as "Streedhan". Therefore, no addition should be made u/s 69B of the Act.

3. Grounds of Appeal raised by the Revenue in ITA No. 2896/Mum/2025 are as under:-

1. Whether on the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in deleting the addition made by the AO u/s 69C of the Act of Rs. 5,23,95,187/- without appreciating the fact that during the course of search proceedings, the assessee had admitted in his statement on oath that the notings of cash transactions made in a spiral black-coloured pocket diary (containing 10 pages) by his wife pertain to expenses incurred monthly and annually, which were not recorded in the books of account?

2. Whether on the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in deleting the addition made by the AO u/s 69C of the Act of Rs. 1,84,650/- without appreciating the fact that the seized book was found from the premises of Shri Ashish Chhangani, who is the personal assistant of the assessee, and he admitted in his statement that the transactions mentioned in the diary pertain to the assessee?

3. Whether on the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in deleting the addition made by the AO u/s 69A of the Act of Rs. 1,50,000/- without appreciating the fact that Shri Ravindra Kumar Balaji Wadeppalle had explained the entry made of Rs. 1.5 against the name of 'Boss' on page no. 44 as the amount paid to Shri Prashant Nilawar in his statement recorded on oath u/s 132(4) of the Income-tax Act, 1961 on 25.09.2021?

4. Whether on the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in deleting the addition made by the AO u/s 69C of the Act of Rs. 31,80,000/- without appreciating the fact that Shri Prashant Prakash Nilawar confirmed in his statement recorded u/s 132(4) of the Income-tax Act, 1961 that the diary belongs to his wife, Smt. Seema Prashant Prakash. The Ld. CIT(A) also erred in appreciating the fact that the source of cash expenses is out of cash provided by Shri Prashant Nilawar.

5. Whether on the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in deleting the addition made by the AO u/s 69A of the Act of Rs. 1,03,98,087/- without appreciating the fact that the assessee was unable to reconcile the cash of Rs. 1,03,98,087/- during the search action, but during the assessment proceedings as well as appellate proceedings, the assessee had explained that this amount had been received from his late father without furnishing any evidence such as a copy of the will. Further, the Ld. CIT(A) erred in appreciating the fact that the cash was found on the date of search i.e., 23.09.2021, whereas the father of the assessee had expired on 20.06.2017.

6. Whether on the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in deleting the addition made by the AO u/s 69A of the Act of Rs. 5,61,261/- without appreciating the fact that no evidence had been furnished by the assessee during the assessment proceedings as well as appellate proceedings, merely stating that the foreign currency kept at home was for the purpose of children's education?

7. Whether on the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in deleting the addition made by the AO u/s 69B of the Act of Rs. 21,67,580/- without appreciating the fact that the assessee never claimed the jewellery in the name of Smt. Seema Nilawar (wife) during the assessment proceedings, which was claimed only before the Ld. CIT(A). The AO had already given relief to the assessee as

claimed during the assessment proceedings as per CBDT Instruction No. 1916.

4. The assessee, an individual, is engaged in rendering consultancy services in matters of land aggregation and acquisition. For the relevant Assessment Year 2022-23, the assessee filed his return of income on 05.11.2022, declaring total income of ₹3,87,39,970/-, comprising income from house property, business, capital gains, and other sources.

5. A search and seizure operation under section 132 of the Act was carried out on 23.09.2021 in the case of Rucha Group. The assessee was also covered in the said search action. Subsequently, the case was centralised with the Assistant Commissioner of Income Tax, Central Circle-6(1), Mumbai, by virtue of the CCIT's order dated 02.03.2022. The case was selected for compulsory scrutiny with the prior approval of the Pr. CIT (Central)-3, Mumbai. Statutory notices under sections 143(2) and 142(1) were duly issued and served upon the assessee, and in response, requisite details and explanations were filed from time to time.

6. The Assessing Officer, after conducting detailed proceedings, completed the assessment under section 143(3) vide order dated 24.03.2024, determining the total income of the assessee at ₹11,11,29,155/- as against the returned income of ₹3,87,39,970/-. The additions made by the Assessing Officer may be summarised thus:

Sr.No.	Particulars	Amount
1	Unexplained expenditure u/s 69C as per para 7 of the assessment order	5,35,15,187/-
2	Unexplained expenditure u/s 69C as per para 8 of the assessment order	11,00,000/-
3	Unexplained expenditure u/s 69C as per para 9 of the assessment order	1,84,650/-
4	Unexplained expenditure u/s 69A as per para 10 of the assessment order	1,50,000/-
5	Unexplained expenditure u/s 69C as per para 11 of the assessment order	31,80,000/-
6	Unexplained expenditure u/s 69A as per para 12 of the assessment order	1,03,98,087/-
7	Unexplained expenditure u/s 69A as per para 13 of the assessment order	5,61,261/-
8	Unexplained expenditure u/s 69B as per para 14 of the assessment order	33,00,000/-

7. Aggrieved by the aforesaid additions, the assessee preferred an appeal before the learned CIT(A). The CIT(A), after considering the submissions and material on record, partly allowed the appeal vide the impugned order dated 26.02.2025 (read with the corrigendum of the same date). Consequently, the Revenue is in appeal before us insofar as relief has been granted, while the assessee has preferred a cross-appeal to the extent relief has been denied.

