

**INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "c": NEW DELHI
BEFORE SHRI CHALLA NAGENDRA PRASAD, JUDICIAL MEMBER
AND
SHRI M. BALAGANESH, ACCOUNTANT MEMBER**

ITA Nos. 1317 to 1324/Del/2025
(Assessment Years: 2016-17 to 2023-24)

DCIT, New Delhi	Vs.	Malhotra Cables Pvt. Ltd, 69/2A, Najafgarh Road Industrial Area, Moti Nagar, Delhi
(Appellant)		(Respondent)
		PAN: AAACM8040P

ITA Nos. 1108, 1107, 1097 and 1102/Del/2025
(Assessment Years: 2019-20, 2020-21, 2021-22 & 2023-24)

Malhotra Cables Pvt. Ltd, 69/2A, Najafgarh Road Industrial Area, Moti Nagar, Delhi	Vs.	DCIT, Central Circle-7 New Delhi
(Appellant)		(Respondent)
PAN: AAACM8040P		

Assessee by :	Shri Gaurav Jain, Adv Shri Tarun Chanana, Adv
Revenue by:	Smt Kranti, CIT (DR)
Date of Hearing	27/01/2026
Date of pronouncement	11/03/2026

O R D E R

PER BENCH

1. These are the cross appeals filed by the assessee and the revenue for AYs 2016-17 to 2023-24 arises out of the order of the Id Commissioner of Income Tax (Appeals)-24, New Delhi [hereinafter referred to as 'Id. CIT(A)', in short] against the order of assessment passed u/s 143(3) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') by the Assessing

Officer, DCIT, Central Circle-7, New Delhi (hereinafter referred to as 'Id. AO').

2. These are cross appeals preferred by the revenue and Assessee for various assessment years emanating from the separate orders passed by the Commissioner of Income Tax (Appeals)-24, New Delhi,[hereinafter referred to as Learned CIT(A)] as under:-

S. No.	Assessment Year	Department Appeal	Assessee Appeal
1.	2016-17	1317/Del/2025	NA
2.	2017-18	1318/Del/2025	NA
3.	2018-19	1319/Del/2025	NA
4.	2019-20	1320/Del/2025	1180/Del/2025
5.	2020-21	1321/Del/2025	1170/Del/2025
6.	2021-22	1322/Del/2025	1097/Del/2025
7.	2022-23	1323/Del/2025	NA
8.	2023-24	1324/Del/2025	1102/Del/2025

3. We find that the revenue had preferred an appeal for Assessment Year 2016-17 against the order passed by the Learned CIT(A) deleting the additions made by the Learned AO on an estimated basis for unaccounted business receipts. The Learned CIT(A) deleted the same for want of incriminating material found during the course of search qua the completed assessment for Assessment Year 2016-17. Aggrieved, the revenue is in appeal before us. We find that there is no dispute with regard to the fact that there was absolutely no incriminating material found during the course of search for Assessment Year 2016-17. The provisions of section 149(1)(b) of the Act mandate the existence of incriminating material found during the course of search which constitutes income and which is represented in the form of an asset, expenditure etc. Accordingly, the ratio decidendi of Hon'ble Supreme Court in the case of Abhishar Buildwell Pvt Ltd reported in 454 ITR 212(SC) would be applicable even for 147 assessments framed consequent to search where 3 years had elapsed from the end of the

relevant assessment year. Admittedly, there was no proceeding pending for Assessment Year 2016-17 as on the date of search on 12-12-2022. Hence Assessment Year 2016-17 falls in the category of completed assessment as on the date of search and also falls beyond 3 years from the end of the relevant assessment year, when notice under section 148 of the Act was issued. Hence as per the decision of the Hon'ble Supreme Court in the case of Abhishar Buildwell P Ltd reported in 454 ITR 212 (SC), no addition could be made in a completed assessment unless there is any incriminating material found during the course of search qua the issue and qua the assessment year. The Learned CIT(A) had adjudicated this issue by observing as under:-

"4.4.1 In Ground Nos. 3 and 5 of appeal, the appellant company has contended that the Assessing Officer has erred in law and on facts in making an addition of Rs. 3,35,88,000/- by applying the Gross Profit @ 46.65% to the sum of Rs. 3,35,88,000/- received in the bank account of Sh. Rajiv Malhotra and Smt. Aditi Malhotra, treating it as payment against the alleged bogus purchase made by the appellant company resulting in shortfall of copper consumption, without any incriminating material/evidence.

