IN THE INCOME TAXAPPELLATE TRIBUNAL
DELHI BENCH "A", NEW DELHI

BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT
and
SHRI S. RIFAUR RAHMAN, ACCOUNTANT MEMBER

ITA No.7992/DEL/2026
(Assessment Year : 2014-15)

ITA No.7976/DEL/2026
(Assessment Year : 2015-16)

ITA No.7993/DEL/2026
(Assessment Year : 2016-17)

ITA No.7994/DEL/2026
(Assessment Year : 2017-18)

ITA No.8161/DEL/2026
(Assessment Year : 2018-19)

ITA No.8025/DEL/2026
(Assessment Year : 2019-20)

DCIT, CC – 27, Delhi.	vs.	Shri Pawan Munjal, N-87, Panchsheel Park, New Delhi – 110 017.

(**PAN: ACGPM7510D)**

ITA No.4233/DEL/2026
(Assessment Year : 2013-14)

ITA No.4234/DEL/2026
(Assessment Year : 2014-15)

ITA No.4235/DEL/2026
(Assessment Year : 2015-16)

ITA No.4236/DEL/2026
(Assessment Year : 2016-17)

ITA No.4237/DEL/2026
(Assessment Year : 2017-18)

ITA No.4238/DEL/2026
(Assessment Year : 2018-19)

ITA No.4239/DEL/2026
(Assessment Year : 2019-20)

Shri Pawan Munjal, N-87, Panchsheel Park, New Delhi – 110 017. (**PAN: ACGPM7510D)**	vs.	JCIT (OSD), CC – 27, Delhi.
(APPELLANT)		(RESPONDENT)

ASSESSEE BY : Shri Ajay Vohra, Sr. Advocate
Shri Rohit Jain, Advocate
Ms. Manisha Sharma, Advocate
Shri Jitendra Bhati, CA

REVENUE BY : Shri Zafarul Haque Tanweer, CIT DR

Date of Hearing : 05.10.2026
Date of Pronouncement : .11.2026

O R D E R

PER S. RIFAUR RAHMAN, ACCOUNTANT MEMBER :

1. The Revenue has filed appeals in the case of Pawan Munjal against the order of ld. Commissioner of Income-tax (Appeals)-29, New Delhi ["Ld. CIT (A)", for short] dated 19.03.2026 for the Assessment Years 2014-15 to 2019-20. The assessee, Pawan Munjal has filed cross appeals in the aforesaid impugned order dated 19.03.2026 for the AYs

2014-15 to 2018-19 and the assessee has also filed appeal in the AY 2013-14 against the order of ld. CIT (A)-29, New Delhi dated 19.03.2026..

2. Since the issues are common and the cross appeals are connected, hence the same are heard together and being disposed off by this common order.

3. The appeals for Assessment Year 2017-18 (ITA No. 4237/De/2026 of the assessee and ITA 7994/Del/2026 of the Revenue) have been taken up as the lead year for the purpose of examining and adjudicating the common issues. Accordingly, the findings and conclusions recorded in respect of Assessment Year 2017-18 shall apply mutatis mutandis to the corresponding issues arising in the appeals for the other assessment years, to the extent that the issues, underlying facts, allegations and applicable statutory provisions are materially identical. Since both the assessee's and revenue's appeals involve common facts and rival contentions, they are taken up together and disposed of by this common order.

4. Brief facts of the case are, the assessee, Shri Pawan Munjal, is the Chairman and Managing Director of Hero MotoCorp Limited (hereinafter referred to as 'HMCL') and is regularly assessed to tax in India. For the relevant assessment year 2017-18, the assessee filed his original return of income on 30.07.2017, declaring total income of Rs.61,76,18,470/-, comprising income under the heads 'Salary', 'Income from House Property', 'Capital Gains' and 'Income from Other Sources'.

5. Subsequently, a search and seizure operation under section 132 of the Income-tax Act, 1961 (in short 'the Act') was conducted on 23.03.2022 in the cases of various companies and individuals associated with the Hero MotoCorp Group. The assessee was also covered by the search proceedings. Thereafter, the assessee's case was centralised pursuant to an order passed under section 127 of the Act and assigned to Central Circle-27, New Delhi.

6. Consequent to the aforesaid search proceedings, notice under section 148 of the Act was issued to the assessee on 02.03.2023, after obtaining approval under section 151(ii) of the Act dated 24.02.2023. The notice issued mentioned that the Assessing Officer (AO) had information that a search had been initiated u/s 132 of the Act in the case of the assessee or a person in respect of whom the assessee was assessable on 23.03.2022. It further

referred to books of account or documents seized or requisitioned under section 132 or section 132A in the cases of Hero MotoCorp Limited and Shri Amarjit Singh Sethi, which allegedly pertained to or contained information relating to the assessee.

7. In response to the notice issued under section 148 of the Act, the assessee filed his return of income on 27.03.2023, declaring total income of Rs.61,98,16,590/-. While filing the return, the assessee suo motu offered the following additional amounts to tax:

   (i) Deemed rental income of Rs.21,48,115/- under section 23(1)(a) of the Act under the head 'Income from House Property'; and

   (ii) Sitting fees of Rs.50,000/- received from Hero FinCorp Limited, on which tax of Rs.5,000/- had been deducted at source.

8. The assessee also claimed additional credit of TDS/TCS aggregating to Rs.54,493/- deducted under section 194A of the Act on interest income of Rs.5,44,928/-, which had already been offered to tax in the original return, but for which corresponding TDS credit was not reflected in Form 26AS at the relevant time.

9. During the reassessment proceedings, the assessee, vide letters dated 31.03.2023, 13.04.2023, 02.05.2023, 23.10.2023 and 28.11.2023 (filed on 29.11.2023), raised various preliminary legal objections challenging the validity of the reassessment proceedings.

10. Thereafter, the Assessing Officer issued a show-cause notice dated 11.02.2024, requiring the assessee to explain why additions should not be made in respect of alleged unexplained investment in land at Chhatarpur and alleged personal expenditure incurred by HMCL, to be treated as perquisite in the hands of the assessee under section 17(2) of the Act. The preliminary objections raised by the assessee vide letters dated 23.10.2023 and 28.11.2023 were disposed of by the Assessing Officer vide letter dated 14.02.2024. Along with the said communication, the Assessing Officer furnished the reasons recorded for reopening the assessment and the proforma seeking approval of the Specified Authority under section 151(ii) of the Act.

11. In response thereto, the assessee filed detailed objections dated 19.02.2024 challenging the initiation of reassessment proceedings under sections 147 and 148 of the Act.

According to the assessee, the aforesaid objections were not separately disposed of by the Assessing Officer. The assessee thereafter filed a detailed reply dated 18.03.2024 to the show-cause notice dated 11.02.2024, reiterating the jurisdictional objections and furnishing explanations and supporting material against the proposed additions.

12. The Assessing Officer, however, proceeded to complete the reassessment u/s 147 read with section 143(3) of the Act vide order dated 31.03.2024. In the assessment order, the Assessing Officer determined the total income of the assessee at Rs.2,02,68,25,500/- as against the returned income of Rs.61,98,16,590/-, after making the following principal additions:

Particulars	**Amount (Rs.)**
Returned income	**61,98,16,590**
Addition under section 69 towards alleged unexplained investment in Chhatarpur land	35,28,82,500
Addition under section 17(2) towards alleged perquisite arising from expenditure disallowed in the hands of HMCL treating the same as personal expenditure of the assessee	1,05,41,26,410
Total additions	**1,40,70,08,910**
Assessed total income	**2,02,68,25,500**

13. The first addition of Rs.35,28,82,500/- u/s 69 of the Act pertained to the alleged unexplained investment in 10.11 acres of land situated at Chhatarpur, Delhi, purchased by the assessee along with his wife, Mrs. Aniesha Munjal, from three companies, namely, M/s Labhlaxmi Realtors Pvt. Ltd., M/s Glocera Buildcon Pvt. Ltd. and M/s Apple Residency Pvt. Ltd.

14. The second addition of Rs.1,05,41,26,410/- u/s 17(2) of the Act was made towards alleged perquisites in the hands of the assessee, on the premise that HMCL had incurred expenditure towards the assessee's personal travel, events and other personal benefits, which had been claimed as business expenditure by HMCL under section 37(1) of the

Act but disallowed in its hands during the course of reassessment proceedings.

15. Aggrieved with the above order, the assessee preferred an appeal before the ld. Commissioner of Income-tax (Appeals)-29, New Delhi ['CIT(A)']. During the appellate proceedings, the assessee filed detailed submissions challenging both the validity of reassessment proceedings and the additions made on merits. Ld. CIT(A) called for a remand report from the Assessing Officer. The Assessing Officer furnished the remand report dated 02.12.2025, which was supplied to the assessee on 09.12.2025. The assessee, in turn, filed a detailed rejoinder dated 28.12.2025.

16. Ld. CIT(A) after considering the above submissions upheld the validity of reassessment proceedings. On merits, however, the ld. CIT(A) deleted the entire addition of Rs.35,28,82,500/- made under section 69 of the Act. In respect of the addition under section 17(2), Ld CIT(A) partly allowed the assessee's appeal and restricted the addition to Rs.26,14,85,791/- being the corresponding amount of disallowance retained in the hands of HMCL, thereby deleting the balance amount of Rs.79,26,40,619/-.The relevant position emerging from the order of the ld. CIT(A) is summarised below:

Particulars	**Addition by AO (Rs.)**	**Confirmed by CIT(A) (Rs.)**	**Deleted by CIT(A) (Rs.)**
(i) Unexplained investment under section 69	35,28,82,500/-	Nil	35,28,82,500/-
(ii) Perquisite under section 17(2)	1,05,41,26,410/-	26,14,85,791/-	79,26,40,619/-
Total	**1,40,70,08,910/-**	**26,14,85,791/-**	**1,14,55,23,119/-**

17. Aggrieved with the order of the ld. CIT(A), both the assessee and revenue are in appeal before us. The assessee has preferred this appeal primarily challenging the validity of reassessment proceedings and the sustenance of the addition of Rs.26,14,85,791/- u/s 17(2) of the Act. The Revenue has preferred appeal challenging the deletion of the addition of Rs.35,28,82,500/- u/s 69 and the deletion of Rs.79,26,40,619/- out of the addition made u/s 17(2) of the Act. The relevant grounds raised by them are reproduced below:

ASSESSEE'S GROUNDS OF APPEAL:

"1. That on the facts and circumstances of the case and in law, the Commissioner of Income Tax (Appeals)-29, New Delhi ['CIT(A)'] erred in upholding the validity of the reassessment order dated 31.03.2024 passed u/s 147 r.w.s. 143(3) of the Income Tax Act, 1961 ('the Act').

1.1 That on the facts and circumstances of the case and in law the CIT(A) erred in upholding the validity of the reassessment order, without appreciating that the re-assessment order, although dated 31.03.2024, was dispatched/ sent by speed-post on 01.04.2024 and received by the appellant on 02.04.2024, and consequently the assessment order is clearly barred by limitation prescribed u/s 153(2) of the Act.

1.2 That on the facts and circumstances of the case and in law the CIT(A) erred in upholding the validity of the assessment order, without appreciating that the reassessment notice dated 02.03.2023 issued u/s 148 was barred by limitation of 3 years as specified in section 149(1)(b) of the Act.

1.3 That the CIT(A) erred in law in upholding the validity of the re-assessment order, without appreciating that the impugned reassessment proceedings were initiated undisputedly without complying with the jurisdictional mandate of taking prior approval in terms of Explanation 2(iii)/(iv), and by instead wrongly relying upon Explanation 2(i) of section 148 of the Act.

1.4 That CIT(A) erred on facts and in law, in not appreciating that jurisdictional approval in terms of Explanation 2(iii)/(iv) of section 148 is sine qua non for assumption of valid jurisdiction and in wrongly upholding the validity of the assessment order merely on the ground that search was carried out in the case of the Appellant.

1.5 That the CIT(A) erred in upholding the validity of the reassessment order, without appreciating that the impugned order is bad in law since: (i) invalid/ mechanical sanction was granted u/s 151(ii) of the Act; and (ii) there is no DIN on proforma for recording reasons and/ or seeking approval of sanctioning authority.

1.6 That the CIT(A) erred in upholding the validity of the assessment order, without appreciating that the reassessment proceedings were initiated on the basis of invalid/ unreliable "Information" and there has been blatant violation by the assessing officer of the mandatory procedure of not disposing off legal objections as laid down in GKN Driveshaft India Ltd. 259 ITR 19 (SC).

1.7 That CIT(A) erred in upholding the validity of the assessment order, without appreciating that the impugned assessment order has been passed without

affixing digital signature, which is sine qua non for passing a valid assessment order as part of the e-assessment proceedings.

1.8 That CIT(A) erred in upholding the validity of the assessment order, without appreciating that the impugned assessment order was passed in contravention of principles of natural justice and fair play, inasmuch as, the assessing officer relied upon ex parte material and passed the order without granting reasonable/ proper opportunity of rebuttal/ cross-examination to the appellant.

Re: Addition of Rs.26,14,85,791 as perquisite u/s 17(2) of the Act

2. That on the facts and circumstances of the case and in law the CIT(A) erred in upholding the addition of perquisite under section 17(2) of the Act to the extent of Rs.26,14,85,791 (out of total addition Rs.1,05,41,26,410) made by the assessing officer on account of alleged benefit provided by the employer, M/s Hero Moto Corp. Ltd. ('HMCL').

2.1 That CIT(A) erred on facts and in law, in upholding the aforesaid addition of Rs.26,14,85,791 simply on the ground that disallowance, to this extent, of expenditure claimed by HMCL was confirmed in the separate appeal order of the said company.

2.2 That the CIT(A)/ AO erred on facts and in law, in not appreciating that all the foreign travels were undertaken by the appellant in official capacity as Chairman and Managing Director of HMCL to further its business interests and therefore, no part of foreign travel could be treated as perquisite in the hands of the Appellant.

2.3 That the CIT(A)/ AO erred on facts and in law in not appreciating that expenditure on domestic events amounting to Rs.15,29,64,499 was incurred and substantiated by HMCL as normal business expenditure by way of voluminous documentation and no part of the said expenditure could be regarded as perquisite in the hands of the appellant.

2.4 That the CIT(A)/ AO erred on facts and in law in alleging and making an addition of Rs.5,52,90,760 as proportionate foreign travel expenditure relatable to the family members without appreciating that the travel expenditure of the family members, if any, was not even borne/ debited in the books of HMCL.

2.5 That the CIT(A)/ AO erred on facts and in law, in not appreciating that expenditure on foreign events amounting to Rs.5,32,30,532 were wholly and exclusively business expenditure of HMCL and no part thereof could be regarded as perquisite in the hands of the Appellant.

2.6 That the assessing officer erred on facts and in law in not appreciating that simultaneous disallowance of expenditure in the hands of HMCL and addition of the very same expenditure as 'perquisite' in the hands of the appellant is self-contradictory, unsustainable and vitiated in law."

REVENUE'S GROUNDS OF APPEAL:

1. On the facts and in the circumstances of the case and in law, the ld. CIT(A) has erred in deleting the addition of Rs.35,28,82,500/- made by the Assessing Officer on account of unexplained investment made in cash towards purchase of land, without properly appreciating the material and evidence brought on record during the assessment proceedings.

2. On the facts and in the circumstances of the case and in law, the ld. CIT(A) has erred in holding that the addition of Rs.35,28,82,500/- on account of cash payment for purchase of land was not sustainable, despite the fact that the Assessing Officer had duly established, on the basis of documentary evidence seized during the search, that the assessee had made unexplained cash investments in the impugned transaction.

3. On the facts and in the circumstances of the case and in law, the ld. CIT(A) has erred in treating the stamp duty value and registered consideration as conclusive evidence of the actual consideration paid and in relying upon sections 50C and 56(2)(x), ignoring that such provisions neither prohibit nor negate the existence of additional unaccounted consideration where independent incriminating evidence exists establishing payment of on-money.

4. On the facts and in the circumstances of the case and in law, the ld. CIT(A) has failed to appreciate that the Assessing Officer had brought sufficient documentary and corroborative evidence on record demonstrating that the funds of M/s Hero MotoCorp Ltd. were utilized for the personal travel, events and other non-business benefits of the assessee and his family under the guise of business expenditure, thereby attracting the provisions of section 17(2) of the Income-tax Act, 1961.

5. On the facts and in the circumstances of the case and in law, the ld. CIT(A) has failed to appreciate that section 17(2) of the Income-tax Act, 1961 clearly provides for taxation of the value of any benefit or amenity provided by an employer to an employee, and once it is established that the expenditure incurred by the employer resulted in a personal benefit to the assessee, the same constitutes a taxable perquisite irrespective of the allowability of such expenditure in the hands of the employer.

6. On the facts and in the circumstances of the case and in law, the ld. CIT(A) has erred in overlooking that the taxability of a perquisite depends upon

> the receipt of benefits by the employee and not upon the extent to which the corresponding expenditure is disallowed or allowed in the assessment of the employer company."

18. At the time of hearing , the ld. AR Shri Ajay Vohra, Senior Advocate, made detailed submissions challenging the validity of the reassessment proceedings as well as the additions made on merits. The submissions, issue-wise, are summarised as under.