8. We first take up the Revenue's appeal (ITA No. 2896/Mum/2025), which challenges the deletions made by the learned CIT(A). The first and principal ground of the Revenue relates to the deletion of addition of ₹5,23,95,187/- made under section 69C, whereas the assessee's Ground Nos. 1 to 1.3 in its appeal (ITA No. 2318/Mum/2025) relate to the sustenance of ₹11,20,000/- on the same issue. Since both arise from the same seized material and share a common substratum of facts, they are taken up together for adjudication.

8.1. During the course of the search, a spiral-bound black-coloured pocket diary was found and seized from the residence of the assessee. The Assessing Officer reproduced the contents of the said diary in his order and observed that the notings therein represented unrecorded cash expenses. As the diary contained names, dates, and figures of certain persons and alleged expenses, and since the assessee, according to the AO, failed to explain their source, the entire sum aggregating to ₹5,35,15,187/- was treated as unexplained expenditure under section 69C of the Act.

9. Before the learned CIT(A), the assessee submitted an elaborate explanation. It was contended that the seized diary comprised ten pages out of which six (pages 1-6) merely recorded the cash movements carried by the assessee while travelling for business purposes of Rucha Group, and the remaining four (pages 7-10) contained summaries of expenses

actually recorded in the books of Rucha Group LLP. The assessee explained that the cash mentioned therein formed part of his disclosed cash balances, duly reflected in the books, and not any expenditure incurred outside the accounts. Ledger extracts and reconciliations were produced to substantiate this claim.

10. The learned CIT(A), after a detailed analysis, partly accepted the explanation. Insofar as pages 1-6 were concerned, he held that the entries largely represented explained transactions, except for three amounts ₹6,00,000/- (opening), ₹3,20,000/- (02.09.2021), and ₹2,00,000/- (17.09.2021) whose sources were not satisfactorily established. Accordingly, he sustained an addition of ₹11,20,000/- and deleted the balance.

11. With respect to pages 7-10, the CIT(A) found the explanation fully acceptable. The said entries, he noted, related to salary and recurring office expenses of Rucha Group LLP, all duly recorded in its audited books of account. These were mere internal workings maintained by the staff and verified by the assessee and his spouse.

12. The CIT(A) verified the ledgers and reconciliations filed by the assessee which have been tabulated at pages 20-22 of his order and found them in harmony with the accounts of Rucha Group LLP. On this basis, the learned CIT(A) restricted the addition to ₹11,20,000/-, thereby granting relief of ₹5,23,95,187/- to the assessee.

13. Aggrieved, both sides are now before us. The Revenue disputes the deletion of ₹5.23 crores, whereas the assessee contests the sustenance of ₹11.20 lakhs.

14. The learned Departmental Representative, supporting the order of the Assessing Officer, submitted that the diary was found from the assessee's possession, that the assessee himself had identified the names mentioned therein, and that the entries were explained during the search as representing monthly and annual household as well as business-related expenses. Hence, according to the Revenue, the inference of unaccounted expenditure was natural and justified.

15. It was contended that the CIT(A) failed to appreciate that no prudent person maintains such detailed handwritten notings of expenses already recorded in books. Thus, the reasoning of the CIT(A) defied normal human probabilities and ignored the evidentiary presumption that attaches to seized documents found during search.

16. Per contra, Shri Nishit Gandhi, learned counsel for the assessee, argued that the figures contained in the seized papers are random and devoid of any correlation with actual financial transactions. No reasonable inference of unaccounted expenditure could be drawn therefrom. He emphasised that the onus under section 69C first lies on the Revenue to prove that any expenditure was actually incurred before calling upon the assessee to explain its source—a condition wholly unfulfilled in the present case.

17. Addressing pages 7-10 specifically, he reiterated that these correspond to expense heads of Rucha Group LLP such as salaries, rent, electricity, and maintenance which were all duly booked and audited. Ledger extracts placed at pages 27A-27E of the paper book demonstrated exact reconciliation with the seized notings.

18. He further pointed out that the assessee's statement recorded at the time of search categorically stated that the entries were made by his wife and were duly reflected in the books of Rucha Group LLP. This statement was never contradicted or found false. Hence, applying the doctrine of preponderance of probability against such unrefuted evidence was both improper and inequitable.