4.4.2 In respect of these grounds, I have perused the assessment order and the detailed written submission along with paper book filed by the appellant company. The appellant company submitted that during the year under consideration, a sum of Rs. 2.30 crores and Rs. 4.90 crores were received by Sh. Rajiv Malhotra and Smt. Aditi Malhotra respectively in their personal bank account from Sh. Vijay Kumar Gulati. In support thereof, the appellant company vide its submission dated 23.12.2024, filed a copy of the bank statement of Sh. Rajiv Malhotra, Smt. Aditi Malhotra and Sh. Vijay Kumar Gulati. On the perusal of the bank statement, it was seen that the credits in the bank account of Sh. Rajiv Malhotra and Smt. Aditi Malhotra were from Sh. Vijay Kumar Gulati. Further, the appellant company filed the details of parties with whom the purchases were made and it was claimed that Sh. Vijay Kumar Gulati has no relation with these companies. Thus, there was no nexus or correlation between the credits in the bank account of Sh. Rajiv Malhotra and Smt. Aditi Malhotra with the appellant company.

4.4.3 In this regard, the appellant company further submitted that the additions were made only on the basis of Exhibit-2 of the notice issued u/s 142(1) of the Act wherein no amount pertained to the year under consideration. In support thereof, vide submission dated 23.12.2024, the appellant company submitted a summary of the transaction as appearing in the said Exhibit-2 which has been relied upon by the AO in its assessment order. On perusal of the Exhibit-2 of the notice u/s 142(1) dated 24.02.2024 issued for the A.Y. 2016-17, it is found that in the said Exhibit, the assessing officer made an attempt to create a nexus between certain payments made by the appellant company from its bank accounts and the amounts received in the personal bank accounts of directors of the company and their family members. However, it is noticed that the amounts referred to in the said Exhibit pertain only to the year 2019 and 2022 and no amount mentioned therein pertained to the year under consideration.

4.4.4 Further, no incriminating material/ evidence was either found during the course of the search or the post-search proceedings to corroborate the contention of the Assessing Officer and also, no evidence was referred to in the assessment order to establish the nexus of payments made by the appellant company against the purchases and the amounts received in the bank of Sh. Rajiv Malhotra and Smt. Aditi Malhotra during the year under consideration.

4.4.5 It is further noticed that neither any incriminating material or evidence found during the search or post-search proceedings was placed on record, nor any evidence was referred to by the assessing officer in the assessment order, except the Exhibit-2 (discussed above), the transactions in which were not found related to the year under consideration. Therefore, in the absence of any evidence available with the Assessing Officer to substantiate its contention, the amount of Rs. 2.30 crores and Rs. 4.90 crores received in bank account by Sh. Rajiv Malhotra and Smt. Aditi Malhotra respectively during the A.Y. 2016-17, cannot be treated as bogus purchases made by the appellant company.

4.4.6 Based on the submission as well as documents available on record, it is further observed that during the A.Y. 2016-17, the appellant company has not made any purchases from the entities linked to Sh. Vijay Kumar Gulati, from whom amount of Rs. 2.30 crores and Rs. 4.90 crores were received by Sh. Rajiv Malhotra and Smt. Aditi Malhotra respectively. Therefore, there were no such purchases that could be linked with the amount received in the bank account of Sh. Rajiv Malhotra amounting to Rs. 2.30 Crore and Smt. Aditi Malhotra amounting to Rs. 4.90 Crores in A.Y. 2016-17

4.4.7 Therefore, it is concluded that there is no evidence to establish the link between purchases made by the appellant company and amounts received in the bank accounts of Sh. Rajiv Malhotra and Smt. Aditi Malhotra during the A.Y. 2016-17. Accordingly, the addition of Rs. 3,35,88,000/- made by the Assessing Officer as unaccounted business income u/s 28 of the Income Tax Act is deleted. Accordingly, Ground Nos. 3 and 6 are hereby allowed.

4. None of the aforesaid factual findings of the Learned CIT(A) had been controverted by the revenue before us by bringing contrary evidences on record. Hence we do not find any infirmity in the order of the Learned CIT(A) in this regard. Accordingly, the grounds raised by the revenue for Assessment Year 2016-17 are dismissed.

5. In the result, the appeal of the revenue for Assessment Year 2016-17 in ITA No. 1317/Del/2025 is dismissed.

6. With the consent of both the parties, the facts of Assessment Year 2022-23 are taken as the lead case and the decision rendered thereon shall apply mutatis mutandis for other assessment years also except Assessment Year 2016-17 and except with variance in figures.