19. With regard to initiation of reassessment proceedings, ld. AR submitted that the reassessment proceedings initiated under sections 147 and 148 of the Act were without jurisdiction and that the assessment order dated 31.03.2024 is therefore liable to be quashed on account of various jurisdictional and procedural infirmities. The principal objections raised by the assessee were as under:

(a) Assessment order barred by limitation under section 153(2) of the Act

20. The ld. AR submitted that the reassessment proceedings were initiated by issuance of notice under section 148 of the Act dated 02.03.2023 and, accordingly, the assessment order was required to be passed within the period prescribed under section 153(2) of the Act, which expired on 31.03.2024.It was submitted that although the assessment order bears the date 31.03.2024, the same was not dispatched to the assessee on that date. On the contrary, the assessment order was dispatched manually through speed post only on 01.04.2024, bearing consignment number ED567513589IN, and was received by the assessee on 02.04.2024. Thus, according to the ld. AR, the order had been communicated and issued beyond the prescribed period of limitation.

The relevant chronology, as furnished by the assessee, is as under:

Date	Particulars
31.03.2024	Assessment order purportedly passed under section 147 read with section 143(3) of the Act.
31.03.2024	Last date for completion of reassessment under section 153(2) of the Act.
01.04.2024	Assessment order dispatched through speed post.
02.04.2024	Assessment order received by the assessee.

21. It was contended that an order cannot be treated as having been validly issued merely

because it bears a date falling within the limitation period or because it has been signed and retained in the departmental records. The order must be pronounced, published or communicated in a manner by which the affected party has the means of knowing its contents. According to the ld. AR, the mere preparation or signing of an order within the limitation period would not be sufficient where the same is dispatched only after expiry of limitation.

22. In support of the aforesaid contention, reliance was placed on the following judicial precedents:

- Collector of Central Excise v. M.M. Rubber & Co., AIR 1991 SC 2141;
- Government Wood Works v. State of Kerala, 69 STC 62;
- ST Microelectronics (P.) Ltd. v. DCIT, [2016] 384 ITR 550 (Del.);
- CIT v. Rai Bahadur Kishore Chand & Sons, [2010] 1 taxmann.com 165;
- Qualimax Electronics Pvt. Ltd. v. Union of India, (2010) 257 ELT 42 (Del.);
- OPG Securities Pvt. Ltd. v. ACIT, ITA No.1885/Del/2018;
- CAGIT v. Kappumalai Estate, 324 ITR 187 (Ker.);
- K. Mohd. Osman Saheb & Co. v. State of Andhra Pradesh, 23 STC 303 (AP); and
- Kanubhai M. Patel (HUF) v. Hiren Bhatt, 334 ITR 25 (Guj.).

23. The ld. AR further submitted that, in the remand report, the Assessing Officer had contended that the assessment order was uploaded on the ITBA portal on 31.03.2024 and that a DIN had also been generated on the same date. However, according to the assessee, no contemporaneous documentary evidence had been furnished to establish that the assessment order was actually uploaded on the portal on 31.03.2024.

24. Without prejudice, it was submitted that mere uploading of an order on the ITBA portal would not constitute issuance of the order unless the same had gone out of the control of the authority issuing it. Reliance in this regard was placed on the decision of the Hon'ble Delhi High Court in Suman Jeet Agarwal v. ITO, 449 ITR 517 (Del.), wherein, according

to the assessee, the requirement of issuance was considered with reference to dispatch of the order/notice by the authority.

25. Accordingly, the ld. AR submitted that since the order was admittedly dispatched only on 01.04.2024, after expiry of the limitation period on 31.03.2024, the reassessment order was barred by limitation and liable to be quashed.

(b) Notice under section 148 barred by limitation under section 149(1)(b) of the Act

26. The ld. AR submitted that the notice under section 148 of the Act dated 02.03.2023 was itself barred by limitation. Referring to the amended provisions of section 149 of the Act, as applicable to search proceedings initiated on or after 01.04.2021, it was submitted that the normal limitation for issuance of notice under section 148 was three years from the end of the relevant assessment year.

27. The ld. AR submitted that the extended period of ten years could be invoked only where the Assessing Officer was in possession of books of account or other documents or evidence which revealed income chargeable to tax, represented in the form of an asset, expenditure in respect of a transaction or event, or an entry in the books of account, and such escaped income amounted to or was likely to amount to Rs.50 lakh or more.

28. It was submitted that, in the present case, the notice under section 148 had been issued beyond the normal period of three years, which expired on 31.03.2021. Therefore, the Revenue could invoke the extended limitation period only upon satisfaction of the specific statutory conditions prescribed under section 149(1)(b) of the Act.

29. According to the ld. AR, the reasons recorded and the proforma seeking approval under section 151(ii) did not demonstrate satisfaction of the essential jurisdictional conditions for invoking the extended limitation period. In particular, there was no specific identification of any books of account, documents or evidence revealing escaped income represented in the form of an asset, expenditure or entry in the books of account.

30. It was further submitted that the so-called asset relied upon by the Assessing Officer was the land at Chhatarpur, which had been duly purchased through registered sale deeds and disclosed by the assessee in his income-tax returns. Thus, the property itself was not an undisclosed asset. The Revenue had merely alleged that the assessee had paid additional consideration in cash over and above the registered consideration, without bringing any evidence of such payment on record.

31. The ld. AR contended that an allegation of payment of on-money, without any cogent material establishing the same, could not be treated as income represented in the form of an asset for the purposes of invoking the extended period of limitation under section 149(1)(b) of the Act.

32. It was further pointed out that, even in the approval granted under section 151 of the Act, the assertion that income exceeding Rs.50 lakh had escaped assessment in the form of an asset, namely, land at Chhatarpur, was mechanical and unsupported by any specific identification of the alleged undisclosed asset or the evidence establishing the statutory threshold.

33. The ld. AR submitted that the Assessing Officer had also failed to explain, in the remand report, how the statutory conditions for invoking the extended period of limitation stood satisfied. No document or undisclosed books of account suggesting escapement of income in the hands of the assessee had been identified.

34. Accordingly, it was submitted that the notice issued under section 148 on 02.03.2023 was beyond the permissible period of limitation and the consequential reassessment proceedings were liable to be quashed.

(c) Non-compliance with Explanation 2(iii)/(iv) to section 148 of the Act

35. The ld. AR submitted that the reassessment proceedings had been initiated primarily on the basis of information and documents found during search proceedings conducted in the cases of third parties, particularly Shri Samir Thapar, and other persons associated with

the searched group.

36. It was submitted that the addition relating to unexplained investment in land was based on documents seized from the premises of Shri Samir Thapar, whereas the addition relating to alleged personal expenditure/perquisite was based on material gathered during searches concerning event-management entities and other persons associated with HMCL.

37. According to the ld. AR, where proceedings under section 148 are initiated on the basis of material or information obtained from a search conducted in the case of another person, the Assessing Officer is required to comply with the statutory conditions prescribed under Explanation 2(iii)/(iv) to section 148 of the Act, including the requisite approval.

38. It was submitted that the amendments introduced by the Finance Act, 2021, with effect from 01.04.2021, consolidated the earlier search assessment framework under sections 153A and 153C into the reassessment provisions. Consequently, the jurisdictional safeguards applicable in respect of information obtained from searches in the cases of other persons were incorporated into the new reassessment regime.

39. The ld. AR submitted that the mandatory approval contemplated under the aforesaid provisions had not been obtained in the present case. The approval referred to in the notice under section 148 was the approval under section 151(ii), which, according to the assessee, could not be treated as a substitute for the separate statutory requirement contemplated under Explanation 2(iii)/(iv).

40. The Assessing Officer, in the remand report, had contended that the case fell within the ambit of Explanation 2(i) to section 148 since search proceedings had also been conducted in the case of the assessee.

41. The ld. AR, however, submitted that the aforesaid contention did not address the actual foundation of the reassessment proceedings. According to the assessee, the reasons

recorded for reopening were based upon third-party material and not upon any incriminating material found during the search conducted in the assessee's own case. The Assessing Officer had merely made a general assertion regarding applicability of Explanation 2(i), without addressing the specific statutory objection raised by the assessee.

42. It was, therefore, submitted that the reassessment proceedings initiated without compliance with Explanation 2(iii)/(iv) to section 148 of the Act were without jurisdiction and liable to be quashed.

(d) Invalid and mechanical approval under section 151(ii) of the Act

43. The ld. AR further challenged the validity of the approval obtained under section 151(ii) of the Act for issuance of notice under section 148.

44. It was submitted that the notice under section 148 referred to approval of the PCCIT (OSD), Central, Delhi, dated 24.02.2023. However, according to the assessee, the approval was granted in a mechanical manner without proper application of mind to the relevant jurisdictional conditions and without examining the material forming the basis of reopening.

45. The assessee also raised an objection regarding the absence of a proper DIN on the proforma seeking approval and the manner in which the sanctioning authority had granted approval.

46. It was further contended that the sanction under section 151(ii) could not cure the separate jurisdictional defect arising from non-compliance with Explanation 2(iii)/(iv) to section 148 of the Act.

47. The ld. AR accordingly submitted that the approval was invalid and the notice issued pursuant thereto was liable to be quashed.

(e) Reassessment based on invalid information and third-party material and absence of independent application of mind: -

48. The ld. AR submitted that the reassessment proceedings had been initiated on the basis of vague, unverified and ex-parte information gathered during the course of a search conducted in the case of Shri Samir Thapar on 18.09.2021, and not on the basis of any incriminating material found from the premises of the assessee, HMCL or Shri Amarjit Singh Sethi.

49. According to the assessee, the principal material relied upon in the reasons recorded consisted of:

(i) An undated agreement to sell relating to the proposed sale of 5.41 acres of land by Shri Samir Thapar/M/s Provestment Securities Pvt. Ltd. to M/s Labhlaxmi Realtors Pvt. Ltd. for a consideration of Rs.82.25 crore, equivalent to approximately Rs.15.20 crore per acre, whereas the registered sale deeds relating to the 3.54-acre parcel reflected a consideration of Rs.5,31,25,000/- in the hands of the earlier purchaser; and

(ii) Certain loose sheets seized from an employee of Shri Samir Thapar, allegedly recording cash receipts aggregating to approximately Rs.60.67 crore in connection with the sale of land.

50. It was submitted that neither the aforesaid loose sheets nor the agreement to sell was enclosed with the reasons recorded supplied to the assessee. The assessee was consequently deprived of an effective opportunity to examine the material forming the basis of reopening. The ld. AR submitted that the assessee was not a party to the transaction between Shri Samir Thapar/M/s Provestment and M/s Labhlaxmi. The assessee had subsequently purchased land from three independent companies and had made payments directly to those companies through banking channels. There was no material to establish that the assessee had paid any cash to Shri Thapar or to the intermediary companies. It was further submitted that the rate of Rs.15.20 crore per acre, allegedly derived from the undated agreement to sell relating to 5.41 acres, had been arbitrarily applied to other parcels of land purchased from M/s Glocera and M/s Apple, even though no material relating to the said two companies had been found during the

search.

51. The ld. AR further contended that the loose sheets did not contain the name of the assessee or his wife and did not specifically identify the Chhatarpur land purchased by them. The agreement to sell was also stated to be an incomplete or draft agreement which, according to the assessee, had not been acted upon in its entirety. It was submitted that the Revenue could not link two independent transactions merely because a portion of the land originally proposed to be sold to M/s Labhlaxmi was subsequently purchased by the assessee. The ld. AR also challenged the reliance placed by the Assessing Officer upon statements recorded during the search proceedings. It was submitted that the statements of third parties were inconsistent, did not specifically establish any payment by the assessee and had not been subjected to cross-examination.

52. The assessee accordingly contended that the information relied upon by the Assessing Officer was vague, ambiguous and based on suspicion, conjectures and surmises, and did not even prima facie establish escapement of income in the hands of the assessee. It was further submitted that the reasons recorded for reopening were confined to the alleged unexplained investment in land. However, during reassessment, the Assessing Officer proceeded to make an additional assessment under section 17(2) in respect of alleged personal expenditure incurred by HMCL through event-management companies. According to the assessee, the Assessing Officer could not travel beyond the reasons recorded and enlarge the scope of reassessment to cover an independent issue which did not form part of the recorded reasons.

53. In support of the proposition that the validity of reassessment proceedings must be examined with reference to the reasons recorded and that such reasons cannot subsequently be supplemented or improved, reliance was placed on:

- Blackstone Capital Partners (Singapore) VI FDI Three Pte. Ltd. v. ACIT, [2023] 452 ITR 111 (Del.);
- Northern EXIM Pvt. Ltd., W.P. No.8631 of 2007, order dated 07.09.2012 (Del.);

- Gujarat Fluorochemicals v. DCIT, 319 ITR 282 (Guj.);
- Aayojan Developers v. ITO, 335 ITR 234 (Guj.);
- Prashant S. Joshi v. ITO, 324 ITR 154 (Bom.);
- Panchanan Hati v. CIT, 115 ITR 336 (Cal.); and
- Hindustan Lever Ltd. v. R.B. Wadkar, 268 ITR 332 (Bom.).

54. The ld. AR further submitted that, although the Assessing Officer had stated in the remand report that the reassessment was based on material gathered during search proceedings conducted in the assessee's own case as well as material recovered from Shri Samir Thapar, no specific document found during the search in the assessee's case had been identified as the basis of the alleged escapement of income.

55. It was, therefore, submitted that the reassessment proceedings were initiated on the basis of invalid and unsubstantiated information, without proper application of mind, and that the reassessment order was liable to be quashed.

II. Addition of Rs.35,28,82,500/- under section 69 of the Act towards alleged unexplained investment in Chhatarpur land

(a) Facts relating to purchase of land

56. The ld. AR submitted that the assessee, along with his wife, Mrs. Aniesha Munjal, purchased an aggregate area of approximately 10.11 acres of land situated at Chhatarpur, Delhi, from three companies, namely:

(i) M/s Glocera Buildcon Pvt. Ltd.;

(ii) M/s Apple Residency Pvt. Ltd.; and

(iii) M/s Labhlaxmi Realtors Pvt. Ltd.

57. The transactions were evidenced by registered sale deeds. The details of the purchase transactions, as furnished by the assessee, are reproduced below:

S. No.	Seller	Date of registration	Area (acres)	Registered consideration (Rs.)	Stamp duty/ registration charges (Rs.)	Total outlay (Rs.)	Registered value per acre (Rs.)	Circle rate per acre (Rs.)
1	M/s Glocera	28.03.2017	2.8229	18,30,61,970	1,09,83,820	19,40,45,790	6,48,48,521	1,50,00,000
2	M/s Apple	01.05.2017	3.7500	25,12,88,081	1,50,77,481	26,63,65,562	6,70,10,155	1,50,00,000
3	M/s Labhlaxmi	17.11.2017	3.5417	6,48,43,950	38,91,540	6,87,35,490	1,83,08,880	53,00,000

58. The ld. AR submitted that the purchase transactions were undertaken at consideration substantially higher than the notified circle rates. The entire purchase consideration was paid through banking channels, and the relevant amounts, dates and cheque particulars were recorded in the respective registered sale deeds.

59. It was further submitted that the properties were purchased as investments and were duly disclosed in the income-tax returns filed by the assessee. The assessee had no direct dealings with Shri Samir Thapar or Smt. Tiny Thapar, the erstwhile owners of the land, and had purchased the properties from the three intermediary companies.

(b) Basis adopted by the Assessing Officer for making the addition

60. The ld. AR submitted that the Assessing Officer had principally relied upon two sets of third-party material:

(i) Certain loose sheets allegedly seized from the premises of Shri Vinod Kumar Singhal, an employee associated with Shri Samir Thapar, along with the statement of Shri Singhal, to allege that Shri Samir Thapar had received cash in connection with the sale of Chhatarpur land; and

(ii) An undated agreement to sell relating to the proposed sale of 5.41 acres of land by Shri Samir Thapar/M/s Provestment Securities Pvt. Ltd. to M/s Labhlaxmi for an alleged consideration of Rs.82.25 crore, equivalent to approximately Rs.15.20 crore per acre.

61. According to the AO, the aforesaid land transaction involved receipt of cash over and above the registered consideration. Since a portion of the land covered by the proposed transaction was subsequently purchased by the assessee and his wife from M/s Labhlaxmi, the Assessing Officer inferred that the assessee had also made payment of on-money.

62. The Assessing Officer further applied the alleged rate of Rs.15.20 crore per acre to the other parcels of land purchased by the assessee and his wife from M/s Glocera and M/s Apple, notwithstanding that the agreement relied upon pertained to the transaction involving M/s Labhlaxmi.

63. On the aforesaid basis, the Assessing Officer made an aggregate addition of Rs.35,28,82,500/- under section 69 of the Act, comprising the following:

(i) Chhatarpur-I land – M/s Labhlaxmi

64. The Assessing Officer computed the alleged difference between the consideration of Rs.82.25 crore mentioned in the agreement to sell for 5.41 acres and the registered consideration of Rs.6,48,43,950/- paid by the assessee and his wife for 3.54 acres, resulting in an alleged difference of Rs.75,76,56,050/-.

65. The aforesaid amount was apportioned across assessment years 2015-16 to 2018-19. The amount allocated to the assessee and his wife for the relevant assessment year was Rs.5,45,00,000/- each, aggregating to Rs.10,90,00,000/-.