19. The learned counsel also stressed that the Department cannot pick and choose which part of the seized diary it wishes to believe. Having accepted part of the entries as explained, it cannot in the same breath treat similar entries as unexplained merely to sustain an addition. Fairness in adjudication demands consistency.

20. With respect to the ₹11.20 lakh addition sustained, it was argued that the very entries forming the basis of the addition represented inflows rather than outflows of cash. Section 69C contemplates unexplained expenditure, not unexplained receipts. Thus, the provision itself was misapplied.

21. The assessee had consistently maintained, both during search and assessment, that he carried a certain amount of cash while travelling, sourced from his disclosed cash balance. There was neither any allegation nor any material showing that such cash was spent or that it represented any concealed outgo.

22. The ledger of cash account and the balance sheet, placed at page 27C and pages 10-13 of the paper book, respectively, clearly reflected an opening cash balance of ₹11,32,525/- and a closing balance of ₹10,82,378/- figures which were themselves accepted by the Assessing Officer in another part of the order while dealing with section 69A. Once the source and availability of cash were thus established, no addition under section 69C could survive.

23. The explanation so furnished, resting on unimpeached facts and duly supported by record, could not be brushed aside on mere suspicion or conjecture. As the settled law goes, suspicion, however strong, cannot take the place of proof.

24. We have given our anxious consideration to the rival submissions and perused the orders of the authorities below, as well as the material placed on record. The issue before us revolves around the proper characterization of certain notings found in a spiral-bound pocket diary seized from the assessee's residence. The additions made thereon rest on the premise that such notings represented unaccounted cash

expenditure. At the threshold, it is imperative to delineate that the seized material comprises two distinct sets of pages, each with a wholly different context and evidentiary complexion pages 1 to 6, and pages 7 to 10. The former are claimed to reflect the cash physically carried by the assessee during business travel undertaken for Rucha Group, while the latter are explained as monthly or quarterly internal summaries of expenses of Rucha Group LLP, an entity in which the assessee is a partner, duly recorded in its regular books of account. Therefore, it is neither legally sound nor factually prudent to paint both sets of papers with a common brush.

25. At this juncture, one must also bear in mind the settled principle that for invoking section 69C of the Act, the foundational requirement is that there must be actual expenditure incurred by the assessee, and only when such expenditure is found to have been incurred without an identifiable source can the statutory presumption be drawn. A mere discovery of some notings, absent any material corroboration of real outgo or payment, does not by itself lead to the conclusion that any unaccounted expenditure has been incurred. The presence of figures, devoid of transactional context, cannot be equated with proof of expenditure. The Assessing Officer, before invoking section 69C, was thus duty-bound to first establish that there existed a tangible and real outflow of money. That indispensable step is conspicuously absent in the present case.

26. The learned CIT(A) has carefully examined the explanations, verified the corresponding entries from the books of Rucha Group LLP, and found them to be reconcilable. The Revenue has not pointed to a single figure that fails this reconciliation exercise. It is also significant that the statements of the assessee, recorded during the search and relied upon by the Assessing Officer, in fact, support the explanation rather than contradict it. Therefore, when both the seized document and the contemporaneous explanation speak the same language, the inference of unaccounted expenditure becomes wholly untenable.

27. Coming now to pages 1 to 6, we find that the learned CIT(A) sustained an addition of ₹11,20,000/- solely on the reasoning that the immediate source of three particular entries namely, ₹6,00,000/- (opening), ₹3,20,000/- (02.09.2021), and ₹2,00,000/- (17.09.2021) was not satisfactorily explained, even though he accepted the very same explanation for the other entries of similar nature contained in those pages. Such selective acceptance, when all the entries emanate from the same document and pertain to the same factual backdrop, appears inconsistent with judicial logic. Once the explanation of the assessee—that these notings represented the cash physically carried during travel for business purposes—was accepted as plausible for a substantial part of the diary, there remained no cogent

reason to reject that very explanation for a trifling portion of the same.

28. It is equally pertinent to note that the Assessing Officer has, in another part of his order, himself accepted the existence of the assessee's cash balance as reflected in his books of account while dealing with additions under section 69A. The ledger and the balance sheet on record clearly disclose an opening cash balance of ₹11,32,525/- and a closing balance of ₹10,82,378/-. When the same cash balance has been accepted as part of the assessee's regular accounting system, it logically follows that any cash carried during travel out of such recorded funds cannot, by any stretch of reasoning, be characterised as unexplained. The entire factual premise of the addition, therefore, collapses.

29. Moreover, the very entries forming the basis of this addition are "inward" entries depicting amounts received or brought in and not "outward" payments. Even on a plain reading of section 69C, it is abundantly clear that the provision applies only to cases where expenditure has been actually incurred and remains unexplained as to source. A receipt or circulation of cash cannot fall within the mischief of this provision. Hence, even on the strict statutory interpretation, the addition does not withstand scrutiny.