7. We have heard the rival submissions and perused the materials available on record full stop. The assessee is engaged in the business of manufacturing and trading of copper wires and cables. A search and seizure operation was conducted under section 132 of the Act on the assessee on 12-12-2022 at the business premises of the assessee company along with residential premises of its Directors / Employees. Notice under section 143(2) of the Act stood issued to the assessee for the year of search and notice under section 148 of the Act stood issued to the assessee for earlier years pursuant to the search. During the course of search at the business premises of the assessee company as well as the residential premises of the Directors / Employees, various incriminating documents and digital data

were found in the form of WhatsApp chats and images containing the hand written slips found and seized from the mobile phone of Director and other employees of the company reflecting the receipt and payment in the form of unaccounted cash generated from the bogus purchases as well as sale of scrap outside the books of account. Further the search findings reveal that the assessee company was declaring higher process losses at each stage of production resulting in generation of excess scrap being sold outside the books of account. At the time of search, statements of several key persons were also recorded which corroborated the search findings emanating from the seized data. Accordingly , in respect of excess copper consumption and sale of scrap, the unaccounted income was worked out by the Learned AO for various years as under:-

S. No.	Assessment Year	Value of Copper (in Rs.)
1.	2015-16	1,00,00,000
2.	2016-17	7,20,00,000
3.	2017-18	6,25,67,679
4.	2018-19	8,92,92,393
5.	2019-20	15,00,41,251
6.	2020-21	38,29,06,986
7.	2021-22	25,94,20,079
8.	2022-23	20,30,47,854
9.	2023-24	29,09,10,994
	TOTAL	1,52,01,87,166

8. The Learned AO from the seized documents found during the course of search, noted that assessee had made purchases of Rs 90,74,15, 580 from certain parties and payments were made to those parties through regular banking channels, but factually the goods were supplied to the assessee by different parties. Accordingly, the learned AO proceeded to consider the same as bogus purchases. The list of parties are enclosed in

pages 15 and 16 of the assessment order in a tabular form totaling to Rs 90,74,15,580. Further purchases aggregating to Rs 21,70,13,960 were allegedly made for all the years under consideration outside the books out of cash which was generated from sale of copper scrap. The evidence in this regard for cash purchases was found during the course of search. Accordingly, the learned AO arrived at the total purchases of Rs 112,44,29,540 (90,74,15,580 + 21, 70,13,960) as unaccounted purchases which would be eligible for grant of deduction out of the unaccounted income of Rs 152,01,87,166 arrived herein above. The unaccounted income figure of Rs 152,01,87,166 and unaccounted purchases of Rs 112,44,29,540 are not in dispute before us. The Learned AO accordingly worked out the gross profit for each year. The highest of gross profit was worked out at 46.65% for Assessment Year 2020-21, which was taken as sacrosanct and applied by the Learned AO for all the years under consideration and revised gross profit figures arrived by him. From this arrived gross profit for each year, the Learned AO further granted deduction towards salaries and wages totalling to Rs 30,99,61,802 as tabulated below:-

Asst Year	Amount of Salaries & Wages
2018-19	8,03,19,330
2019-20	8,26,08,565
2020-21	8,80,92,361
2021-22	4,15,19,102
2022-23	<u>1,74,22,445</u>
	Rs 30,99,61,802

8.1. The aforesaid figure of salaries and wages of Rs 30,99,61,802 has been duly granted deduction by the Learned AO and there is no dispute on the same.

9. The unaccounted income figure of Rs 152,01,87,166 includes amounts added towards sale of scrap of Rs 47,02,45,231. This fact is also admitted by the Learned AO in his assessment order at Para 14 . Having stated so, still the Learned AO proceeded to make separate addition on account of sale of scrap of Rs 47,02,45,231 for the years under consideration. This was deleted by the Learned CIT(A). We hold that the order of the Learned CIT(A) is correct in this regard and does not require any interference with regard to sale of scrap.

10. As stated earlier, the Learned AO took the highest gross profit percentage of 46.65% and uniformly applied the same on the unaccounted business receipts of Rs 152,01,87,166 and arrived at the gross profit for various assessment years. This action was condemned by the Learned CIT(A) and gross profit percentage was reduced by Learned CIT(A) to 12.5% based on the decision of Hon'ble Gujarat High Court in the case of CIT vs Simit P Sheth reported in 356 ITR 451 (Guj) and CIT vs Bholanath Polyfab P Ltd reported in 355 ITR 290 (Guj), among other decisions.