Assessment Year	**Shri Pawan Munjal (Rs.)**	**Mrs. Aniesha Munjal (Rs.)**	**Total (Rs.)**
2015-16	2,99,00,000	2,99,00,000	5,98,00,000
2016-17	20,04,75,000	20,04,75,000	40,09,50,000
2017-18	5,45,00,000	5,45,00,000	10,90,00,000
2018-19	9,39,53,025	9,39,53,025	18,79,06,050
Total	**37,88,28,025**	**37,88,28,025**	**75,76,56,050**

(ii) Chhatarpur-II land – M/s Glocera and M/s Apple

66. In respect of the land purchased from M/s Glocera and M/s Apple, the Assessing Officer applied the alleged rate of Rs.15.20 crore per acre and computed the alleged difference between such value and the registered consideration. An aggregate addition of Rs.59,67,65,000/- was computed in respect of these properties, out of which Rs.29,83,82,500/- each was allocated to the assessee and his wife for AY 2017-18.

67. Accordingly, the addition made in the hands of the assessee for AY 2017-18 was as under:

Particulars	**Amount (Rs.)**
Alleged unexplained investment in Chhatarpur-I land (M/s Labhlaxmi)	5,45,00,000
Alleged unexplained investment in Chhatarpur-II land (M/s Glocera and M/s Apple)	29,83,82,500
Total addition under section 69	**35,28,82,500**

(c) Findings of the CIT(A)

68. The ld. AR submitted that the ld. CIT(A), after examining the material available on record and obtaining a remand report from the Assessing Officer, deleted the entire addition of Rs.35,28,82,500/-.

69. It was submitted that the ld. CIT(A) observed that the Assessing Officer had failed to bring on record any evidence establishing movement of cash from the assessee or his wife in connection with the purchase of the properties. The addition had been made principally on the basis of third-party material and inferential reasoning, without establishing that the assessee had actually made any payment over and above the registered sale consideration.

70. The ld. CIT(A), inter alia, took note of the following aspects:

(i) The consideration recorded in the registered sale deeds was substantially higher than the applicable stamp duty value/circle rate.

(ii) No material was brought on record to establish that the assessee or his wife had paid any cash over and above the registered consideration.

(iii) The loose sheets relied upon by the Assessing Officer did not identify the assessee or his wife and did not specifically refer to the Chhatarpur property purchased by them.

(iv) The authorship and authenticity of the loose sheets were not established.

(v) The agreement to sell related to a transaction between Shri Samir Thapar/M/s Provestment and M/s Labhlaxmi. The assessee and his wife were not parties to the said agreement.

(vi) The agreement covered 5.41 acres, whereas only 3.54 acres of land were ultimately purchased by the assessee and his wife.

(vii) The statements recorded during search proceedings had not been subjected to cross-examination and did not establish payment of cash by the assessee.

(viii) Shri Samir Thapar had denied having received cash in respect of the transaction and had also disputed the connection of the seized documents with the Chhatarpur land transaction.

(ix) The statements of Shri Samant Barara and Shri Siddhartha Sethi, insofar as they referred to the market value of the property, did not constitute independent evidence of cash consideration paid by the assessee.

(x) The three intermediary companies were independent entities and their director, Shri Ajit Singh Sethi, had stated that the companies had acquired the properties for trading purposes and had arranged funds through loans/borrowings from the market.

(xi) The payment chronology demonstrated that the companies had made payments to the Thapars before receiving consideration from the assessee and his wife.

(xii) The Assessing Officer had incorrectly applied the alleged value of the Labhlaxmi transaction to the properties purchased from M/s Glocera and M/s Apple, without any independent material concerning those properties.

(d) Submissions of the assessee on merits

71. The ld. AR submitted that the addition under section 69 was wholly unsustainable, being based on assumptions, presumptions and third-party material which neither pertained to the assessee nor established any payment of unexplained consideration by him.

72. The submissions were principally advanced under the following heads:

(i) Purchase of land at arms' length and at a price substantially higher than circle rates

73. The ld. AR submitted that the properties had been purchased at mutually negotiated commercial prices from independent third-party vendors. The registered consideration was substantially higher than the applicable circle rates, as evident from the table reproduced above.

74. It was submitted that the provisions of section 50C of the Act recognise the stamp duty value as a statutory benchmark for determining the value of immovable property for the purposes of computing capital gains in the hands of the seller. Similarly, section 56(2)(x) of the Act provides for substitution of stamp duty value in the hands of the purchaser where the actual consideration is lower than the prescribed stamp duty value, subject to the statutory conditions.

75. The ld. AR contended that, in the present case, the assessee had purchased the properties at three to four times (3x-4x) the circle rates. In the absence of any evidence establishing payment of additional consideration, the registered consideration ought to be accepted.

76. Reliance was placed on K.P. Varghese v. ITO, [1981] 131 ITR 597 (SC), wherein the Hon'ble Supreme Court held, in the context of the erstwhile section 52(2), that the Revenue must establish that the assessee had actually received consideration over and above the declared consideration and that a notional market value could not be substituted merely on the basis of an assumption.

77. Reliance was also placed on the following decisions:

- CIT v. Shivakami Co. (P.) Ltd., [1986] 159 ITR 71 (SC);
- CIT v. Sushila Mittal, [2001] 250 ITR 531 (Del.); and
- CIT v. Karni Singh, [2002] 256 ITR 165 (Del.).

78. The ld. AR further submitted that the same parcel of 3.54 acres of land had originally been purchased by Shri Samir Thapar from M/s Yuvraj Impex Pvt. Ltd. for Rs.2.15 crore, equivalent to approximately Rs.60.70 lakh per acre, vide registered sale deed dated 15.12.2014. The assessee subsequently purchased the same land from M/s Labhlaxmi for Rs.6.48 crore, equivalent to approximately Rs.1.83 crore per acre. This, according to the assessee, demonstrated that the property had been acquired at a substantially enhanced value and at a commercially negotiated price.

79. The assessee also relied upon an independent sale deed dated 30.06.2017, registered on 08.08.2017, relating to 0.7438 acres of land in the same vicinity for a consideration of Rs.71 lakh, equivalent to approximately Rs.95.46 lakh per acre. It was submitted that the assessee had purchased the subject land at a substantially higher rate than the comparable transaction.

80. On the aforesaid basis, the ld. AR submitted that the registered consideration represented the actual consideration paid and that the alleged market value of Rs.15.20 crore per acre had no reliable evidentiary foundation.

(ii) No evidence of cash payment by the assessee; third-party loose sheets and agreement to sell could not form the basis of addition

81. The ld. AR submitted that the loose sheets relied upon by the Assessing Officer were found during the course of a search conducted at the premises of a third party, namely, Shri Vinod Kumar Singhal, and did not contain the name of the assessee or his wife.

82. It was submitted that the loose sheets did not identify the property purchased by the assessee, the person making the alleged payment or the person receiving the same. The authorship of the documents was also not established.

83. Similarly, the agreement to sell was entered into between Shri Samir Thapar/M/s Provestment and M/s Labhlaxmi and did not involve the assessee. The assessee was neither a party to the agreement nor privy to its terms. The agreement was also stated to be an incomplete/undated document which had not been implemented in its entirety.

84. The ld. AR contended that the Assessing Officer had linked two separate transactions merely because the assessee had subsequently purchased a portion of the land originally proposed to be sold to M/s Labhlaxmi. There was no material establishing that the assessee had made any payment of on-money in the earlier transaction between the Thapars and the intermediary companies.

85. It was further submitted that no incriminating document or evidence suggesting payment of cash was found during the search conducted in the case of the assessee. Even the Assessing Officer had not identified any cash withdrawal, bank transaction or other financial movement attributable to the assessee which could substantiate the alleged payment.

86. The assessee also challenged the reliance placed on statements recorded u/s 132(4) of the Act. It was submitted that the statements were recorded from persons who were not parties to the transaction between the assessee and the three companies, were inconsistent in material particulars and did not specifically implicate the assessee.

87. It was further submitted that the assessee had not been afforded an opportunity to cross-examine the persons whose statements were relied upon by the Assessing Officer. In the absence of such opportunity, the statements could not be used as substantive evidence against the assessee.

88. In support of the aforesaid proposition, the assessee relied upon the principles laid down in the judicial authorities discussed in its synopsis, including the decisions concerning additions founded upon third-party documents and statements without proper corroboration and opportunity of cross-examination.

(iii) The intermediary companies were independent entities and not conduit or pass-through entities

89. The ld. AR submitted that the Assessing Officer had proceeded on the assumption that M/s Labhlaxmi, M/s Glocera and M/s Apple were merely conduit or pass-through entities interposed to route the purchase of land from the Thapars to the assessee and his wife.

90. It was submitted that the three companies were independent entities, having undertaken the transactions for commercial purposes. Shri Ajit Singh Sethi, a director in the companies, had stated that the companies were acquired for undertaking land transactions and that the funds required for purchasing the properties from the Thapars had been arranged through market borrowings and loans.

91. The ld. AR submitted that the mere fact that the companies subsequently sold the properties to the assessee could not establish that they were sham entities or that the assessee was the real purchaser from the original owners.

92. It was further submitted that the payment chronology itself contradicted the Assessing Officer's allegation that the assessee had provided funds to the companies for onward payment to the Thapars.

93. The relevant details, as furnished by the assessee, are reproduced below:

Particulars	**M/s Labhlaxmi**	**M/s Apple**	**M/s Glocera**
Sale transaction with Thapars	14.09.2015 and 21.04.2016	01.09.2014	02.05.2015
Consideration paid by intermediary company to Thapars	Rs.5,31,25,000	Rs.23,25,12,100	Rs.16,93,75,000
Period of payment to Thapars	02.11.2015 to 21.04.2016	16.07.2014 to 18.08.2014	13.04.2014 to 02.05.2014
Sale transaction with assessee/registration	17.11.2017	10.03.2017	10.03.2017
Consideration paid by assessee	Rs.6,41,95,510	Rs.24,87,75,200	Rs.18,12,31,350
Period of payment by assessee	09.11.2017	12.09.2014 to 20.03.2015	27.06.2014 to 26.08.2014

94. The ld. AR submitted that, in the case of M/s Labhlaxmi, the payment by the assessee was made on 09.11.2017, whereas the intermediary company had paid the Thapars during the period from November 2015 to April 2016. Thus, there was a substantial time gap between the two transactions. It was also pointed out that the alleged cash entries in the loose sheets related to the period from February 2016 to June 2016, whereas the assessee made payment only in November 2017.

95. In the case of M/s Apple, it was submitted that the company had completed its payments to the Thapars during 2014, whereas the assessee made payment to M/s Apple during the period from September 2014 to March 2015. The Assessing Officer himself had acknowledged that the company had arranged funds from other sources for purchasing the land.

96. Similarly, in the case of M/s Glocera, it was submitted that the company had made payments to the Thapars during April-May 2014, whereas the assessee made payments to the company during June-August 2014. Thus, the consideration received from the assessee could not have been utilised by M/s Glocera for making the earlier payments to the Thapars.

97. The assessee also explained that although he had finalised the transactions and made payments in respect of the properties purchased from M/s Glocera and M/s Apple during the earlier period, execution of the sale deeds took place subsequently. The delay was attributed to the assessee's official commitments and the ill health and subsequent demise of his father in November 2015, following which the assessee had waited for some time before undertaking the transaction in accordance with Hindu rituals.

98. In view of the aforesaid facts, it was submitted that the allegation that the three companies were merely conduits for the assessee was unsupported by evidence and the Assessing Officer had failed to establish any nexus between the alleged cash receipts of the Thapars and the funds paid by the assessee.

(iv) Addition based on presumptions and absence of corroborative evidence

99. The ld. AR submitted that the addition u/s 69 had been made without establishing the basic fact that the assessee had made an investment in excess of the amount recorded in the books of account or registered sale deeds.

100. It was contended that the Revenue had not established:

(i) Any cash withdrawal or source of cash in the hands of the assessee;

(ii) Any movement of cash from the assessee to the intermediary companies;

(iii) Any payment by the assessee to the Thapars;

(iv) Any agreement or arrangement between the assessee and the Thapars for payment of on-money; or

(v) Any evidence connecting the loose sheets with the assessee's purchase transactions.

101. The assessee accordingly submitted that the addition had been made on the basis of suspicion and assumptions, which could not substitute the requirement of evidence for invoking section 69 of the Act.

(e) Computational errors in the addition under section 69 of the Act:

102. Without prejudice to the primary contention that no addition under section 69 was warranted, the assessee submitted that the computation adopted by the Assessing Officer suffered from several errors.

III. Addition of Rs.1,05,41,26,410/- under section 17(2) of the Act towards alleged perquisite

(a) Basis of addition made by the Assessing Officer

103. The ld. AR submitted that the Assessing Officer made an addition of Rs.1,05,41,26,410/- under section 17(2) of the Act by treating certain expenditure incurred by HMCL as personal expenditure incurred for the benefit of the assessee.

104. The addition was based primarily on the assessment order passed in the case of HMCL for AY 2017-18, wherein the Assessing Officer had disallowed certain expenditure claimed by the company under section 37(1) of the Act. The expenditure comprised the following:

Particulars	**Amount (Rs.)**
Expenditure on domestic events organised through M/s SALT Experience & Management Pvt. Ltd. (SEMPL), M/s Scoop Brand Holdings Pvt. Ltd., M/s Strokes Events and Travels Pvt. Ltd. and M/s Space Monkey Media Project Pvt. Ltd.	90,27,05,651
Expenditure on foreign events organised through M/s SEMPL	5,32,30,532
Expenditure alleged to be attributable to foreign travel of family members accompanying the assessee on official foreign trips	9,81,90,227
Total	**1,05,41,26,410**

105. The ld. AR submitted that the Assessing Officer had treated the aforesaid expenditure as perquisite in the hands of the assessee without independently establishing that the expenditure represented any personal benefit or amenity provided to the assessee by his employer.

(b) Findings of the CIT(A)

106. It was submitted that the CIT(A), while deciding the assessee's appeal, took note of the appellate order passed in the case of HMCL for AY 2017-18, wherein the disallowance of expenditure under section 37(1) had been restricted from Rs.1,05,41,26,410/- to Rs.26,14,85,791/-.

107. Accordingly, the CIT(A) restricted the corresponding addition under section 17(2) in the hands of the assessee to Rs.26,14,85,791/-, granting relief of Rs.79,26,40,619/-.

108. The issue-wise treatment by the CIT(A) was as under:

Particulars	**Addition by AO (Rs.)**	**Confirmed by CIT(A) (Rs.)**	**Deleted by CIT(A) (Rs.)**
Domestic events	90,27,05,651	15,29,64,499	74,97,41,152
Foreign events	5,32,30,532	5,32,30,532	Nil
Foreign travel of family members	9,81,90,227	5,52,90,760	4,28,99,467
Total	**1,05,41,26,410**	**26,14,85,791**	**79,26,40,619**

(c) Submissions of the assessee

109. The ld. AR submitted that the addition under section 17(2) was not sustainable, even to the extent confirmed by the CIT(A), for the following reasons:

(i) Foreign travel undertaken by the assessee in his official capacity as Chairman and Managing Director of HMCL could not be treated as a perquisite.

(ii) The addition had been made merely on the basis of disallowance of expenditure in the hands of HMCL, without any independent finding that the expenditure represented personal expenditure or personal benefit of the assessee.

(iii) The addition resulted in double taxation of the same expenditure, once by way of disallowance under section 37(1) in the hands of HMCL and again by way of perquisite under section 17(2) in the hands of the assessee.

(i) Foreign travel undertaken in official capacity does not constitute a perquisite

110. The ld. AR submitted that HMCL is a listed public limited company engaged in the design, development, manufacture and marketing of two-wheeler automobiles. It is one of the largest two-wheeler manufacturers in the world, with business operations across 43 countries.

111. It was submitted that HMCL had achieved a market share of approximately 48.3% in the motorcycle segment and 34.6% in the overall two-wheeler segment in India and had crossed the milestone of 100 million cumulative production and sales. The company operated eight manufacturing facilities, six in India and one each in Colombia and Bangladesh, and was pursuing a global expansion strategy.

112. In the aforesaid business environment, HMCL was required to incur substantial expenditure on advertisement, brand promotion, product launches, events and promotional activities, both in India and abroad, to maintain its competitive position and expand its international business.

113. The ld. AR submitted that, being the Chairman and Managing Director of HMCL, the assessee was required to travel extensively for attending meetings, conferences, business events and other official engagements across the world. Such travel was undertaken in the interest of the company and not for personal purposes.

114. It was submitted that the expenses incurred by HMCL for such official travel could not be treated as an additional advantage or benefit conferred upon the assessee. Such expenditure was incurred in the course of discharge of his official duties and was necessary for the conduct of the company's business.

115. The ld. AR referred to the meaning of the expression 'perquisite' and submitted that a perquisite must involve an additional advantage, gain, concession or facility enjoyed by an employee over and above what is necessary for discharging his employment responsibilities.

116. Reliance was placed on the provisions of section 10(14)(i) of the Act read with Rule 2BB(1) of the Income-tax Rules, 1962, which recognise exemption in respect of allowances granted to meet the cost of travel on tour or transfer and ordinary daily charges incurred by an employee during such travel.