30. Viewed holistically, the learned CIT(A)'s reasoning in deleting ₹5,23,95,187/- is fully borne out by the evidence, and his order to that extent calls for affirmation. In our considered view, even the residual addition of ₹11,20,000/- deserves to be deleted, since the same is based not on proof of expenditure but on mere conjecture drawn from uncorroborated notings. The settled principle that suspicion, however strong, cannot take the place of proof finds apt application here. Where the Revenue itself relies on the assessee's books to establish part of the cash flow, it cannot, in the same breath, invoke section 69C to treat another part of that very cash as unexplained. The explanation tendered by the assessee is reasonable, coherent, and unrefuted. Consequently, the deletion directed by the learned CIT(A) stands fully justified, and the addition sustained requires to be effaced in the interests of justice and consistency.

31. Turning to the second segment of the seized material, namely pages 7 to 10 of the black diary, we find that the learned CIT(A) has, after an extensive examination, rightly accepted the assessee's explanation. On a careful scrutiny of these papers, as well as the reconciliation statements furnished, it is evident that the figures therein correspond exactly with the monthly or quarterly summaries of expenses duly recorded in the books of Rucha Group LLP. The assessee, in his statement recorded during the course of search, had also clarified that the notings were prepared by his wife and domestic staff for internal record-keeping and

that such expenses were subsequently entered in the firm's accounts.

32. The learned CIT(A) verified this position through the ledgers produced and confirmed that each figure was traceable to a legitimate accounting entry. When every number on those pages finds reflection in the audited books of Rucha Group LLP, it is difficult to comprehend how these could still be treated as unaccounted or unexplained expenditure. The statutory presumption attached to a seized document is indeed rebuttable, and once such reconciliation is demonstrated by contemporaneous records, that presumption stands fully discharged.

33. In our view, it is wholly illogical to disregard documentary reconciliation and rely instead upon conjectural "human probabilities". The doctrine of probabilities is a judicial aid to inference, not a substitute for proof. It can supplement evidence, not supplant it. In this case, the Revenue has brought no contrary evidence whatsoever. It would be contrary to both fairness and jurisprudence to brand a reconciled accounting entry as an unrecorded expense simply because it happens to be found in a handwritten form. The law cannot sanction such a dual approach.

34. At page 27B of the paper book, the assessee has furnished the reconciliation showing how the figures from the seized pages match exactly with the expense heads and ledger totals of Rucha Group LLP. The learned Departmental

Representative could not dispute this factual reconciliation. Once the notings stand merged into regular accounting records of the firm, no adverse inference can survive in the assessee's hands. The learned CIT(A), having examined this reconciliation in paragraph 7.3.4 of his order, deleted the corresponding addition with due reasoning and prudence. We see no infirmity in that conclusion.

35. The matter may also be viewed from another perspective. The notings are not in the handwriting of the assessee but admittedly that of his wife and staff. Even if one were to invoke the presumption under section 132(4A) or section 292C of the Act, such presumption attaches primarily to the author or possessor of the document, and not automatically to every family member. Furthermore, where the entries are demonstrably reflected in audited books of a known entity, the presumption itself dissolves. The concept of presumption cannot override the certainty of reconciled evidence.

36. In fact, the Revenue's attempt to apply the doctrine of probability selectively accepting part of the same diary as reliable for additions while rejecting the remaining part as improbable is self-contradictory. Judicial reasoning must be even-handed; the same piece of evidence cannot be both credible and incredible in alternate breaths.

37. It is thus clear that, on a cumulative appreciation of facts, the addition deleted by the learned CIT(A) of ₹5,23,95,187/- rests on sound reasoning. The deletion is not only plausible but compelled by the record itself. The Assessing Officer's approach, based on conjecture rather than corroboration, cannot be sustained.

38. Accordingly, the reasoning of the CIT(A) in deleting ₹5,23,95,187/- is upheld. We find no infirmity in his findings. On the contrary, his order embodies the correct appreciation of fact and law. Simultaneously, as discussed earlier, even the residual addition of ₹11,20,000/- sustained by him deserves to be deleted, for it neither represents any real expenditure nor satisfies the conditions precedent of section 69C. The deletion by the CIT(A) is therefore affirmed in toto, and the corresponding ground of the Revenue is dismissed while that of the assessee stands allowed.

39. The next issue raised by the Revenue in ground no. 2 relates to the deletion of addition of ₹1,84,650/- made by the Assessing Officer under section 69C on the basis of a diary seized from one Shri Ashish Chhangani, who was stated to be the personal assistant (PA) of the assessee. The Assessing Officer inferred that since the diary was found with the PA, and since some of the entries therein appeared to relate to cash expenses, the same must pertain to the assessee.

40. The learned CIT(A), after carefully examining the material, found no merit in such inference. He observed that the diary was seized not from the assessee but from the premises of Shri Ashish Chhangani, who in his statement merely admitted that the notings were of payments made by him, without stating that they were on behalf of the assessee. No corroborative material was found in the assessee's premises to establish such linkage. Consequently, the CIT(A) concluded that there was no evidence of the assessee having incurred any such expenditure and deleted the addition.

41. It is trite that where an incriminating document is recovered from a third person, an addition in another's hands can be sustained only upon establishing a clear and direct nexus between the two. Suspicion or proximity does not suffice. In this case, no such link has been established. The CIT(A) was, therefore, justified in deleting the addition.

42. The learned Departmental Representative, however, contended that since Shri Ashish Chhangani was the personal assistant of the assessee, the presumption ought to have been drawn that the expenses recorded by him were for and on behalf of his employer. It was argued that his statement recorded during search, admitting that he had incurred cash payments, constituted sufficient evidence.

43. The learned counsel for the assessee, on the other hand, pointed out that the said statement was retracted within eight days by a duly sworn affidavit dated 01.10.2021, and in any event, it made no reference to the assessee. He further submitted that in the assessee's own group cases for earlier years, this Tribunal has already held that such statements of Shri Chhangani cannot form the sole basis of addition. The learned CIT(A), he submitted, has correctly followed that line of reasoning.

44. We have examined the record and agree with the learned CIT(A). The diary forming the basis of this addition was not recovered from the assessee's possession. It contains no reference to his name, and there is no independent evidence to show that the transactions recorded therein were made for or on behalf of him. The retracted statement of a third party, without any corroboration, cannot form the edifice of an addition. In fact, in *Rucha Consultancy LLP v. DCIT* (ITA No. 4996/Mum/2024), a coordinate bench of this Tribunal, dealing with the same witness, held that such retracted statements cannot be the sole basis of addition. The principle squarely applies here. The deletion by the CIT(A) is therefore confirmed.

45. In the absence of any nexus or corroboration, the addition of ₹1,84,650/- made in the assessee's hands has rightly been deleted. The law does not authorise taxation by association or

conjecture; it insists on proof by evidence. Accordingly, this ground of the Revenue's appeal stands dismissed.

46. The Revenue's next ground relates to an addition of ₹1,50,000/- made on the basis of a loose paper seized from the residence of one Shri Ravindra Kumar Balaji Wadealle, who, according to the Assessing Officer, was a consultant associated with the assessee. The said paper contained an entry of "1.5" against the word "Boss". Based solely on a statement of Shri Wadealle recorded during search, the Assessing Officer presumed that "Boss" referred to the assessee and accordingly treated the sum as unexplained income in his hands.

47. Before the CIT(A), the assessee explained that the seized paper did not belong to him; that the entry in question mentioned another name "Ankush" alongside; and that there was nothing on record to show that "Boss" referred to him or that "1.5" denoted ₹1,50,000/-. It was further submitted that Shri Wadealle had subsequently retracted his statement, clarifying that the earlier admission was made under stress. The CIT(A) accepted this explanation, observing that there was no corroborative evidence and that similar additions based on papers seized from Shri Wadealle had been deleted in the group concern's cases as well.

48. The learned Departmental Representative reiterated that since Shri Wadepalle had initially identified the entry as relating to the assessee, the Assessing Officer was justified in drawing the inference.

49. We find ourselves unable to agree. The entire addition rests on an isolated entry of "1.5" and a vague reference to "Boss" in a loose paper seized from a third party, unconnected with the assessee's premises or handwriting. There is neither corroborative material evidencing receipt of cash by the assessee nor any inquiry to ascertain who "Ankush" was. In the absence of any such investigation, the inference drawn by the Assessing Officer is wholly speculative.

50. **The Hon'ble Supreme Court, in Common Cause v. Union of India [2017] 394 ITR 220 (SC)**, has held that loose papers and unauthenticated notings, being inadmissible under section 34 of the Evidence Act, cannot constitute evidence of transactions unless supported by credible material. The present addition falls squarely within that prohibition.

51. Accordingly, we uphold the CIT(A)'s finding deleting this addition of ₹1,50,000/-, as no corroborative evidence was brought on record to substantiate the Assessing Officer's assumption.

52. The subsequent issue pertains to the addition of ₹31,80,000/- made by the Assessing Officer under section 69C, based on another pocket diary seized from the assessee's residence, written in the handwriting of his wife, Smt. Seema Prashant Nilawar. The Assessing Officer presumed that the notings therein, though undated and unexplained, represented cash expenditure.

53. Before the CIT(A), the assessee clarified that the said diary comprised random household or personal scribbles by his wife, that no actual transaction could be discerned therefrom, and that neither dates, names of recipients, nor any corroborative evidence of payment existed. It was therefore contended that the document was a mere rough jotting a "dumb document" incapable of yielding any inference of expenditure.

54. The learned CIT(A), after examining the pages, concurred. He observed that the notings lacked any identifiable pattern or corroboration, and in the absence of any proof of real expenditure, no addition could be made merely on conjecture. Accordingly, the addition was deleted.

55. Having examined the material ourselves, we find no reason to differ. The impugned diary contains only figures and stray notations such as "Self" or "JI", without any corresponding details or evidence of payments. The Assessing Officer's approach of presuming that these notings

represented expenditure merely because they contained numbers is unsustainable in law.

56. Even if one were to treat the seized diary as evidence, its evidentiary worth is negligible in absence of proof of authorship and context. A presumption of expenditure cannot be drawn from numerical jottings whose very meaning remains uncertain. The deletion by the CIT(A) is thus well founded and calls for no interference.

57. Accordingly, the Revenue's grounds on these three issues stand dismissed. The findings of the learned CIT(A) are upheld in entirety.

58. We shall now turn to the remaining issues relating to additions under section 69A on account of cash found during search, which are the subject of both appeals.

59. We now proceed to examine the next issue arising from the addition made on account of cash found during the course of search and seizure proceedings, which the Assessing Officer has brought to tax under section 69A of the Income-tax Act. During the course of search, cash aggregating to ₹54,29,800 was found from the residence of the assessee. The Assessing Officer noted that the assessee had not, according to him, satisfactorily explained the source of the said cash and, therefore, treated the same as unexplained money, taxable under section 69A of the Act.

60. The assessee, in response, explained that the entire cash so found stood duly explained when seen in the proper factual context. It was submitted that the cash was not his individual undisclosed income but represented funds belonging to three distinct and legitimate sources. Firstly, a sum of ₹53,02,027 belonged to Rucha Group LLP and was duly recorded as closing cash balance in its regular books of account, which had been subjected to audit and assessment. Secondly, a sum of ₹1,13,90,318 represented the personal cash balance of his late father, Shri Prakash Nilawar, which was disclosed in his balance sheet as on 31 March 2017 and accepted in his assessment. Thirdly, the balance represented minor household savings held by the assessee's mother, Smt. Meenakshi Nilawar, and other family members, accumulated over time and kept in the common residence.

61. The Assessing Officer, however, brushed aside the explanation, observing that the assessee had not established a direct nexus between the cash found and the cash balance recorded in the books of the LLP or that of his father. He was also of the view that after the demise of the assessee's father, no documentary declaration had been made showing succession of the said cash to the assessee or his mother. He thus concluded that the cash found was unexplained and liable to be taxed in the assessee's hands.

62. On appeal, the learned CIT(A) examined the entire material and rendered a detailed finding. He verified the books of Rucha Group LLP and found that the figure of ₹53,02,027 was indeed recorded in the cash book and reconciled with the balance sheet of the LLP as on the date of search. He also noted that the father's balance sheet as on 31 March 2017 disclosed a closing cash balance of ₹1,13,90,318, which had been accepted in assessment. On these facts, he held that the cash of ₹53,02,027 representing the LLP's funds stood fully explained and deleted the addition to that extent. However, he sustained an addition of ₹1,27,773 on the reasoning that a minor portion of the balance cash could not be directly reconciled with the sources explained.

63. We have carefully perused the orders of the authorities below and considered the submissions. The total cash found during search amounted to ₹54,29,800, whereas the explained cash available from the two sources the LLP and the father aggregated to more than ₹1.66 crores. When the explained availability of funds far exceeds the cash found, the statutory precondition for invoking section 69A stands extinguished. Section 69A is a deeming provision which can only apply when the assessee is found to be the owner of money or valuable article and fails to offer an explanation about the nature and source of acquisition, or when such explanation is not found satisfactory. Neither element is satisfied here.

64. The CIT(A) was correct in holding that the cash belonging to Rucha Group LLP was duly recorded in its books and that the same books were produced before the Department during the assessment proceedings of the LLP. The figures of closing cash balance in the LLP's audited financial statements matched exactly with the cash found during search. The Revenue has not demonstrated any inconsistency or falsity in those records. Once such cash is verifiably recorded in the books of a taxable entity, it cannot again be treated as unexplained in the hands of a partner merely because it was found at a common business or family premises. To do so would amount to taxing the same cash twice once in the books of the LLP and again as unexplained income in the hands of the partner a result which the law neither contemplates nor permits.

65. As regards the cash balance declared by the assessee's late father, Shri Prakash Nilawar, there is equally no scope for dispute. The father's balance sheet as on 31 March 2017, placed on record, clearly discloses a cash balance of ₹1,13,90,318. This figure has been accepted in his income-tax return and the assessment has attained finality. Such an accepted declaration is conclusive evidence that the cash existed and was duly explained. When such legitimate and declared cash, accumulated during a lifetime, continues to remain in the family residence, its possession by the surviving spouse or children cannot, by any stretch of imagination, be treated as unexplained.

66. The Assessing Officer's observation that no formal declaration of inheritance was made is misplaced. Section 69A does not concern itself with the mode of inheritance or devolution of property. It taxes only unexplained money, not inherited or disclosed wealth. The fact that the father's cash was disclosed and assessed is sufficient to explain its source. The mother's possession of part of that cash, or its discovery at the family residence, is a natural corollary of familial continuity.

67. It is also significant that the Assessing Officer did not conduct any inquiry to contradict the explanation. No verification was made from the LLP's cash book beyond a superficial observation, nor was any inquiry conducted into the father's return of income, which was already on record. The entire disallowance thus rests on conjecture rather than contradiction. When the assessee produces primary evidence of explanation, the onus shifts to the Revenue to rebut it. In this case, the Revenue has neither examined nor disproved the explanation furnished.

68. The small balance of ₹1,27,773 sustained by the CIT(A) appears to have arisen from an arithmetical rounding difference rather than from any unexplained element. Since the aggregate of explained cash itself exceeds the quantum of cash found, there remains no legal or factual basis to sustain even that small portion.

69. The consistent position of law is that where the availability of funds has been demonstrated and the source established, no addition can be made merely on suspicion. Section 69A cannot be invoked to punish the possession of cash which stands fully explained. The presumption of unexplained money arises only where there is a demonstrable absence of source, not where the source is abundant and admitted.

70. In light of the above discussion, we hold that the learned CIT(A) was justified in granting substantial relief and that even the marginal balance of ₹1,27,773 deserves to be deleted. The entire addition under section 69A is thus directed to be deleted.

71. We now take up the issue concerning the addition of foreign currency of ₹5,61,261 found during search, which was also treated by the Assessing Officer as unexplained under section 69A.

72. The assessee explained that the foreign currency represented legitimate accumulation from foreign trips undertaken by him and his family over several years. Documentary evidence such as bank statements, foreign exchange purchase bills issued by authorised dealers, passport entries evidencing international travel, and statements showing expenses abroad were furnished. It was further submitted that his daughter was pursuing education overseas and his wife too had frequently travelled abroad

during that period, thereby justifying retention of certain amounts in foreign currency.

73. The Assessing Officer rejected the explanation on the narrow ground that the purchase bills were of earlier dates and hence, in his view, could not be linked to the currency found during search. He did not, however, dispute the authenticity of the documents or the fact that the purchases were made through authorised channels.

74. The learned CIT(A), on a detailed verification, found that the foreign currency had indeed been purchased through banking channels from authorised dealers between January 2018 and August 2021, that the purchases were duly recorded, and that the assessee and his family were frequent international travellers. He held that retention of the currency was perfectly natural and could not be treated as unexplained merely because it had not been reconverted into Indian rupees immediately upon return. Accordingly, the addition was deleted.

75. Having perused the material on record, we find ourselves in complete agreement with the CIT(A). The assessee has substantiated the purchase of foreign exchange with credible documentation. The explanation fits squarely within the probabilities of normal human conduct. The expectation that a taxpayer must instantly encash every dollar or euro upon return is unrealistic and contrary to common experience. So long as the initial acquisition of the currency stands proved,

the mere fact of physical possession at a later point cannot attract the mischief of section 69A.

76. In the absence of any evidence to show that the foreign currency represented an undisclosed source or transaction, the deletion by the CIT(A) is perfectly justified. The addition made by the Assessing Officer was founded not on facts but on assumption and therefore cannot be sustained.

77. We now turn to the addition relating to gold jewellery found during the course of search. The search team inventoried jewellery aggregating to a total weight of [space for insertion of table showing quantity and valuation]. The Assessing Officer, applying his own discretion, allowed certain tolerance limits but treated part of the jewellery as unexplained under section 69B.

78. The assessee explained that the jewellery belonged to various family members his mother, wife, and children and represented accumulation over a long span of years through customary gifts, marriage occasions, and inheritance. He relied upon the CBDT Instruction No.1916 dated 11 May 1994, which lays down standard guidelines for seizure and for considering reasonable possession limits namely, 500 grams per married lady, 250 grams per unmarried lady, and 100 grams per male member. It was submitted that, when viewed family-wise, the jewellery found was comfortably within these limits.

79. The learned CIT(A) examined the matter with circumspection. He observed that the Assessing Officer, while allowing relief for certain family members, had inadvertently omitted to extend the same permissible limit of 500 grams in respect of the jewellery belonging to the assessee's wife. Correcting this inconsistency, he deleted the addition of ₹4,39,320.

80. Regarding the jewellery belonging to the assessee's mother, the learned CIT(A) found that she was aged about 67 years and that the quantity of jewellery in her possession about 263.83 grams was modest, customary, and commensurate with her age and status. Relying on the judgment of the Hon'ble Delhi High Court in *Ashok Chadha v. ITO* (337 ITR 399), he held that such possession was not abnormal and that no addition could be made merely because the jewellery was found during search. He accordingly deleted the addition of ₹6,93,100.

81. We have considered the facts and the orders of the authorities below. The reasoning given by the CIT(A) deserves to be endorsed. The quantities of jewellery in question are neither excessive nor disproportionate to the family's social and economic standing. The CBDT Instruction No.1916, though administrative in form, has been judicially recognised as a fair and reasonable benchmark for assessing normal possession. Courts have repeatedly held that possession of

jewellery up to the limits specified therein cannot, without further evidence, be regarded as unexplained investment.

82. The mother's age and long married life, the family's established financial means, and the cultural tradition of accumulating gold ornaments through generations all provide a natural and cogent explanation. There is no material on record to suggest that the jewellery represented recent purchase from undisclosed sources. In the absence of such evidence, the inference of unaccounted investment cannot be drawn merely on suspicion. The deletions directed by the CIT(A) are, therefore, affirmed.

83. In view of the foregoing, we hold that the entire addition made under section 69A on account of cash, the addition of ₹5,61,261 on account of foreign currency, and the addition of ₹11,32,420 on account of jewellery have been rightly deleted. The explanations of the assessee are fully borne out by evidence, consistent with the probabilities of human conduct, and in conformity with the law.

84. In light of the detailed discussion above, it is manifest that the learned CIT(A) has examined each issue with meticulous care and has recorded findings fully supported by the material on record. The explanations of the assessee, both in respect of the seized documents as well as the assets found during search, are coherent, verifiable and consistent with the probabilities of business and family conduct. The Assessing Officer, on the other hand, has proceeded largely

on conjectural assumptions, without bringing any independent material to dislodge the explanations furnished.

85. The approach of the CIT(A) is, therefore, in complete consonance with the settled principles governing search assessments. The law, as repeatedly expounded by the superior courts, mandates that additions under sections 69, 69A or 69C cannot be made on mere suspicion or presumptions. These provisions operate only where the nature and source of the asset or expenditure remain unexplained after the assessee has been afforded due opportunity. Once a satisfactory and plausible explanation supported by evidence is offered, the onus shifts back to the Revenue to rebut it through cogent material. In the present case, the Revenue has not discharged that onus.

86. We also take note of the fact that the explanations tendered by the assessee are not of a general or evasive nature but are founded on tangible documents—books of account of Rucha Group LLP, audited financial statements, income-tax returns of the assessee's father, foreign exchange purchase bills, and family balance sheets. Each of these has been examined by the learned CIT(A) and found to be authentic. When documentary evidence and human probability both align in the assessee's favour, the additions made on surmise cannot be sustained.

87. The findings rendered by the CIT(A) thus merit affirmation. We, therefore, uphold the order of the learned CIT(A) deleting the additions under sections 69A, 69B and 69C. The grounds raised by the Revenue on these issues are dismissed. Correspondingly, the cross-grounds of the assessee, seeking deletion of the residual amount sustained by the CIT(A), are allowed.

88. Having considered all the issues arising in these appeals, we now summarise our conclusions.

(i) The addition of ₹5,23,95,187 made under section 69C, based on the seized diary, has been rightly deleted, and the small portion of ₹11,20,000 sustained by the CIT(A) also stands deleted in view of our findings.

(ii) The addition of ₹1,84,650 made on the basis of a diary seized from the personal assistant of the assessee is unsustainable and stands deleted.

(iii) The addition of ₹1,50,000 made on the basis of a loose sheet seized from a third party has rightly been deleted.

(iv) The addition of ₹31,80,000 made on the basis of a diary written by the assessee's wife has rightly been deleted as the same was uncorroborated.

(v) The addition under section 69A of ₹54,29,800 on account of cash found during search is deleted in entirety.

(vi) The addition of ₹5,61,261 on account of foreign currency found during search is deleted.

(vii) The addition of ₹11,32,420 on account of jewellery is also deleted.

89. As a result of the above adjudication, the appeal filed by the Revenue fails on all grounds and stands dismissed. The cross-appeal filed by the assessee succeeds to the extent indicated hereinbefore.

90. In the result, the appeal of the Revenue, being ITA No. 2896/Mum/2025, is dismissed, and the appeal of the assessee, being ITA No. 2318/Mum/2025, is allowed in terms indicated above.

Order pronounced on 28th October, 2025.

Sd/-

**(ARUN KHODPIA)
ACCOUNTANT MEMBER**

Mumbai; Dated 28/10/2025
KARUNA, sr.ps

Sd/-

**(AMIT SHUKLA)
JUDICIAL MEMBER**

Copy of the Order forwarded to :

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

BY ORDER,

//True Copy//

(Asstt. Registrar)
ITAT, Mumbai