11. We find that the assessee had in the revised computation of income for various assessment years had further claimed deduction on account of business promotion expenses of Rs 5,84,67,950 and other business related expenses of Rs 1,63,97,796. The submission of the assessee is that the said business promotion and other business related expenses are also reflected in the same seized documents found during the course of search which admittedly contained unaccounted receipts, unaccounted purchases, unaccounted salaries and wages and unaccounted business promotion and other expenses. Out of the total business promotion expenses found in the seized documents to the tune of Rs 11,15,67,950, the assessee had identified only those expenses that are actually relatable to the business of

the assessee and claimed the same as deduction in the sum of Rs 5,84,67,950 . It was submitted by the assessee that the differential sum of 5,31,00,000 (11,15,67,950 - 5,84,67,950) was not relatable to the business of the assessee and hence not claimed as deduction in the revised computation of income filed during assessment proceedings. Accordingly, it was pleaded by the assessee that the computation of net profits should be carried out based on the seized materials found during the course of search. Eventhough the business promotion expenses and other business related expenses were found reflected in the very same seized documents found during the course of search, both the lower authorities refused to grant deduction for the same while computing the net profit for various assessment years as above. Now the short point that arises for our consideration are two fold:-

- a) Whether gross profit rate reduction from 46.65% to 12.5% uniformly for all the assessment years under consideration is in order?
- b) Whether net profit is to be computed as per the seized documents after granting deduction of business promotion expenses and other business related expenses reflected in the very same seized documents ?

12. It is trite law that search assessments are to be framed based on the documents found and seized during the course of search. It is not in dispute that the seized documents do contain the details of unaccounted business receipts including sale of scrap, unaccounted purchases, unaccounted salaries and wages , unaccounted business promotion expenses , unaccounted other business related expenses and unaccounted personal expenses. The source of incurrance of all these expenses are not in dispute before us as all business and non-business related expenses are duly met out of unaccounted receipts. The sole dispute in the cross appeals

for various assessment years is computation of net profit for all the years under consideration . The Learned AR before us submitted that the revised computation of income filed before the Learned AO in the assessment proceedings were prepared based on the actual figures reflected in the seized documents and hence the profitability of each year is to be determined based on those actual data reflected in the seized documents and not based on any estimation of gross profit percentage , be it either 46.65 % or 12.5% , as the case may be. He also drew our attention to Page 44 Para 31 of the assessment order framed for Assessment Year 2022-23 where these actual profitability workings were given by the assessee before the Learned AO. For the sake of convenience, the said profitability statement is reproduced below:-

ANNEXURE C

BEFORE THE INCOME TAX APPELLATE TRIBUNAL, DELHI, "C" BENCH
IN THE MATTER OF:
MALHOTRA CABLES PRIVATE LIMITED
PAN:AAACM8040P AY:2016-17 TO 2023-24

Computation of Voluntarily Disclosure Sheet								
Particulars	AY 2017-18	AY 2018-19	AY 2019-20	AY 2020-21	AY 2021-22	AY 2022-23	AY 2023-24	Total
Receipt for Supplier	35,194,700.00	44,100,000.00	81,687,000.00	197,730,180.00	189,561,416.00	146,299,729.00	212,842,555.00	
Scrap Sale	64,800,000.00	92,693,620.00	127,958,711.00	113,884,396.00	125,559,770.00	148,937,608.00	98,082,712.00	
Total Revenue	99,994,700.00	136,793,620.00	209,645,711.00	311,614,576.00	315,121,186.00	295,237,337.00	310,925,267.00	1,679,332,397.00
Application of Fund								
Revenue Exp.								
Purchase of copper	65,561,400.00	99,028,400.00	113,196,575.00	204,276,480.00	205,126,716.00	189,199,729.00	248,040,240.00	1,124,429,540.00
Salary Exp.	-	-	80,319,330.00	82,608,564.00	88,092,362.00	41,519,101.00	17,422,445.00	309,961,802.00
Business Promotion Exp.	1,359,000.00	7,541,000.00	3,976,919.00	11,331,981.00	5,038,400.00	19,269,650.00	9,951,000.00	58,467,950.00
Other Business Exp.	375,000.00	-	532,625.00	602,500.00	1,940,000.00	49,110.00	12,893,561.00	16,397,796.00
Total Expenses	67,295,400.00	106,569,400.00	198,025,449.00	298,824,525.00	300,197,478.00	250,037,590.00	288,307,246.00	1,509,257,088.00
Net Surplus Disclosed as additional Income in ITR's	32,699,300.00	30,224,220.00	11,620,262.00	12,790,051.00	14,923,708.00	45,199,747.00	22,618,021.00	170,075,309.00