117. The ld. AR also relied upon the following judicial precedents:

- CIT v. Arthur Fuchs, 202 ITR 656 (Pat.);
- CIT v. Sohanlal G. Sanghi, 61 ITR 203 (Bom.);
- CIT v. Maddi Sudarsanam, 174 ITR 659 (AP.);
- Owen v. Pook, 74 ITR 147 (HL); and
- David Dhawan v. DCIT, 2 SOT 311 (Mum.).

118. Specific reliance was placed on David Dhawan v. DCIT, wherein the Tribunal considered the taxability of travel expenses of the family members of a film director who accompanied him to overseas shooting locations at the instance of the producer. It was held that where the travel was necessitated by the temporary relocation of the employee/professional for discharging official duties, the expenditure incurred by the employer on the family members accompanying such person could not, in the circumstances of that case, be treated as a taxable perquisite.

119. Reliance was also placed on ACIT v. Rakesh S. Agrawal, [2010] 36 SOT 148 (Ahmedabad), wherein the Tribunal observed that the expressions 'benefit' and 'perquisite' are required to be read together and ordinarily contemplate an irretrievable advantage or benefit conferred by one person upon another.

120. The ld. AR submitted that the aforesaid principles applied to the present case, as the assessee had undertaken foreign travel at the instance of HMCL for attending official meetings, conferences and promotional events. HMCL had also certified that the foreign travel was undertaken for official/business purposes and the expenditure had been incurred by the company through regular banking channels.

121. The assessee had, vide reply dated 27.04.2023, furnished the details of foreign travel obtained from HMCL, together with the company's confirmation regarding the official purpose of the trips. It was further submitted that the assessee did not maintain the detailed travel records personally and had requisitioned the information from HMCL, which had certified the relevant details.

122. The ld. AR accordingly submitted that no part of the expenditure incurred on official travel could be treated as perquisite merely because the assessee had undertaken travel outside India or because the expenses were borne by HMCL.

123. It was further submitted that the Assessing Officer had not identified any specific personal trip undertaken by the assessee during the relevant previous year and had proceeded on assumptions that certain business expenditure represented personal travel expenditure.

(ii) Addition made merely on the basis of disallowance of expenditure in the hands of HMCL is not justified

124. The ld. AR submitted that the addition under section 17(2) was substantially based on the disallowance made by the Assessing Officer in the assessment of HMCL under section 37(1) of the Act.

125. It was submitted that, during the assessment proceedings, the assessee had furnished a letter issued by HMCL setting out the details of foreign trips undertaken by him during the relevant year and confirming that the expenditure had been incurred for official/business purposes.

126. Thereafter, the Assessing Officer issued the show-cause notice dated 11.02.2024, alleging that the expenditure incurred by HMCL under the head 'event organisation, advertising and brand promotion expenses' through M/s SEMPL and its linked entities represented expenditure incurred towards personal foreign travel of the assessee.

127. The assessee, in response, submitted that the expenditure had been incurred by HMCL on organising domestic and foreign events and that the company was the appropriate person to explain the business purpose and nature of the expenditure.

128. It was further submitted that HMCL had furnished a detailed reply dated 18.03.2024 in response to the corresponding show-cause notice issued in its assessment proceedings, explaining the nature of the events and the business purpose of the expenditure. The

company had also furnished contemporaneous documentary evidence in support of the expenditure.

129. According to the ld. AR, HMCL had specifically rebutted the allegation that the expenditure paid to M/s SALT and its linked entities represented personal foreign travel expenditure of the Chairman.

130. However, in the assessment order passed in the case of HMCL dated 30.03.2024, the Assessing Officer disallowed certain expenditure incurred on domestic and foreign events under section 37(1) of the Act, alleging that the same represented personal expenditure of the Chairman. Certain expenditure on foreign travel was also disallowed on the ground that it related to travel of family members accompanying the Chairman.

131. The ld. AR submitted that the disallowance of expenditure in the hands of the employer could not automatically result in an addition of the same amount as perquisite in the hands of the employee. The two assessments operated in different fields and the statutory conditions for making an addition in the hands of the employee were required to be independently established.

132. It was contended that, for invoking section 17(2), the Assessing Officer was required to establish that the employer had actually provided a benefit or amenity to the employee and that the expenditure represented a personal benefit enjoyed by the employee. A mere failure on the part of the employer to establish the allowability of expenditure under section 37(1) could not be treated as conclusive evidence that the employee had received a taxable perquisite.

133. The ld. AR further submitted that the Assessing Officer had not specifically identified the personal element, if any, embedded in the expenditure incurred on the domestic and foreign events. The entire expenditure on domestic events had been treated as personal expenditure on the assumption that the events had not taken place or that the expenditure had been routed for personal foreign travel of the assessee.

134. It was submitted that several of the events had in fact taken place and had also been covered by the media. HMCL had furnished voluminous documentary evidence in support of the events and the expenditure incurred thereon.

135. The ld. AR further contended that the official purpose of the assessee's foreign travel, as certified by HMCL, had not been specifically rebutted by the Assessing Officer. In certain instances, the Assessing Officer had himself accepted the official nature of the travel.

136. It was accordingly submitted that there was no specific finding that the expenditure disallowed in the hands of HMCL had resulted in a personal benefit or amenity to the assessee, and the addition under section 17(2) was therefore unsustainable.

137. In support of the proposition that a benefit or perquisite must arise pursuant to some arrangement or entitlement and that a mere unauthorised advantage would not necessarily constitute a perquisite, the ld. AR relied upon:

- CIT v. A.R. Adaikappa Chettiar, [1973] 91 ITR 90 (Mad.);
- CIT v. Jawaharlal Nagpal, [1988] 171 ITR 136 (MP.);
- CIT v. Kulandaivelu Konar, [1975] 100 ITR 629 (Mad.);
- M.M. Mehta v. CIT, 117 ITR 362 (Cal.);
- CIT v. S.S.M. Lingappan, 129 ITR 597 (Mad.);
- CIT v. C. Narayanan Nair, 180 ITR 303 (Ker.); and
- CIT v. Piara Singh, 95 Taxman 587 (P&H).

138. Particular reliance was placed on CIT v. A.R. Adaikappa Chettiar, wherein the Hon'ble Madras High Court observed that a benefit or perquisite obtained from a company would ordinarily contemplate a benefit which the company had agreed to provide and which the concerned person could claim as a matter of right under an arrangement. A mere unauthorised advantage derived without the company's authority or knowledge would not

necessarily constitute a benefit or perquisite within the meaning of the relevant provision.

139. The ld. AR submitted that the remuneration and perquisites of the assessee, being the Chairman and Managing Director of HMCL, were determined under resolutions approved by the Board of Directors and shareholders in the Annual General Meeting, pursuant to the recommendations of the Nomination and Remuneration Committee. The terms of remuneration and perquisites were also disclosed to the stock exchanges from time to time.

140. It was submitted that no additional perquisite could be presumed to have been provided by HMCL without any arrangement or approval of the competent corporate authorities, particularly when the expenditure itself had been incurred and accounted for by HMCL as business expenditure.

(iii) No double addition of the same expenditure in the hands of HMCL and the assessee

141. Without prejudice to the aforesaid submissions, the ld. AR contended that the addition under section 17(2) resulted in double taxation of the same expenditure.

142. It was submitted that the Assessing Officer had disallowed the expenditure in the hands of HMCL under section 37(1) on the ground that the company had failed to establish that the expenditure was incurred wholly and exclusively for its business purposes. The very same expenditure had thereafter been added to the income of the assessee as a perquisite under section 17(2).

143. According to the ld. AR, such an approach was self-contradictory, particularly when the Assessing Officer had not independently established that the disallowed expenditure represented a personal benefit actually provided to the assessee.

144. Reliance was placed on the decision of the Mumbai Bench of the Tribunal in Mrs. Bakhtawar B. Dubash v. DCIT and Mrs. Sudha D. Dubash v. DCIT, ITA Nos.4031/Mum/2003 and 4032/Mum/2003.

145. In the aforesaid cases, foreign travel expenditure incurred by a company for its directors had been disallowed in the hands of the company as non-business expenditure and the same amount had also been assessed as perquisite in the hands of the directors. The Tribunal, after considering the relevant facts, held that where the expenditure had already been disallowed in the hands of the company, taxing the same amount again in the hands of the directors as perquisite would result in double taxation. The Tribunal accordingly directed deletion of the addition in the hands of the directors.

146. Reliance was also placed on:

- Shri Mecca Rafeeque Ahmed v. ACIT, ITA Nos.3085, 3086, 3087 and 3088/CHNY/2024; and
- ACIT v. Shri Ali Asgar Shamsuddin, ITA No.242/Mds/2014.

147. The ld. AR submitted that, in the aforesaid decisions, the Tribunal had deleted additions made in the hands of directors/employees as perquisite where the same expenditure had already been disallowed in the hands of the employer company.

148. Accordingly, it was submitted that the addition under section 17(2) of the Act was liable to be deleted in its entirety, as the same expenditure had already been subjected to disallowance in the hands of HMCL.

149. Finally, the ld. AR submitted that:

(i) The reassessment order dated 31.03.2024 passed under section 147 read with section 143(3) of the Act be quashed as being barred by limitation and without jurisdiction;

(ii) The deletion of Rs.35,28,82,500/- made by the CIT(A) under section 69 of the Act be upheld; and

(iii) The addition of Rs.26,14,85,791/- sustained by the CIT(A) under section 17(2) of the Act be deleted in full.

150. On the other hand, ld. Departmental Representative of the Revenue opposing the assessee's appeal and supporting the grounds raised by the Revenue, submitted that the order passed by the CIT(A) was partly erroneous and that the reassessment proceedings had been validly initiated and completed. It was contended that the additions made by the Assessing Officer under sections 69 and 17(2) of the Act were based on relevant material and ought to be restored in full. The ld. DR submitted that the CIT(A) had rightly upheld the validity of reassessment proceedings but had erred in deleting the addition of Rs.35,28,82,500/- under section 69 and granting relief of Rs.79,26,40,619/- out of the addition made under section 17(2).The Revenue's submissions are summarised issue-wise as under.

I. Assessee's challenge to the validity of reassessment proceedings

151. The ld. DR submitted that the assessment order was passed on 31.03.2024, which was within the prescribed period of limitation under section 153(2) of the Act.It was submitted that a DIN had been generated on 31.03.2024 and the assessment order had also been uploaded on the ITBA portal on the same date. The remand report furnished by the Assessing Officer had confirmed the aforesaid facts.

152. According to the ld. DR, the statutory requirement was that the assessment order should be made within the prescribed period of limitation. The date on which the order was subsequently dispatched through speed post or physically received by the assessee was not determinative of the date on which the order had been made. Ld. DR submitted that the assessee's reliance on Collector of Central Excise v. M.M. Rubber & Co., ST Microelectronics (P.) Ltd. v. DCIT and Qualimax Electronics Pvt. Ltd. v. Union of India was distinguishable, as in those cases there was no contemporaneous evidence demonstrating that the orders had been made within the prescribed period of limitation.

153. Ld. DR further submitted that the notice under section 148 dated 02.03.2023 was validly

issued within the extended limitation period prescribed under section 149(1)(b) of the Act. Ld. DR submitted that a search under section 132 of the Act had undisputedly been conducted in the case of the assessee on 23.03.2022. Accordingly, Explanation 2(i) to section 148 of the Act was directly applicable to the assessee's case. It was submitted that once the reassessment proceedings were validly initiated pursuant to a search conducted in the assessee's own case, there was no requirement to obtain a separate approval under Explanation 2(iii)/(iv) merely because the Assessing Officer had also relied upon material gathered during searches conducted in the cases of third parties. The ld. DR submitted that the requisite approval under section 151(ii) of the Act had been obtained from the CCIT, Central-2, on 24.02.2023, prior to issuance of notice under section 148 on 02.03.2023.

Disposal of objections in accordance with GKN Driveshafts

154. The ld. DR submitted that the procedure prescribed by the Hon'ble Supreme Court in GKN Driveshafts (India) Ltd. v. ITO, (2003) 259 ITR 19 (SC), had been duly complied with. It was submitted that the preliminary/legal objections raised by the assessee had been disposed of by the Assessing Officer before completion of the reassessment proceedings. The assessee had also been provided with an opportunity to respond to the show-cause notice and had filed detailed replies.

Objection regarding absence of digital signature

155. Ld. DR submitted that the assessment order bore a DIN and had been generated and uploaded electronically on the ITBA portal on 31.03.2024. Ld. DR accordingly submitted that the findings recorded by the CIT(A) in paragraphs 4.4 to 4.13 of the impugned order upholding the validity of reassessment proceedings were correct and that Grounds Nos.1 to 1.8 raised by the assessee deserved to be dismissed.

II. Revenue's appeal: Deletion of Rs.35,28,82,500/- under section 69 towards unexplained investment in Chhatarpur land

156. Ld. DR submitted that the addition under section 69 was not based merely on

assumptions or surmises, but on a coherent body of incriminating material gathered during the search proceedings. Ld. DR submitted that the aforesaid material was mutually corroborative and established the existence of cash consideration in the underlying transaction. The Revenue's case was that the assessee, having ultimately acquired the land through the intermediary companies, had also benefited from the arrangement involving payment of on money. Ld. DR submitted that where an investment in an asset was found to be understated and the excess investment was not recorded in the books of account, section 69 of the Act was squarely attracted. According to the ld. DR, the Assessing Officer had discharged the initial burden by bringing on record the seized loose sheets, the agreement to sell and the statements of persons connected with the transaction.

157. In support of the aforesaid proposition, ld. DR relied upon the following decisions, which were also referred to in the additional authorities furnished by the Revenue:

- CIT v. Durga Prasad More, (1971) 82 ITR 540 (SC);
- Sumati Dayal v. CIT, (1995) 214 ITR 801 (SC);
- CIT v. P. Mohanakala, (2007) 291 ITR 278 (SC); and
- Chuharmal v. CIT, (1988) 172 ITR 250 (SC).

Registered sale consideration and stamp duty value not conclusive

158. Ld. DR submitted that the ld. CIT(A) had erred in treating the registered sale consideration and stamp duty value as conclusive evidence of the actual consideration paid by the assessee. It was contended that sections 50C and 56(2)(x) of the Act operated as statutory mechanisms for determining the minimum value to be adopted for specified tax purposes. They did not operate as a ceiling on the actual consideration which could have been paid in a transaction. It was submitted that the ld. CIT(A) had wrongly treated the stamp duty value as a benchmark which could not be exceeded for the purpose of determining actual consideration, notwithstanding the seized material suggesting payment of on money. In view of the aforesaid submissions, the ld. DR submitted that the

Assessing Officer had established the alleged payment of on money through corroborative seized material, the agreement to sell and statements of persons connected with the transaction. It was accordingly submitted that the order of the CIT(A) deleting the addition of Rs.35,28,82,500/- under section 69 of the Act be set aside and the addition made by the Assessing Officer be restored.

III. Revenue's appeal and assessee's appeal concerning perquisite under section 17(2) of the Act

159. Ld. DR submitted that the Assessing Officer had established that funds of HMCL had been routed through various event-management entities, including M/s SALT Experience & Management Pvt. Ltd., M/s Scoop Brand Holdings Pvt. Ltd., M/s Space Monkey Media Project Pvt. Ltd., M/s Strokes Events and Travels Pvt. Ltd. and connected concerns. It was submitted that the expenditure booked by HMCL under the heads of event organisation, advertising and brand promotion had, in fact, been utilised for meeting the personal travel, events and other expenses of the assessee and his family members.

160. According to the ld. DR, the expenditure was incurred under the garb of business and promotional activities, whereas the actual benefit had accrued to the assessee and his family. Ld. DR submitted that section 17(2) of the Act taxes the value of any benefit or amenity provided by an employer to an employee. Once it is established that the employer's funds have been utilised for the personal benefit of the employee, the value of such benefit is chargeable to tax as a perquisite in the hands of the employee. Ld. DR submitted that the CIT(A) had erred in restricting the perquisite addition in the assessee's hands to the quantum of disallowance sustained in the assessment of HMCL. According to the ld. DR, the measure of the perquisite could not be made dependent upon the outcome of the employer's appeal under section 37(1). The two assessments were distinct and the CIT(A) had erred in linking the quantum of perquisite to the disallowance sustained in the case of HMCL.

161. Ld. DR accordingly submitted that the entire addition of Rs.1,05,41,26,410/- was liable to

be sustained, including the amount of Rs.79,26,40,619/- deleted by the CIT(A).It was submitted that the CIT(A) had deleted Rs.74,97,41,152/- relating to domestic events and Rs.4,28,99,467/- relating to foreign travel of the assessee's wife, aggregating to Rs.79,26,40,619/-, primarily by following the relief granted in the separate appellate proceedings in the case of HMCL. Ld. DR submitted that such relief was not justified, as the taxability of the perquisite in the hands of the assessee was independent of the allowability of expenditure in the hands of HMCL.

162. On the issue of perquisites, ld. DR submitted that (i) The addition of Rs.26,14,85,791/- sustained by the CIT(A) under section 17(2) of the Act be upheld and(ii) The relief of Rs.79,26,40,619/- granted by the CIT(A) be reversed and the entire addition of Rs.1,05,41,26,410/- made by the Assessing Officer be restored.

163. Considered the rival submissions, perused the assessment order, the order of the CIT(A), the written submissions filed by the assessee and the Revenue, the material placed in the paper book and also the order passed by us in the connected appeals of Hero MotoCorp Limited ("HMCL") for the relevant assessment years including Assessment Year 2017–18 [lead assessment year AY 2015-16 - ITA No. 4958/Del/2026 (Assessee's appeal) / ITA No. 7943/Del/2026 (Revenue's appeal)]. We observed that the assessee has challenged the validity of the reassessment proceedings initiated under section 147 of the Act, various jurisdictional grounds. The assessee has also challenged the balance addition of Rs.26,14,85,791 sustained by the CIT(A) as a perquisite.

164. On the other hand, the Revenue has challenged the relief granted by the CIT(A) in respect of the alleged unexplained investment in land under section 69 and the deletion of a substantial part of the addition made under section 17(2) of the Act.

165. Since the assessee has questioned the very assumption of jurisdiction by the Assessing Officer, the jurisdictional grounds are required to be considered first. If the reassessment proceedings are found to be invalid, the additions made pursuant thereto cannot be sustained. At the same time, having regard to the fact that the perquisite addition in the

present case is entirely founded upon the disallowances made in the assessment proceedings of HMCL for the same assessment year, and that the connected appeals of HMCL have since been adjudicated by this Tribunal, we consider it appropriate to record independent findings on the merits as well. Such findings are recorded in the alternative and are intended to give complete effect to the conclusions reached in the connected HMCL proceedings.

166. At the outset, after considering the application for condonation of delay by the revenue, we are inclined to condone the delay for the reason that the delay is caused due to reasonable cause.

167. With regard to ground no. 1.1 raised by the assessee on the issue of validity of reassessment proceedings, before us the assessee has contended that the reassessment order, though bearing the date 31.03.2024, was dispatched through speed post only on 01.04.2024 and was received by the assessee on 02.04.2024. According to the assessee, the limitation prescribed under section 153(2) expired on 31.03.2024 and, therefore, the assessment order was not made within the statutory period. The material dates relevant to this controversy are not in dispute:

Particulars	**Date**
Notice under section 148	02.03.2023
Financial year in which notice was served	FY 2022-23
Last date for completion under section 153(2)	31.03.2024
Date borne by the assessment order	31.03.2024
Date of dispatch through speed post	01.04.2024
Date of receipt by assessee	02.04.2024

168. Section 153(2), as applicable to the present reassessment, prescribed a period of twelve

months from the end of the financial year in which the notice under section 148 was served. Since the notice was served during FY 2022-23, the period available to the AO expired on 31.03.2024. The statutory period was not an administrative formality rather it is a jurisdictional limitation upon the power of the AO to complete the reassessment. The Revenue has placed reliance upon the date appearing on the assessment order and the fact that a DIN was generated. It is, however, necessary to distinguish between the internal generation or preparation of an order and the act by which the order is issued and communicated to the assessee. The assessee cannot be expected to treat an order as having been made and issued against it when the order remained within the control of the Department and was not dispatched until after the expiry of the prescribed period.

169. The principle governing issuance and communication of statutory notices has been explained by the Hon'ble Delhi High Court in Suman Jeet Agarwal v. Income-tax Officer [2022] 449 ITR 517 (Delhi). The Hon'ble Court examined the distinction between generation of a notice on the departmental system and its actual dispatch. It held that mere generation of a notice on the departmental portal cannot, by itself, be equated with its issuance where the notice was dispatched only after the expiry of the prescribed period. The date and time of dispatch, as reflected in the departmental system, are material for determining whether the statutory act of issuance has taken place within time. The relevant extracts of the judgment are reproduced hereunder for reference:

> "25.12 The review of the aforesaid judgments of the Supreme Court and the several High Courts shows that all Courts have consistently held that the expression 'issue' in its common parlance and its legal interpretation means that the issuer of the notice must after drawing up the notice and signing the notice, make an overt act to ensure due despatch of the notice to the addressee. It is only upon due despatch, that the notice can be said to have been 'issued'.
>
> 25.13 Further, a perusal of the Compliance Affidavit reveals that while the function of generation of Notice on ITBA portal and digital signing of the Notice is executed by the JAO, the function of drafting of the e-mail to which the Notice is attached and triggering the e-mail to the assessee is performed by the ITBA e-mail software system.
>
> Thus, mere generation of Notice on the ITBA Screen cannot in fact or in law constitute issue of notice, whether the notice is issued in paper form or electronic

form. In case of paper form, the notice must be despatched by post on or before 31st March 2021 and for communication in electronic form the e-mail should have been despatched on or before 31st March 2021.

In the present writ petitions, the despatch by post and e-mail was carried out on or after 01st April 2021 and therefore, we hold that, the impugned Notices were not issued on 31st March 2021.

25.23 We therefore answer question no. (I) in negative against the Department and hold that the impugned Notices dated 31st March, 2021, which were despatched on 1st April, 2021, or thereafter, would not meet the test of 'issued' under section 149 of the Act of 1961 and would be time barred, unless saved by the judgment of the Supreme Court in Ashish Aggarwal (supra).

26.17 This Court's attention was also drawn to the screenshot of the ITBA portal annexed to the Counter filed by the respondent in W.P.(C) No. 856/2022. The ITBA portal can only be accessed or viewed by the officers of the Department and not by the assessee. The screenshot of the ITBA portal reveals that in the "View/Enter Despatch Details" section the ITBA portal duly records the date of issue, date of despatch and date of service. It separately records the time on which the e-mail was sent, the date and time on which the e-mail was delivered to the assessee, and the date and time on which the e-mail was shared with the E-filing portal database.

26.18 Further as noted above, Mr. Puneet Rai, ld. counsel for the respondent has during rejoinder arguments admitted that the information with respect to the date and time of despatch of the impugned Notices through ITBA e-mail software system is duly available and therefore, capable of determination. This now stands established by the subsequent notice issued by the JAO in W.P.(C) 5316/2022 wherein the date of issuance through e-mail is duly recorded. The screenshots supplied by the counsel for the petitioners, also attests to the said fact, that such information is in fact available with the Department through the records of the ITBA portal.

26.19 It would also be relevant to note that the time taken by the ITBA e-mail software system on 31st March, 2021, to despatch the e-mails was not due to any software glitch. The time taken by the software system was as per the programming of the system, as admitted in the Compliance Affidavit. The programming to despatch the Notices in a controlled manner and batch mode was a pre-existing fact and to the knowledge of the Department. The time taken in despatch of the e-mail on 31st March, 2021, was therefore as per the controls set in the ITBA system.

26.20 We are in respectful agreement with the law laid down by the various High Courts in Daujee Abhushan (supra), Santosh Krishna HUF (supra), Mohan Lal

> Santwani (supra), Advance Infradevelopers (P) Ltd. (supra) and Yuvraj (supra), that for determining when Notices were issued, the date and time of when the ITBA e-mail software system is triggered and the Notices leave the last ITBA server would be considered
>
> 26.23 We also take judicial notice of the fact that the Department from May, 2022, for Notices issued on or after 1st April 2021, has considered the date and time of despatch of the notices as recorded by the ITBA portal as the date of issuance and disregarded the date of generation of notice i.e. 31-3-2021. For notices despatched on or after 1st April 2021, the Department, following the Supreme Court's order in Ashish Agarwal (supra) considered the notices as issued under section 148A of the Act of 1961. This shows that the Department itself acknowledges and admits that the date of generation is distinct from date of issuance and the Department considers the despatch by ITBA Portal as the date of issue for the purpose of Section 149 of the Act of 1961.
>
> Finding for Notices falling under category 'C'
>
> Since the time taken by the ITBA email software system in triggering the e-mails is attributable to the Department, the AO is directed to determine the date and time on which the emails were triggered by the ITBA system server as per the ITBA records and consider the same as the date of issuance.
>
> Illustratively, in W.P.(C) 8994 of 2021 for the Notice dated 31st March 2021 and digitally signed on 31st March 2021 the JAO is directed to determine the date and time of despatch as recorded by ITBA portal and consider the same as the date of issuance."

170. The Revenue may contend that the aforesaid decision concerned the issuance of a notice under section 148 and not the completion of an assessment under section 153(2). We are conscious of this distinction. Nevertheless, the underlying principle remains relevant that an internal act of generation or preparation cannot automatically be treated as the completed statutory act of issuance or communication where the document is first dispatched after the statutory deadline. The statutory expression "made" in section 153(2) of the Act must be understood in the context of a completed reassessment order which is issued by the AO and brought into the course of communication to the assessee.

171. We have also considered the order passed by this Tribunal in the connected appeals of HMCL. In those proceedings, the assessment order was dated 30.03.2024 and the material relied upon by the Revenue showed that it had been dispatched on 31.03.2024.

This Tribunal rejected the objections raised by the assessee on limitation in that case after noting that the order had been dispatched within the prescribed period. The factual position in the present appeal is materially different. The assessment order in the present case was dispatched on 01.04.2024, whereas the last permissible date was 31.03.2024. Thus, the factual foundation on which the objection was rejected in the HMCL proceedings is absent in the present case. The mere fact that the assessment order bears the date 31.03.2024 cannot override the undisputed dispatch record. If the Department's contention were accepted, an order could be prepared, dated and retained internally within the Department on the last date of limitation, but issued to the assessee at any later date. Such an interpretation would defeat the object of prescribing a definite period for completion of reassessment proceedings and would render the statutory limitation dependent entirely upon an internal departmental act which is not communicated to the assessee.

172. We accordingly hold that, on the facts of the present case, the reassessment order was issued beyond the period prescribed under section 153(2) of the Act. The dispatch of the assessment order on 01.04.2024, after expiry of the limitation period on 31.03.2024, cannot be treated as a valid completion of the reassessment within time. The reassessment order dated 31.03.2024 is, therefore, barred by limitation and is hereby quashed. Accordingly, Ground No. 1.1 of the assessee's appeal is accordingly allowed.

173. With regard to ground no. 1.2 on limitation u/s 149 of the Act, the assessee has challenged the validity of the notice issued under section 148 dated 02.03.2023 on the ground that the same was issued beyond the period of three years prescribed under section 149(1)(a) of the Act. According to the assessee, since the relevant assessment year is AY 2017-18, the ordinary period of three years expired on 31.03.2021 and, therefore, the notice issued on 02.03.2023 is barred by limitation. We have considered this submission in the light of the statutory provisions and the reasons recorded by the Assessing Officer. Section 149(1)(a) prescribes a period of three years from the end of the relevant assessment year for issuance of notice under section 148. However, clause (b) of section 149(1), as amended, permits issuance of notice beyond three years but not beyond ten years from the end of the relevant assessment year, where the Assessing

Officer has in his possession books of account or other documents or evidence which reveal that income chargeable to tax, represented in the form of an asset, expenditure in respect of a transaction or in relation to an event or occasion, or an entry in the books of account, has escaped assessment and amounts to or is likely to amount to ₹50 lakh or more. Further, the Explanation to section 149 specifically provides that, for the purposes of clause (b), the expression "asset" includes immovable property, being land or building or both.

174. On examination of the reasons recorded by the Assessing Officer, we find that the AO has specifically referred to the alleged unexplained investment in the Chhatarpur land exceeding ₹50 lakh. In our considered view, the statutory conditions for invoking the extended period under section 149(1)(b) are thus satisfied on the basis of the material referred to in the reasons recorded. Even though, the assessee disputes the alleged addition on unexplained investment, those contentions may be relevant while determining whether any addition under section 69 of Act is ultimately sustainable, however, they do not, by themselves, negate the existence of material which, at the stage of initiation of reassessment proceedings, revealed alleged escaped income represented in the form of an asset exceeding the prescribed monetary threshold. We accordingly hold that, although the notice dated 02.03.2023 was issued beyond the ordinary period of three years prescribed under section 149(1)(a), the same was validly issued within the extended period contemplated under section 149(1)(b), having regard to the material referred to in the recorded reasons concerning the alleged unexplained investment in Chhatarpur land exceeding Rs.50 lakh.

175. Accordingly, the assessee's objection that the notice under section 148 was barred by limitation on account of expiry of the three-year period is rejected. Therefore, ground no. 1.2 raised by the assessee is dismissed. Applying the above ratio, the similar ground challenging the validity of notice on limitation u/s 149(1)(b) in connected assessment years in the assessee's case is also dismissed.

176. With regard to ground nos. 1.3 and 1.4 raised by the assessee on the issue of approval under Explanation 2(iii)/(iv) of section 148 of the Act, it was submitted that although a search under section 132 was conducted in its case on 23.03.2022, the material forming

the basis of the additions was substantially obtained from searches conducted in the cases of third parties, including persons and entities associated with the Hero MotoCorp Group and Shri Amarjit Singh Sethi. It is contended that the AO relied upon such third-party material without obtaining the separate approval contemplated under Explanation 2(iii)/(iv) to section 148.The assessee has specifically drawn attention to the notice under section 148, which refers both to the search conducted in the assessee's case and to books of account or documents seized in the cases of HMCL and Shri Amarjit Singh Sethi, stating that such material pertains to or relates to the assessee. The assessee submits that the AO could not invoke Explanation 2(i), which concerns a search in the assessee's own case, as a substitute for the statutory procedure applicable to information obtained from a search in the case of another person.

177. On the other hand, the Revenue's contention is that a search was also conducted in the assessee's own case and that the notice was issued after obtaining the approval of the competent authority. According to the Revenue, Explanation 2(i) was therefore applicable and there was no requirement to obtain a separate approval under Explanation 2(iii)/(iv).We have considered the rival submissions. The relevant statutory explanations must be read in their proper context. The source of the material, the nature of the documents relied upon, the statutory provision invoked in the recorded reasons and the approval actually granted, must be examined together.

178. In the connected matter of HMCL order adjudicated by us has also recognised this distinction. It observed that the issue cannot be determined merely by reference to the identity of the person searched and that the source and nature of the material, the statutory provision invoked in the recorded reasons and the approval actually granted must be examined together. This bench, however, did not consider it necessary to rest its ultimate conclusion on this controversy because the reassessment for the relevant lead year was held to be barred by limitation. In the present case also, we have already held that the reassessment order is barred by limitation under section 153(2). Once the assessment itself is liable to be quashed on that independent jurisdictional ground, it is not necessary to record a separate conclusive finding on the precise applicability of Explanation 2(iii)/(iv) or the adequacy of the approval granted under section 151(ii).We

accordingly leave this issue open. The ground is treated as not requiring separate adjudication in view of our decision on Ground No. 1.1.

179. With regard to ground no. 1.5 on the issue of mechanical approval u/s 151(ii) of the Act, it was contended before us that the approval was granted mechanically and without proper examination of the reasons recorded, the source of the information, the statutory conditions under section 149 and the applicability of Explanation 2(iii)/(iv) to section 148. Reliance has been placed on United Electrical Co. v. CIT [2002] 258 ITR 317 (Delhi) and Yum! Restaurants (India) Pvt. Ltd. v. CIT [2017] 397 ITR 665 (Delhi).

180. As held, the legal requirement of approval by the specified authority is a substantive safeguard. The sanctioning authority is required to apply its mind to the proposal placed before it and to exercise the judgment entrusted to it by the statute. Approval cannot be granted as a mere formality or by mechanically endorsing the proposal of the AO. In the present case, however, the reassessment order itself is liable to be quashed on the independent ground of limitation under section 153(2). It is, therefore, unnecessary to record a separate conclusive finding on the validity of the sanction. Therefore, the ground No. 1.5 is accordingly disposed of in the above terms.

181. With regard to Ground no. 1.6, it was contended before us that the reassessment was initiated on the basis of general allegations and third-party material without any independent application of mind by the AO. It is submitted that the material relied upon does not establish any specific escapement of income in the hands of the assessee and that the AO has merely adopted the allegations and conclusions emerging from the search and post-search investigation.

182. The principles laid down by the Hon'ble Supreme Court in ITO v. Lakhmani Mewal Das [1976] 103 ITR 437 (SC) and CIT v. Kelvinator of India Ltd. [2010] 320 ITR 561 (SC) continue to underline the requirement of a live nexus between the material relied upon and the formation of belief that income has escaped assessment. A general suspicion or an unverified allegation cannot, by itself, justify reassessment. Since we have held the reassessment order to be barred by limitation under section 153(2), it is unnecessary to examine conclusively whether the material relied upon by the AO, considered independently, satisfied the requirement of valid information. Accordingly, the ground

No. 1.6 is disposed of in the above terms.

183. With regard to non-disposal of objections and violations of the procedure laid down in GKN Driveshafts decision, the assessee has also contended that detailed objections dated 19.02.2024 challenging the initiation of reassessment proceedings were not disposed of by the AO before passing the assessment order. It is submitted that the AO had earlier disposed of the preliminary objections mechanically by letter dated 14.02.2024 and had not furnished the satisfaction note and other material sought by the assessee at the relevant time. The procedure laid down by the Hon'ble Supreme Court in GKN Driveshafts (India) Ltd. v. ITO [2003] 259 ITR 19 (SC) requires the AO to furnish the reasons recorded for reopening, consider the objections filed by the assessee and dispose of those objections by a speaking order before proceeding further with the reassessment. In view of our conclusion that the reassessment order is barred by limitation under section 153(2), it is not necessary to adjudicate this ground independently. The ground is disposed of accordingly.

184. The assessee succeeds on Ground No. 1.1 of its appeal. The other jurisdictional grounds are disposed of in the terms recorded above. The additions made in the reassessment order consequently cannot survive. Nevertheless, in view of the connected HMCL order and the specific grounds raised by both parties on merits, we proceed to record our findings on the substantive issues in the alternative.

185. Summary of our findings on jurisdictional grounds raised by the assessee -ground wise and year-wise are as under:

Issue involved in jurisdictional grounds raised by the assessee	**Ground number in assessee's appeal**	**Tribunal findings /conclusion**
General challenge to validity of reassessment	Ground 1 - all seven years	General grounds and hence not specifically adjudicated - specific grounds discussed below
Limitation under section 153(2)	Ground 1.1 - AYs 2015-16 to 2019-20	Assessee's ground is allowed and hence reassessment order u/s 147 is quashed being time

		barred for captioned assessment years viz. from AYs 2015-16 to AY 2019-20.
Explanation 2(iii)/(iv) versus Explanation 2(i) to section 148	Grounds 1.2 &1.3 in AYs 2013-14, 2014-15 and GOA No 1.3 & 1.4 in AYs 2015-16 to 2019-20	Not specifically adjudicated in lead case due to limitation ground and hence dismissed.
Extended limitation under section 149(1)(b) - 3 years	Ground 1.1 in AYs 2013-14, 2014-15 and GOA No. 1.2 in AYs 2015-16 to 2018-19	Not allowed and hence dismissed.
Invalid notice under section 143(2), invalid/mechanical sanction and DIN on approval/proforma	Ground 1.4 in AYs 2013-14, 2014-15 and GOA No 1.5 in AYs 2015-16 to 2018-19 and GOA No 1.4 in AY 2019-20	Not adjudicated and hence dismissed.
Invalid/unreliable third-party information and failure to dispose of objections	Ground 1.6 in AY 2013-14, 1.5 in AY 2014-15, 1.6 in AY 2015-16 to 2018-19 and 1.5 in AY 2019-20	Not adjudicated and hence dismissed.
Assessment order, demand notice or ITNS without digital signature	Ground 1.5 in AY 2013-14, 1.6 in AY 2014-15, 1.7 in AYs 2015- 16 to 2018-19 and GOA No 1.6 in AY 2019-20	Not adjudicated and hence dismissed.
Natural justice, third-party material and denial of rebuttal/cross-examination	Ground 1.7 in AY 2013-14, 2014-15, 1.8 in AYs 2015-16 to 2018-19 and GOA No 1.7 in AY 2019-20	Not adjudicated and hence dismissed.

186. On merits, in the alternative basis, we have carefully gone through the materials on records and perused the assessment orders, the remand report and order of CIT(A). One fact which stares in the face of the additions is that the assessee, his wife Mrs. Aniesha Munjal and the company, he works in viz. HMCL were searched u/s 132 of the Act and yet during the course of the search and subsequent assessments no undisclosed asset or incriminating documents were found, so as to suggest any undisclosed income in their hands. Second very important factor is that the assessee is a whole-time chairman and managing director of above mentioned large listed company and derives most of his income under the head 'income from salary'. On evaluation of the material placed on record, we observe that no cash dealing or access to cash has been found by the revenue in his or his wife's or the company, HMCL's hands. Therefore, it is quite evident to us that allegation of cash payment by the assessee and his wife are not borne out from the records. We shall hereinafter also deal with the specific issues raised by the parties.

187. With regard to the issue of additions made as perquisite u/s 17(2) of the Act, the AO made an addition of Rs.1,05,41,26,410/- on the allegation that HMCL had incurred personal expenditure for the benefit of the assessee, who was its Chairman and Managing Director. The addition was founded substantially upon the disallowances made by the AO in the assessment proceedings of HMCL for AY 2017-18 under section 37(1).The expenditure considered by the AO in the case of HMCL and correspondingly treated as a perquisite in the hands of the assessee comprised the following:

Particulars	**Amount (₹)**
Expenditure on domestic events organised through SEMPL, Scoop, Strokes and Space	90,27,05,651
Expenditure on foreign events organised through SEMPL	5,32,30,532
Foreign-travel expenditure alleged to be attributable to family members travelling with the assessee	9,81,90,227
Total	**1,05,41,26,410**

188. The AO proceeded on the premise that the expenditure disallowed in the hands of HMCL represented expenditure incurred for the personal benefit of the assessee and was, therefore, taxable as a perquisite under section 17(2) of the Act. However, ld. CIT(A), following the appellate order passed in the case of HMCL, restricted the addition to Rs.26,14,85,791 and deleted the balance of Rs.79,26,40,619.The amount sustained by the CIT(A) comprised are the following:

Particulars	**Amount (Rs.)**
Domestic events – expenditure relating to 14 events	15,29,64,499
Foreign events organised through SEMPL	5,32,30,532
Foreign travel attributed to family members other than the assessee's wife	5,52,90,760
Total sustained by CIT(A)	**26,14,85,791**

189. The relief granted by the CIT(A) comprised:

Particulars	**Amount (Rs.)**
Balance domestic-event expenditure deleted	74,97,41,152
Foreign travel expenditure attributed to the assessee's wife	4,28,99,467
Total deleted by CIT(A)	**79,26,40,619**

190. The assessee is in appeal against the amount of Rs.26,14,85,791 sustained by the ld. CIT(A), whereas the Revenue is in appeal against the deletion of Rs.79,26,40,619. Thus, the entire addition of Rs.1,05,41,26,410 is in dispute before us.

191. We have carefully examined the order passed by this Tribunal in the connected appeals of HMCL, including the findings specifically recorded for AY 2015-16 and equally applied

to concerned AY 2017-18. The issue before the Tribunal in HMCL was whether the expenditure incurred by the company on domestic events, foreign events and foreign travel was allowable as business expenditure under section 37(1), or whether it represented expenditure diverted for non-business or personal purposes.

192. The perquisite addition in the present case is not based upon an independent set of transactions or separate expenditure incurred by HMCL. The AO has taken the very same expenditure considered in HMCL's assessment and has treated the corresponding amounts as perquisites in the hands of the assessee. The ld. CIT(A) has also adopted the disallowance sustained in the case of HMCL as the basis for sustaining the corresponding perquisite addition. The findings recorded by this Tribunal in the HMCL case are, therefore, directly relevant. They concern the same employer, the same Chairman and Managing Director, the same event-management companies, the same alleged money trail, the same foreign-event expenditure and the same foreign-travel expenditure. More importantly, this Tribunal has examined the supporting documents, the allegations emerging from the search, the statements relied upon by the Revenue and the alleged connection between the event-management expenditure and the personal travel of the Chairman.

193. We are conscious that the assessment of HMCL and the assessment of the assessee are separate proceedings and that the principle of res-judicata does not apply in its strict sense to income-tax assessments. Nevertheless, where the same underlying transactions and common evidence have been examined by this Bench of the Tribunal and findings have been recorded on the genuineness and business character of the expenditure, judicial consistency requires that those findings be followed in the connected proceedings unless the Revenue establishes a material distinction in facts or evidence.

194. No such distinction has been demonstrated before us. The Revenue has not identified any separate material in the assessee's individual assessment which establishes that the amounts deleted or allowed in the HMCL proceedings nevertheless represent a personal benefit provided to the assessee. We accordingly consider the findings in the HMCL order to be directly applicable to the corresponding issues arising in the present appeal.

195. With regard to the first component of the perquisite addition relates to the expenditure of

Rs.90,27,05,651/- incurred by HMCL on domestic events organised through SEMPL, Scoop, Strokes and Space. The AO treated the expenditure as a mechanism for routing funds towards the personal foreign travel of the assessee. On the other hand, ld. CIT(A), relying upon the appellate order in the case of HMCL, restricted the corresponding perquisite addition to Rs.15,29,64,499, representing 14 events identified by the AO, and deleted the balance of Rs.74,97,41,152.

196. In the HMCL proceedings, this Tribunal examined the domestic-event expenditure in detail. The Tribunal considered the nature of HMCL's business, the scale of its operations, the events organised during the relevant year, the invoices and cost break-ups, photographs, newspaper reports, press releases, invitations, agendas, participant lists, email communications and other contemporaneous records placed on record. We, comprising of the same bench, found that the domestic events were not of a single character. They included product launches, promotional activities, Auto Expo participation, sporting events, dealer and distributor conferences, employee training programmes, brand activations, audio-visual production, business meetings and other activities connected with the company's business. The material placed on record established the occurrence and business character of the events.

197. We further examined the Revenue's allegation that payments made to the event-management companies were routed through intermediary entities and ultimately used for charter flights and personal foreign travel of the Chairman. It found that the alleged connection between the event invoices and the charter expenditure had not been established through a reliable reconciliation. The amounts appearing at different stages of the alleged money trail did not reconcile, and the necessary event-specific linkage was not established. The Bench also considered the fact that the AO had relied upon selected documents and statements recorded during search proceedings. It held that publicly documented events, supported by photographs, invitations, press releases, invoices and contemporaneous business communications, could not be displaced merely by a general allegation that funds had moved through entities whose books were examined during search proceedings.

198. A significant finding recorded by the Tribunal in HMCL was that the CIT(A)'s approach

of accepting the occurrence of the events and granting substantial relief but nevertheless sustaining the expenditure relating to selected events without identifying the precise amount of personal expenditure attributable to each event, was inherently inconsistent. The Tribunal held that the fact that the quantum of any alleged non-business expenditure could not be determined did not justify disallowance of the whole amount claimed for the relevant event. It further held that the Revenue had not established that the amounts debited to the profit and loss account represented personal expenditure of the Chairman. The Tribunal accordingly deleted the domestic-event disallowance of Rs.15,29,64,499 sustained by the CIT(A) in HMCL's case for AY 2017–18 and dismissed the Revenue's appeal against the deletion of Rs.74,97,41,152. Thus, the entire domestic-event expenditure of Rs.90,27,05,651 stood allowed in the hands of HMCL.

199. The aforesaid findings directly govern the corresponding perquisite addition in the present case. The AO did not identify any separate personal expenditure incurred by HMCL for the assessee. The entire addition was founded upon the allegation that the domestic-event expenditure disallowed in the company's hands represented personal foreign travel or other personal expenditure of the Chairman. Once this Tribunal has examined the very same events and the underlying evidence in the case of HMCL and has held that the expenditure was supported by contemporaneous records and that the alleged diversion of funds was not established, there remains no factual basis for treating the corresponding expenditure as a personal benefit provided to the assessee.

200. We further find that the Revenue has not brought on record any independent evidence establishing that the assessee received the amount of Rs.90,27,05,651/-, or any part thereof, as a personal benefit or that HMCL discharged any personal obligation of the assessee to that extent. The Revenue has also not established that the assessee had any contractual or enforceable right to receive the alleged amounts as a perquisite.

201. We accordingly hold that the addition of Rs.15,29,64,499/- sustained by the CIT(A) on account of domestic events is unsustainable. The deletion of Rs.74,97,41,152/- granted by the CIT(A) is also required to be upheld. The entire addition of Rs.90,27,05,651/- corresponding to domestic-event expenditure is deleted from the hands of the assessee. The assessee's grounds relating to the domestic-event component are allowed. The

Revenue's grounds challenging the deletion of addition made by CIT(A) are dismissed.

202. Insofar as the assessment year 2018-19 is concerned, we find that unlike the other assessment years, no corresponding reassessment order was passed in the case of Hero MotoCorp Limited (HMCL) for AY 2018-19. The Assessing Officer, while making the addition in the hands of the assessee under section 17(2) of the Act, has proceeded by relying upon the assessment orders passed in the case of HMCL for other assessment years, wherein expenditure incurred on domestic events was alleged to have been diverted towards meeting the personal foreign-travel expenses of the assessee. Thus, the addition in the present year is not founded upon any independent assessment or finding in the hands of HMCL for AY 2018-19.

203. In our considered view that the mere fact that similar allegations were made by the Revenue in the assessments of HMCL for other years cannot, by itself, justify an addition in the hands of the assessee for the year under consideration. We have also considered the reasoning adopted while adjudicating the corresponding domestic-event issue in the other assessment years. The same underlying principle applies to the present assessment year. The Assessing Officer could not have treated the entire expenditure relating to domestic events as a perquisite merely by adopting the allegations and conclusions recorded in the assessments of HMCL for other years. We find that the approach of the Assessing Officer in the present year essentially proceeds on an extrapolation of the allegations made in the assessments of HMCL for other years.

204. In these circumstances and applying the same evidentiary and legal principles which have been discussed by us while adjudicating the domestic-event issue in the other assessment years, we hold that the addition made under section 17(2) in respect of domestic-event expenditure for Assessment Year 2018–19 is not sustainable. The absence of a corresponding reassessment order in the case of HMCL for this year further reinforces the requirement that the Revenue establish the alleged personal benefit independently, rather than relying upon conclusions drawn in other years.

205. Accordingly, the addition of Rs.86,96,21,791 relating to domestic-event expenditure for AY 2018–19 is directed to be deleted. The assessee's grounds on this issue are allowed and the corresponding grounds raised by the Revenue challenging the relief granted by

the ld. CIT(A) are dismissed.

206. The same findings as above shall apply mutatis mutandis to the corresponding domestic-event based perquisite addition u/s 17(2) of the Act in all connected assessment years of the assessee. The chart below provides the application of above findings to remaining years as well.

AY	**Appeal**	**Ground number**	**Amount**	**ITAT finding**
2013-14	Assessee - ITA 4223/Del/2026	-	-	NA
2014-15	Assessee - ITA 4234/Del/2026	Grounds 2 -2.5	₹4,06,36,915/-	The assessee's grounds are **allowed** and disallowance sustained by CIT(A) are deleted.
	Revenue - ITA 7992/Del/2026	Grounds 1-5	₹77,15,64,280/-	Revenue's grounds are **dismissed** and deletion of disallowance made by the CIT(A) is upheld.
2015-16	Assessee - ITA 4235/Del/2026	Grounds 2-2.6	₹8,06,26,855/-	The assessee's grounds are **allowed** and disallowance sustained by CIT(A) are deleted.
	Revenue - ITA 7976/Del/2026	Grounds 4-6	₹80,60,76,961/-	Revenue's grounds are **dismissed** and deletion of disallowance made by the CIT(A) is upheld.
2016-17	Assessee -ITA 4236/Del/2026	Grounds 2-2.5	₹18,46,68,824/-	The assessee's grounds are **allowed** and disallowance sustained by CIT(A) are deleted.
	Revenue - ITA 7993/Del/2026	Grounds 4-6	₹1,22,40,21,731/-	Revenue's grounds are **dismissed** and deletion of disallowance made by the CIT(A) is upheld.

2017-18	Assessee - ITA 4237/Del/2026	Grounds 2-2.6	₹15,29,64,499/-	The assessee's grounds are **allowed** and disallowance sustained by CIT(A) are deleted.
	Revenue - ITA 7994/Del/2026	Grounds 4-6	₹74,97,41,152/-	Revenue's grounds are **dismissed** and deletion of disallowance made by the CIT(A) is upheld.
2018-19	Assessee - ITA 4238/Del/2026	Grounds 2-2.5	₹15,07,30,925/-	The assessee's grounds are **allowed** and disallowance sustained by CIT(A) are deleted.
	Revenue - ITA 8161/Del/2026	Grounds 4-6	₹71,88,90,886/-	Revenue's grounds are **dismissed** and deletion of disallowance made by the CIT(A) is upheld.
2019-20	Assessee - ITA 4239/Del/2026	NA	-	NA
	Revenue - ITA 8025/Del/2026	Grounds 1-4	₹69,13,79,094/-	Revenue's grounds are **dismissed** and deletion of disallowance made by the CIT(A) is upheld.

207. With regard to the second component of the perquisite addition relates to foreign-travel expenditure of Rs.9,81,90,227/- accounted for in the books of HMCL. The AO alleged that the expenditure was attributable to the travel of family members accompanying the assessee on official foreign trips. The CIT(A) deleted Rs.4,28,99,467 attributed to the assessee's wife but sustained Rs.5,52,90,760 attributed to other family members.

208. The assessee's case is that the foreign travel undertaken by him was in his official capacity as Chairman and Managing Director of HMCL. HMCL has international business operations and is required to participate in meetings, conferences, promotional events, business engagements and other activities in different countries. The assessee travelled as the principal representative of the company for furthering its business

interests. In the HMCL proceedings, this Tribunal examined the foreign-travel issue and the corresponding expenditure attributed to the family members. The Tribunal considered the business context of HMCL, the nature of its products, the company's international business activities and the fact that the official travel of the Chairman was not disputed.

209. The Tribunal held that the commercial expediency of expenditure must be examined from the standpoint of the business carried on by the company. It cannot be confined to expenditure which produces an immediate or measurable return. Brand reputation, goodwill, relationship-building and the promotion of consumer confidence are legitimate commercial considerations. The Tribunal further observed that HMCL's products are used by families for their day-to-day mobility and that the family constitutes an important segment of the company's customer base. The manner in which the brand is perceived by families is commercially relevant to product acceptance, customer preference and brand loyalty. The presence of the spouse or family of the Chairman at business-related events and social interactions associated with the company's international business initiatives is not necessarily divorced from commercial considerations.

210. It was specifically found that the charter-flight cost was a fixed expenditure incurred for the Chairman's official travel and that no material established that the company would have incurred a lower charter cost had the family members not accompanied him. In the absence of evidence of an incremental expense or a demonstrated diversion of company funds for a personal purpose, an allocation of the charter cost on a per-capita basis was held to be arbitrary. The Tribunal also considered the incidental travel expenses and found that the Revenue had not established, by reference to the books or payment records, that the incidental expenses attributed to the family members were separately borne by the company. The mere fact that family members accompanied the Chairman did not establish that every travel-related expense incurred during the trip was debited to HMCL.

211. The Tribunal accordingly deleted the entire foreign-travel disallowance in the relevant lead-year proceedings and applied its findings to the corresponding foreign-travel issues in the connected assessment years. In the year-wise findings, the Tribunal allowed the assessee's challenge to the corresponding amount of Rs.5,52,90,760/- and dismissed the

Revenue's challenge to the deletion of Rs.4,28,99,467/- attributed to the assessee's wife.

212. The aforesaid findings are directly relevant to the present appeal. The ld. CIT(A) had already deleted Rs.4,28,99,467/- in the assessee's case by following the relief granted in HMCL's appeal. The Revenue's challenge to that deletion is therefore liable to be dismissed in view of the subsequent decision of this Tribunal in HMCL.

213. As regards the balance amount of Rs.5,52,90,760, the ld. CIT(A) sustained the addition solely because the corresponding expenditure had been disallowed in HMCL's assessment. The basis for sustaining the disallowance has, however, been examined and rejected by this Tribunal in HMCL's case. The Tribunal has held that the Revenue failed to establish any incremental charter cost attributable to the family members or any independent personal expenditure borne by the company.

214. The Revenue has not placed any additional evidence in the present proceedings to establish that the amount of Rs.5,52,90,760/- represented a personal benefit provided to the assessee. The Revenue has also not established that the assessee had any enforceable right to have the travel expenditure of his family members borne by HMCL or that the company discharged any identified personal obligation of the assessee.

215. We accordingly hold that the addition of Rs.5,52,90,760/- sustained by the CIT(A) is unsustainable and is deleted. The deletion of Rs.4,28,99,467/- granted by the CIT(A) is upheld. The entire addition of Rs.9,81,90,227/- relating to foreign-travel expenditure is accordingly deleted from the hands of the assessee. Hence, the assessee's grounds relating to the addition of Rs.5,52,90,760 are allowed. The Revenue's grounds challenging the deletion by addition by ld. CIT(A) are dismissed.

216. The same findings as above shall apply mutatis mutandis to the corresponding foreign travel based perquisite addition u/s 17(2) of the Act in all connected assessment years of the assessee. The chart below provides the application of above findings to remaining years as well :-

AY	**Appeal**	**Ground number**	**Amount**	**ITAT's finding**
2013-14	Assessee - ITA 4223/Del/2026	Grounds 2-2.4	₹3,48,589/-	The assessee's grounds are **allowed** and disallowance sustained by

				CIT(A) is deleted.
2014-15	Assessee - ITA 4234/Del/2026	Grounds 2.25	₹2,03,70,732/-	The assessee's grounds are **allowed** and disallowance sustained by CIT(A) is deleted.
	Revenue - ITA 7992/Del/2026	Grounds 1-5	₹1,88,91,738/-	Revenue's grounds are **dismissed** and deletion of disallowance made by the CIT(A) is upheld.
2015-16	Assessee - ITA 4235/Del/2026	Grounds 2.26	₹1,48,94,358/-	The assessee's grounds are **allowed** and disallowance sustained by CIT(A) is deleted.
	Revenue - ITA 7976/Del/2026	Grounds 4-6	₹1,48,94,358/-	Revenue's grounds are **dismissed** and deletion of disallowance made by the CIT(A) is upheld.
2016-17	Assessee — ITA 4236/Del/2026	NA	-	NA
	Revenue - ITA 7993/Del/2026	Grounds 4-6	₹3,23,63,711/-	Revenue's grounds are **dismissed** and deletion of disallowance made by the CIT(A) is upheld.
2017-18	Assessee - ITA 4237/Del/2026	Grounds 2-2.6	₹5,52,90,760/-	The assessee's grounds are **allowed** and disallowance sustained by CIT(A) is deleted.
	Revenue - ITA 7994/Del/2026	Grounds 4-6	₹4,28,99,467/-	Revenue's grounds are **dismissed** and deletion of disallowance made by the CIT(A) is upheld.
2018-19	Assessee - ITA 4238/Del/2026	NA	-	NA
	Revenue - ITA 8161/Del/2026	NA	-	NA
2019-20	Assessee - ITA 4239/Del/2026	NA	-	NA
	Revenue – ITA 8025/Del/2026	1-4	₹2,54,85,003/-	Revenue's grounds are **dismissed** and deletion of disallowance made by the CIT(A) is upheld.

217. With regard to foreign-event expenditure, the third component of the perquisite addition is Rs.5,32,30,532/-, representing expenditure incurred by HMCL on foreign events organised through SEMPL. The ld. CIT(A) sustained the corresponding addition in the hands of the assessee because the expenditure had been disallowed in the hands of HMCL.

218. In the connected HMCL proceedings, this Tribunal has examined the foreign-event

expenditure and has specifically recorded findings in respect of the corresponding amount of Rs.5,32,30,532/- for AY 2017-18. The Tribunal found that the event-related expenditure was supported by the documents placed on record and that the Revenue had not established that the event expenditure represented personal expenditure of the Chairman. The Tribunal's findings on the foreign-event issue were not based merely on the existence of invoices. It considered the underlying event-related documentation, the purpose of the event, the nature of HMCL's business and the specific allegations made by the AO concerning the alleged diversion of funds. It held that the Revenue had not established the necessary nexus between the expenditure claimed by HMCL and any personal benefit received by the Chairman.

219. The Tribunal accordingly deleted the disallowance of Rs.5,32,30,532/- in the case of HMCL for AY 2017–18. The corresponding addition in the hands of the assessee, having been made solely on the basis of the disallowance in HMCL's assessment, cannot survive.

220. The Revenue has not brought any independent material to demonstrate that the foreign-event expenditure was incurred for the personal benefit of the assessee or that the assessee received any amount or amenity which could be taxed under section 17(2). No separate personal obligation of the assessee has been identified as having been discharged by HMCL. We accordingly delete the addition of Rs.5,32,30,532 made under section 17(2) of the Act. The assessee's grounds on this issue are allowed and revenue's grounds challenging the deletion by CIT(A) are dismissed.

221. The same findings as above shall apply mutatis mutandis to the corresponding foreign-event based perquisite addition u/s 17(2) of the Act in all connected assessment years of the assessee. The chart below provides the application of above findings to remaining years as well.

AY	**Appeal**	**Ground number**	**Amount**	**ITAT's finding**
2013-14	Assessee - ITA 4223/Del/2026	NA	-	NA

2014-15	Assessee - ITA 4234/Del/2026	NA	-	NA
2015-16	Assessee - ITA 4235/Del/2026	Grounds 2-2.6	₹4,02,39,040/-	The assessee's grounds are **allowed** and disallowance sustained by CIT(A) is deleted.
2016-17	Assessee - ITA 4236Del/2026	Grounds 2-2.5	₹4,53,58,109/-	The assessee's grounds are **allowed** and disallowance sustained by CIT(A) is deleted.
2017-18	Assessee - ITA 4237/Del/2026	Grounds 2-2.6	₹5,32,30,532/-	The assessee's grounds are **allowed** and disallowance sustained by CIT(A) is deleted.
2018-19	Assessee - ITA 4238/Del/2026	Grounds 2-2.5	-	The assessee's grounds are **allowed** and disallowance sustained by CIT(A) is deleted.
2019-20	Assessee - ITA 4239/Del/2026	Grounds 2–2.4	₹10,03,28,225/-	The assessee's grounds are **allowed** and disallowance sustained by CIT(A) is deleted.

222. Apart from the direct applicability of the findings in HMCL's case, we find that the addition made in the hands of the assessee is independently unsustainable under section 17(2).The AO has proceeded on the assumption that an expenditure disallowed in the hands of the employer must necessarily represent a perquisite in the hands of the employee. This approach is legally incorrect. The disallowance of expenditure under section 37(1) in the employer's assessment and the taxation of a perquisite under section 17(2) in the employee's assessment are governed by different statutory conditions.

223. Section 37(1) requires the employer to establish that expenditure was incurred wholly and exclusively for the purposes of its business. A disallowance may arise where the employer is unable to substantiate the business purpose or the allowability of an

expenditure to the satisfaction of the AO. Such disallowance does not, by itself, establish that the amount was paid to or for the personal benefit of a particular employee. For an addition under section 17(2), the Revenue must independently establish that the employee received a benefit or amenity, or that the employer discharged an obligation which was otherwise payable by the employee. The Revenue cannot substitute the test under section 37(1) for the statutory test under section 17(2).

224. The distinction is also supported by the decision of the Hon'ble Madras High Court in CIT v. A.R. Adaikappa Chettiar [1973] 91 ITR 90 (Mad). The Court held, in the context of the statutory provision concerning benefits obtained from a company, that a benefit or perquisite must be one which the company had agreed to provide and which the person concerned could claim as of right under an arrangement with the company. A mere advantage derived without the authority or knowledge of the company does not automatically constitute a taxable perquisite.

225. The relevant principle emerging from the aforesaid decision is that there must be a legally recognisable benefit or advantage provided by the company to the individual. A mere allegation that an employee has obtained an advantage from expenditure incurred by the employer is not sufficient. The Revenue must establish the nature of the benefit, the circumstances in which it was provided and the statutory provision under which it is taxable.

226. In the present case, the assessee's remuneration and perquisites were governed by the terms approved by the Nomination and Remuneration Committee, the Board of Directors and the shareholders in the Annual General Meeting. The Revenue has not identified any resolution, agreement or arrangement under which HMCL agreed to provide the disputed event or travel expenditure as a personal perquisite to the assessee. The AO has also not identified any specific personal obligation of the assessee which was discharged by HMCL. The expenditure on domestic and foreign events was incurred by HMCL in connection with its own business activities. The official travel of the assessee was undertaken in his capacity as Chairman and Managing Director. The Revenue has not demonstrated that the company paid any amount which the assessee would otherwise have been legally required to pay.

227. We therefore find that the statutory conditions of section 17(2) have not been satisfied. The addition cannot be sustained merely on the basis of the disallowances made in the employer's assessment. This finding is applicable to all connected years of the assessee.

228. With regard to next issue raised in ground nos. 1 to 3 by the Revenue in which it has also challenged the order of the CIT(A) deleting the addition of Rs.35,28,82,500/- made u/s 69 of the Act in respect of the land at Chhatarpur. The AO alleged that the assessee was the beneficial owner of the land and that the companies appearing in the transaction were merely conduit or pass-through entities.

229. However, ld. CIT(A), after considering the material placed on record and the assessee's explanation, deleted the addition. The relevant portion of CIT(A)'s detailed findings are reproduced hereunder:

> "5.8 I have carefully gone through the assessment records and the written submissions filed by the appellant. The entire dispute is regarding the investment made by the appellant along with his wife for purchase of land. The case of the assessing officer is that certain consideration was paid over and above the stated consideration, which finding is based on certain material gathered during the course of search carried out at in the case of Sh. Samir Thapar and his employees. Therefore, the issue for consideration is whether there is any material, whether direct or inferential, to indicate any cash investment by the appellant.
>
> 5.9 Before specifically dealing with the rival contentions, it is pertinent to analyse the relevant price and the date at which the transaction for purchase of land was undertaken by the appellant and his wife vis-à-vis the prevailing stamp duty paid on the basis of the applicable circle rate, which is tabulated hereunder:

S. No.	**Name of the Seller**	**Date of registry of sale deed**	**Area (in acres)**	**Purchase consideration (in Rs.) #**	**Value as per Sale Deed**	**Value for stamp duty (per acre)**	**Circle Rate (per acre)**
1	Glocera	28.03.2017	2.8229	19,40,45,790	18,30,61,970	6,48,48,521	1,50,00,000
2	Apple	01.05.2017	3.7500	26,63,65,562	25,12,88,081	6,70,10,155	1,50,00,000
3	Labhlaxmi	17.11.2017	3.5417	6,87,35,490	6,48,43,950	1,83,08,880	53,00,000

#includes stamp duty and other expenses paid

5.10 From the aforesaid table, it is noticed that the actual consideration for purchase of land as per the sale deed is much higher than the applicable stamp duty value. For example, in case of purchase of land from Glocera, the applicable stamp duty value/ circle rate per acre is Rs. 1.5 crs per acre whereas the appellant has paid stamp duty at the actual consideration of Rs. 6.48 crs per acre, which is more than 4 times the stamp duty/circle rate of the land. It is similarly noticed in the case of land purchased from two other companies, viz., Apple and Labhlaxmi. This aspect is important since the stamp duty value is recognized by law, in particular for tax purposes, as reflective of the fair market value of the property, unless there is any material/ evidence to the contrary. For this purpose, one may refer to the provisions of section 50C which statutorily treats value adopted for stamp valuation purposes as fair market value and consequently, the deemed consideration in case the actual consideration is less than the value adopted for stamp duty purposes; there is similar provision in section 56(2)(x) wherein the difference between stated consideration and the stamp duty value is deemed as income by treating the latter as fair market value.

5.11 Thus, the tax laws statutorily recognize(s) stamp duty value as the fair market value of the immovable property. Now the question that arises is whether is there any cogent material/evidence to suggest any undisclosed payment by the appellant to make any addition on account of undisclosed investment u/s 69 of the Act. It is seen that the entire payment for purchase of immovable property was made by the appellant and his wife through regular banking channels. On a careful perusal of the material on record, it is noticed that no evidence has been brought on record by the assessing officer to even suggest that any consideration/money has been paid in cash by the appellant and his wife over and above the registered sale consideration. In fact, it is an admitted position that no evidence, whatsoever, has been found during the course of search conducted on the appellant. In the entire assessment order, there is no reference to any material found during the course of search on the appellant. Rather, the material relied upon by the assessing officer are certain loose sheets and one agreement to sell which is stated to have been found during an earlier search conducted on Sh. Samir Thapar. It is the case of the appellant that he had no dealing whatsoever with Sh. Samir Thapar and it is the case of the appellant that the transaction was with three companies mentioned above. It is pertinent to note that the said loose sheets and agreement to sell were all found during the search on Mr. Thapar and the agreement reproduced in the assessment order do not, it is noticed, even contain the name of the appellant.

5.12 In the aforesaid factual background, it is important to analyse the material relied upon by the assessing officer as under:

(a) The assessing officer has primarily relied upon certain loose sheets which were apparently found from the possession of Mr. Vinod Singhal who is stated to be Ex-CFO of JCT Limited, a company part of the Thapar Group. Strangely, Mr.

Vinod Singhal denied being the author of the loose sheets and stated that the sheets were prepared by some staff of Sh. Thapar. It is thus unclear who is the author of the so-called loose sheets. Moreover, Mr. Vinod Singhal stated that the sheet refers to cash received from some Mr. Samant Barara against some transaction of land which was subsequently cancelled. He also clarified that he was not involved in transaction of sale of Chhatarpur land. Thus, it is evident that Mr. Singhal is not the author, he denied being involved in the transaction of Chhatarpur Land, stated that the cash was received from some Samant Barara - there is thus no reference/ whisper to the appellant or his wife in any of the said material relied upon;

(b) Mr. Samir Thapar in his statement categorically stated that documents seized from premises of Sh. Singhal do not pertain to the transaction of sale of land at Chhatarpur and has denied receipt of any cash much less from the appellant. Rather he also referred to certain transaction with Samant Barara and denied having received any cash. Most importantly, there is no reference to the appellant or his wife in the statement of Mr. Thapar at no stage Mr. Thapar stated having entered into any transaction with the appellant or his wife.

(c) Further, it is also seen that the date of alleged payment of cash as per loose shccts ranges from 21.03.2016 to 01.11.2016, while sale deeds between Labhlaxmi and Thapars was allegedly entered on 14.09.2015 and 21.04.2016 and the appellant and his wife purchased land from M/s Labhlaxmi vide sale deed dated 17.11.2017; no prudent person would, after having paid the cash, defer the execution of the sale deed. There is a gap of over a year in the two sale transactions and thus, the conclusion of the assessing officer that the two transactions are interlinked is far-fetched.

(d) In view of the aforesaid, vague statement of Mr. Vinod Singhal, which was not even subjected to cross-examination and does not even refer/ name the appellant or his wife, cannot be the basis for imputing the loose sheets to the appellant's independent and completely separate transaction of purchase of Chhatarpur land. Importantly, the loose sheet does not contain any reference to the Chhatarpur land and/ or the appellant and none of the persons, viz., Vinod Singhal or Mr. Samir Thapar, whose statements are referred in the assessment order, named the appellant and/ or his wife.

(e) There is reference to some statement of Sh. Barara which again has no connection with the appellant and nowhere refers to any cash being paid on behalf of or on instructions of the appellant. In fact, his role itself is unclear from the entire records- it appears that he had purchased and thereafter, sold the very same property to Sh. Thapar for Rs.4-5 crores whereas now he is claiming that the market value of the property is Rs.18-20 crores per acres. As regards, statement of Sh. Sidharth Sethi, the assessing officer in the remand report has stated that he is son of Late Sh. Titu Sethi who was a broker and it is Sh. Sidharth Sethi, who

provided singed copy of the ATS mentioning total cost of Rs.82.25 crores. Sh. Sidharth Sethi is also stated to be a witness. This aspect has been disputed by the appellant. On perusal of the extracts of the ATS reproduced in the assessment order, it is however noticed that there is no reference to Sh. Titu Sethi and/or 9h. Sidharth Sethi therein. There are two witnesses mentioned and the name of one of person is not clear and other person appears to be one Sh. J.K. Gupta resident of Shahdara, Delhi-82. Similarly, Sh. Siddhartha Sethi, who is a witness in the sale deed entered between from Thapars to M/s Labhlaxmi claims in his statement that market value of property was Rs. 15-20 crores/ acres at time of sale.

(f) Other statements relied upon by the assessing officer are that of Sh. Sanjeev Khullar, who is stated to be an employee of Sh. Ajit Singh, one of the directors in two of the three companies, i.e., M/s Glocera and M/s Labhlaxmi. It is the case of the assessing officer that relying upon the statements of Sh. Sanjeev Khullar and Sh. Ajit Singh, it is contended that the intermediary companies were merely dummy companies. On the other hand, the appellant vehemently objected to the such inference by contending that Sh. Sanjeev Khullar in his statement, nowhere stated that he is an employee of Sh. Ajit Singh. The appellant further stated that he is not aware of the status of Sh. Sanjeev Khullar and the said person is not at all relevant to the transaction under consideration. As regards, statement of Sh. Ajit Singh, it is contended by the appellant that in his reply to question No.32, Sh. Ajit Singh stated that he acquired the companies from market through his Chartered Accountant and the manner of acquisition of the companies by Sh. Ajit Singh cannot be a ground to doubt the transaction of the appellant. As regards, the statement of Sh. Amarjeet Singh Sethi, while the assessing officer relied upon his statement to contend that he admitted knowing Sh. Pawan Munjal and being involved with the three companies, the appellant on the other hand contended that there is nothing in his statement to draw any adverse inference against the appellant. To put it simply, these three statements have been relied upon by the assessing officer to primarily harp upon the contention that the three companies from whom the appellant and his wife acquired the farm land were merely dummy companies. On careful consideration, it is noted that there is no dispute that the land was transferred and registered in the name of three companies, which discharged the consideration to the Thapars and their company called Provestment, much prior to the payment being made by the appellant and his wife to the three companies. On the basis of the exact dates of payments of the transactions between the Thapars/Provestment and the three companies viz-a-viz, the transactions between the three companies and appellant and his wife, it is clear that the payments were made by the three companies for purchase of the farm land out of their own resources. Rather, the assessing officer in the remand report and the assessment order has proceeded on the wrong factual premise that the payments by the three companies to Thapars were made after having received the payments from the appellant and his wife. In this regard, the dates of payments and the dates of transactions are not in dispute. In these circumstances, the

contention that the three companies from whom the appellant purchased the land were merely dummy entities created to facilitate the transaction is clearly contrary to the facts available on record.

(g) It appears that the assessing officer is relying upon mere perception of market value of Chattarpur land by various third parties which is not corroborated by any evidence. In any case, ex-parte statements of third parties cannot be relied upon without bringing on record any corroborative material and without providing any opportunity of cross- examination and despite the fact that the statements nowhere lead to even a suspicion of the appellant or his wife having paid any cash over and above the disclosed consideration.

(h) As regards the relied upon agreement to sell, it is noticed that the agreement relates to sale of 5.41 acres of land between Sh. Samir Thapar/M/s Provestment to M/s Labhlaxmi out of which sale of 3.54 acres of land between Sh. Samir Thapar and M/s Labhlaxmi has only materialized which was subsequently purchased by the appellant. The payments in loose sheets are for periods ranging from 20.02.2015 to 1.11.2016 whereas as per the agreement to sell, the instalments were to be paid from 24.04.2015 to 25.08.2016. The agreement is stated to be signed by Mr. Samir Thapar only. Once the document itself is not signed by both the alleged buyer and the seller, the said document itself loses its sanctity. That apart, the agreement nowhere refers to appellant or his wife. Moreover, the person who has signed the document, i.e., Mr. Samir Thapar, denied, as noticed earlier, any involvement of cash at all. In any case, the said document cannot be relied upon against the appellant or his wife since there is no reference to them therein.

(i) It is further strange that the AO has treated the entire value relating to 5.41 acres as per agreement to sell as alleged consideration paid by appellant even though transaction of balance 1.87 acres has not even been concluded. Moreover, it is further seen that while the agreement to sell relates to sale transaction in respect of property purchased by Labhlaxmi, the assessing officer has blindly and mechanically applied the alleged market value computed therefrom to properties purchased from other two companies, i.e., Glocera and Apple, in respect of which admittedly there is no material at all found during the course of search. (j) In view of above, I find that the entire case set up by the assessing officer is based on generalizations and statements of third parties despite the fact that none of the statements refers to the appellant or his wife, none of the statements connect with transaction of the appellant with three companies, none of the statements have been subjected to cross-examination, none of the statements refers to any cash being paid by the appellant. The assessing officer has, apart from general observations, failed to bring on record any material/ evidence showing any movement of cash from appellant or his wife in respect of the property transaction, which is paramount before making any addition under section 69 of the IT Act. Even the ex-parte statements relied upon by the assessing officer are

general, suffer from various inconsistencies and most importantly, do not substantiate that the appellant or his wife paid any consideration in cash over and above the registered sale deed.

(k) As regards, the allegation of the AO that the three companies were merely a conduit and pass-through entities formed only for the purpose of purchasing land from the Thapar family to be sold to the real buyer i.e. the appellant who is the beneficial owner of the said properties, it is seen that three companies are independent third parties not related to the appellant. It is also seen that Sh. Ajit Singh, who is a Director in the said companies, has in his statement admitted that the three companies were acquired for the purpose of purchasing land from the Thapars for trading purpose and funds were arranged from the market as loan/ borrowing. I have also perused the details of payment made by three companies to Thapars and payment made by appellant to the three companies tabulated hereunder, it is seen that the appellant had made payment to M/s Labhlaxmi after 1 year 6 months from the date on which payment was made by M/s Labhlaxmi to the Thapars. Similarly, the appellant has made payment to M/s Apple and M/s Glocera only after complete payment was made by said companies to the Thapars.

Re: Land purchased from Glocera

S No	Details of Transaction	Date of registry of sale deed	Area (in acres)	Amount of Registry	Date of payment
1	Sold by Tiny Thapar to Glocera	02-05-2014	2.82	16,93,75,000	13.04.2014 to 02.05.2014
2	Sold by Glocera to Munjala	13-03-2017	2.82	18,12,31,350	27.06.2014 to 26.08.2014

Re: Land purchased from Apple

S No.	Details of Transaction	Date of registry of sale deed	Area (in acres)	Amount of Registry	Date of payment
1	Sold by Tiny Thapar to Apple	01-09-2014	3.75	23,25,12,100	16.07.2014 to 18.08.2014
2	Sold by Apple to Munjalas	10-03-2017	3.75	24,87,75,200	12.09.2014 to 20.03.2015

Re: Land purchased from Labhlaxmi

S No.	Details of Transaction	Date of registry of sale deed	Area (in acres)	Amount of Registry	Date of payment

1	Sold by Samir Thapar to Labhlaxmi	14.09.2015 and 21.04.2016	3.54	5,31,25,000	02.11.2015 to 21.04.2016
2	Sold by Labhlaxmi to Munjalas	17.11.2017	3.54	6,41,95,510	09.11.2017

(l) On perusal of the aforesaid, it is clear that while the payments were made by the appellant and his wife to M/s Glocera from 27.06.2014 to 26.08.2014 whereas M/s Glocera made payment earlier to payments made by the appellant i.e. during the period from 13.04.2014 to 02.05.2014. Similarly, M/s Apple paid consideration to Thapars from 16.07.2014 to 18.08.2014 whereas the appellant and his wife paid made payments from 12.09.2014 to 20.03.2015. In the third case also, M/s Labhlaxmi made payment to Thapars during period from 02.11.2015 to 21.04.2016 whereas the appellant and his wife made payment after more than a year on 09.11.2017. The details of these payments therefore clearly established the factual misconception on which the assessing officer proceeded. It is clear that the payments by the appellant and his wife to the three companies was not at all a source of payment by the three companies to Thapars and their company for purchase of farm land.

(m) Thus, the allegation of the AO that money was allegedly provided by the appellant and his wife for purchase of property and the companies were merely pass-through entities, is completely based on no material.

(n) In issues like the present one where the most critical and cogent material required to make any addition is evidence of the assessee having paid any consideration over and above the consideration stated in the sale documents. On a careful analysis discussed earlier, it is patently clear that the stated value of consideration at which, the farm land was purchased by the appellant and his wife from the three companies was far in excess of the notified circle rates for the purpose of payment of stamp duty. As stated in the earlier part of my findings, the law again in particular, the Income Tax Act recognizes and treats value adopted for stamp duty purposes as prima-facie evidence of the fair-market value of the immovable property. Therefore, at the first instance, one cannot fault with the purchase consideration at which the appellant and his wife purchased a farm land from the three companies. Further, on analysis of the dates of payments discussed above, it is clear that the three companies independently and separately acquired the farm land from Thapars and his company prior to any payment being made by the appellant and his wife. Therefore, the entire basis of the assessing officer seek to draw some inferences from the so-called transactions between the three companies and the Thapars is faulty. To draw adverse inference qua the transaction between the three companies and the appellant and his wife is not proper. Most importantly, on careful consideration of the entire fact, it is noticed by the undersigned that there is no material whatsoever on record to show that any payment was made by the appellant and his wife over and above the stated consideration. It is a matter of record that the appellant was subjected to search and seizure operation under section 132 by the Income Tax Department and even during the course of search in the case of the appellant nothing was found to indicate any payment having been made by the appellant over and above stated consideration. The Hon'ble Supreme Court in its landmark decision in the case of K.P. Varghese vs. ITO (1981) 131

> ITR 597 categorically held that making for any addition there must be clear and positive evidence of the assessee having paid any consideration over and above the stated consideration. In the present case, despite there being search in the case of the appellant, there is no material to show any payment having been made above the stated consideration. One cannot lose sight of the fact that the quantum alleged is substantial and therefore it is difficult to believe that had there been any such actual payment made nothing would have been found during the course of search. Rather, once a search is conducted under section 132 and no material/ evidence is found to suggest that the searched party had made any payment over and above the stated consideration, it may not be proper to rely upon any inferential material. The various documents/ material relied upon by the assessing officer have already been discussed in the earlier paragraphs which clearly show that there is no material/ evidence to show any payment having been made by the appellant over and above the stated consideration.
>
> 5.13 Having regard to the aforesaid and in the cumulative facts and circumstance, on a careful consideration of the material available on records and reasoning given above, I am of the considered view that the entire addition of Rs. 35,28,82,500/- made by AO u/s 69 of the Act as unexplained investment in land on the ground that the appellant paid cash over and above the stated consideration is without reference to any material at all. There is no material/ information/ evidence to suggest any cash having been paid by the appellant for the purpose of purchase of immovable property and therefore, the addition made by the AO is completely unsustainable and is hereby directed to be deleted."

230. We noticed that the Revenue has not demonstrated any error in the factual findings recorded by the CIT(A). Section 69 can be invoked only where the AO finds that the assessee has made an investment which is not recorded in the books of account, if any, maintained by the assessee, and the assessee either offers no explanation about the nature and source of the investment or the explanation offered is not satisfactory. The foundational requirement is that the investment must be shown to have been made by the assessee.

231. The burden is, therefore, upon the Revenue to establish, through cogent material, that the assessee made the investment or that the investment was in substance made by the assessee notwithstanding the form in which the transaction was documented. A mere allegation that the assessee was the beneficial owner, or that the corporate entities involved were conduit entities, cannot substitute for evidence establishing the source of the investment and the assessee's actual role in the transaction. The assessee's submissions before the CIT(A) and before us are that the land was purchased at an arm's-length consideration, that the consideration was higher than the applicable circle rates and

comparable transactions in the vicinity, and that the AO's allegation of an undisclosed cash component was based upon loose sheets and an agreement to sell found during the search of an unrelated third party.

232. The assessee has further contended that the document relied upon by the AO was not an agreement executed by the assessee and did not establish that the assessee had paid any amount over and above the consideration recorded in the registered sale deeds. No independent evidence of cash payment by the assessee has been brought on record. We find that the Revenue has not established the necessary link between the third-party document and the actual transactions undertaken by the assessee. The existence of a loose sheet or an agreement between third parties, without corroborative evidence showing that the assessee paid the alleged additional consideration, cannot form the sole basis for an addition u/s 69 of the Act. The allegation that the companies involved were merely conduit entities also requires evidence. The corporate form cannot be disregarded merely on the basis of suspicion or an inference drawn from the relationship between the parties. The Revenue must establish that the companies did not act on their own account and that the investment was actually funded or made by the assessee.

233. The principles laid down in CIT v. P.V. Kalyanasundaram [2007] 294 ITR 49 (SC), concerning the evidentiary value of loose papers and the need for corroboration before drawing an adverse inference regarding undisclosed consideration, are relevant. Similarly, the Tribunal's decision in Amarjit Singh Bakshi (HUF) v. ACIT [2003] 86 ITD 13 (Delhi) (TM) emphasises that an addition cannot be sustained merely on the basis of a third-party document without establishing its connection with the assessee and the actual transaction.

234. The assessee has also furnished a detailed alternative computation identifying errors in the AO's working in relation to the transactions with Labhlaxmi, Glocera and Apple. However, since the foundational allegation that the assessee made an unexplained investment has not been established, it is not necessary to adjudicate the alternative computational objections.

235. Therefore, we find no infirmity in the order of the CIT(A) deleting the addition of Rs.35,28,82,500 u/s 69 of the Act. The Revenue has failed to discharge the burden of establishing that the assessee made any unexplained investment over and above the consideration recorded in the relevant transactions.

236. We further reiterate that the assessee, his wife Mrs. Aniesha Munjal and the company he works in viz. HMCL were searched u/s 132 of the Act and yet during the course of the search and subsequent assessments no undisclosed asset or incriminating documents were found, so as to suggest any undisclosed income in their hands. Second very important factor is that the assessee is a whole time chairman and managing director of a large listed company and derives most of his income under the head 'income from salary'. No cash dealing or access to cash has been found by the revenue in his or his wife's or in the hands of the company, HMCL. Therefore, it is quite evident to us that allegation of cash payment by the assessee and his wife are not borne out from the records. For this reason, as well we are of the firm opinion that the revenue's appeal need to be dismissed as it has not proved that the assessee and his wife had access to cash as alleged in the grounds raised.

237. Therefore, the Revenue's grounds relating to the addition u/s 69 of the Act are accordingly dismissed and consequently the appeal preferred by the revenue is dismissed.

238. The same findings as above shall apply mutatis mutandis to the corresponding additions u/s 69 of the Act in all connected assessment years of the revenue's appeal. The chart below provides the application of above findings to remaining years as well.

ASSESSMENT YEAR	**Appeal of revenue**	**Ground number(s)**	**Amount**	**ITAT finding**
2015-16	Assessee - ITA 4235/Del/2026	-	-	NA
	Revenue - ITA 7976/Del/2026	Grounds 1-3	₹2,99,00,000/-	Revenue's grounds are **dismissed** and deletion of disallowance made by the

				CIT(A) is upheld.
2016-17	Assessee -ITA 4236/Del/2026	-	-	NA
	Revenue - ITA 7993/Del/2026	Grounds 1-3	₹20,04,75,000/-	Revenue's grounds are **dismissed** and deletion of disallowance made by the CIT(A) is upheld.
2017-18	Assessee - ITA 4237/Del/2026	-	-	NA
	Revenue - ITA 7994/Del/2026	Grounds 1-3	₹35,28,82,500/-	Revenue's grounds are **dismissed** and deletion of disallowance made by the CIT(A) is upheld.
2018-19	Assessee - ITA 4238/Del/2026	-	-	NA
	Revenue - ITA 8161/Del/2026	Grounds 1-3	₹9,39,53,025/-	Revenue's grounds are **dismissed** and deletion of disallowance made by the CIT(A) is upheld.

239. In the result, all appeals of the assessee for all assessment years under consideration are allowed and all appeals of the Revenue for such assessment years are dismissed.

Order pronounced in the open court on this 20th day of November, 2026

Sd/-	**sd/-**
(MAHAVIR SINGH)	**(S. RIFAUR RAHMAN)**
VICE PRESIDENT	**ACCOUNTANT MEMBER**

Dated : 20.11.2026
TS

Copy forwarded to:

1. assessee
2. Respondent
3. CIT
4. CIT(Appeals).
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT, NEW DELHI