13. We hold that the undisclosed profitability statement is to be worked out based on the actual figures reflected in the seized documents. It is not in dispute that the aforesaid figures considered by the assessee in the revised computation of income were just the figures considered from the seized documents found during the course of search. As stated earlier, out of the total business promotion expenses of Rs 11,15,67,950, the

assessee itself had excluded the personal expenses incurred thereon and had claimed deduction only for Rs 5,84,67,950 on account of business promotion expenses. The bifurcation exercise had already been carried out by the assessee and the same need not be disturbed at this point of time. Hence we direct the Learned AO to adopt the profitability for each of the assessment years as under:-

Asst Year	Undisclosed Profit to be taxed
2017-18	3,26,99,300
2018-19	3,02,24,220
2019-20	1,16,20,262
2020-21	1,27,90,051
2021-22	1,49,23,708
2022-23	4,51,99,747
2023-24	2,26,18,021

14. At the cost of repetition, we hold that since the undisclosed profit is worked out by the assessee as per the seized documents for each of the years, we direct the Learned AO to adopt the profit worked out hereinabove as per the seized document and determine the tax liability accordingly for each of the years under consideration. Accordingly, the grounds raised by the assessee as well as the revenue in this regard are partly allowed.

15. The last issue to be decided in the appeals of the revenue for Assessment Years 2020-21, 2021-22 , 2022-23 and 2023-24 are challenging the deletion of disallowance of farm house expenses relating to Director.

16. We have heard the rival submissions and perused the materials available on record. The lead case in this regard is taken as Assessment Year 2022-23 and decision rendered thereon shall apply mutatis mutandis for other assessment years also except with variance in figures.

17. We find that the assessee had claimed deduction of Rs 1,27,19,318 comprising of Rs 98,51,007 towards repairs and Rs 28,68,311 towards depreciation of the farm house owned by the Director of the assessee company in the regular return of income filed for the Assessment Year 2022-23. The Learned AO sought to disallow the same on the ground that the same is personal in nature and not connected with the business of the assessee company. Identical reason was adduced by the Learned AO to disallow the respective expenditure in other assessment years. It was submitted by the assessee that the company had taken a specified portion of the said farm house building for being allowed to be used by the Promoter and Director of the Company who was an old aged person , having also suffered from Covid -19 pandemic in first wave impacting his mobility and therefore keeping that in mind, the company allowed some portion of the residence to be used as office and bear the expenditure towards renovation and routine repairs from time to time in lieu of payment of rent, so as to allow use of such specified portion for business purposes. In that connection, even a Memorandum of Understanding (MOU) dated 1-4-2020 was executed between the Director and assessee company which was filed even at the stage of assessment proceedings. It was thus argued that the aforesaid expenditure was incurred for business purposes and was wrongly disallowed by the Learned AO holding it to be personal in nature. The Learned AR strongly supported the order of the Learned CIT(A) who had deleted the aforesaid disallowance after considering all the facts and evidences available on record. The Learned DR relied upon the order of the Learned AO.

18. It would be gainful to reproduce the observations and factual findings of the Learned CIT(A) in this regard:-

"4.4.12 In view of the above, it is evident that no material was available with the assessing officer to show that the farmhouse was solely used for personal use by the directors of the appellant company and was not used for the purpose of the business of the appellant company. The appellant company has brought on record contemporaneous evidences proving that the appellant was using the farm house for the purposes of business, which has not been satisfactorily rebutted by the assessing officer. Thus, the submission along with the documentary evidence filed by the appellant company is found tenable. Accordingly, the addition made by disallowing the depreciation claimed on farmhouse expenses capitalised in the books of the appellant company amounting to Rs. 28,68,311/- and the expenditure incurred on repair of farmhouse amounting to Rs. 98,51,007/- is hereby deleted and Ground No. 7 is allowed."

19. We find that a statement of the Director Shri Jagadish Chander Malhotra was also recorded by the investigation wing on 22-5-2023 under section 131(1A) of the Act wherein he had categorically stated that the said premises has been partially used for business and partially used as his residence due to his old age and illness. He also admitted to have entered into a MOU with the assessee company for the same wherein part of the farmhouse had to be maintained by the company in lieu of rent. These facts were duly appreciated by the Learned CIT(A) while granting relief to the assessee, on which, we do not find any infirmity. Accordingly, the grounds raised by the revenue in this regard are dismissed for the respective assessment years.

20. In the result, all the appeals of the assessee as well as the revenue are partly allowed.

Order pronounced in the open court on 11/03/2026.

-Sd/-

(CHALLA NAGENDRA PRASAD)
JUDICIAL MEMBER

-Sd/-

(M. BALAGANESH)
ACCOUNTANT MEMBER

Dated: 11/03/2026
A K Keot

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1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi