

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ “डी“, अहमदाबाद ।
IN THE INCOME TAX APPELLATE TRIBUNAL
“D” BENCH, AHMEDABAD

श्री संजय गर्ग, न्यायिक सदस्य एवं
अन्नपूर्णा गुप्ता, लेखा सदस्य के समक्ष।

Before Shri Sanjay Garg, Judicial Member And
Annapurna Gupta, Accountant Member

Sl. No(s)	आयकर अपील सं/ ITA No(s)	निर्धारण वर्ष/ Assessment Year(s)	Appeal(s) by :	
			अपीलार्थी/ Appellant	प्रत्यर्थी/ Respondent
1.	888/Ahd/2025	2020-21	Deputy Commissioner of Income-tax, Central Circle-1(2) Ahmedabad - 380 009 (Revenue)	M/s. Zen Industries Pvt.Ltd. 8 th , The Chambers Opp. New Gurudwara, S.G. Highway Ahmedabad - 380 054 PAN: AAACZ 1598 D (Assessee)
2.	889/Ahd/2025	2021-22	Revenue	Assessee
3.	890/Ahd/2025	2021-22	Revenue	Assessee
4.	891/Ahd/2025	2022-23	Revenue	Assessee

Assessee by :	Shri Anil Kshatriya & Shri Alay Anil Kashatriya, ARs
Revenue by :	Shri Sher Singh, CIT-DR & Smt. Kakoli Uttam Ghosh, Sr.DR

सुनवाई की तारीख/Date of Hearing : 17 /12/2026
घोषणा की तारीख /Date of Pronouncement: 16/03/2026

आदेश/ORDER

Per Sanjay Garg, Judicial Member:

The captioned appeals have been preferred by the Revenue against the common order of the Commissioner of Income Tax (Appeals)-11, Ahmedabad [hereinafter referred to as 'CIT(A)'] pertaining to different Assessment Years (AYs) 2020-21, 2021-22 & 2022-23. Since common facts and issues are involved in all these appeals, these were heard together and are being disposed of by this consolidated order. Revenue's appeal in ITA No.888/Ahd/2025 for AY 2020-21 is taken as a lead case for the purpose of narration of facts.

ITA No.888/Ahd/2025

2. The Revenue, in this appeal, has taken the following grounds of appeal:

"1) In the facts and on the circumstances of the case and in law, the Ld. CIT(A) has erred in deleting the Addition of Rs.3,85,22,432/- on account of estimation of Gross profit on unaccounted purchase ignoring the seized documents and statement recorded during search/post-search proceedings."

2) The Revenue craves leave to add/alter/armed and/or substitute any or all of the grounds of appeal."

3. The brief facts of the case are that the assessee-company is engaged in the business of manufacturing of mouth fresheners and filed its original return of income on 30/01/2021 declaring total income of Rs.9,97,16,300/- for the AY 2020-21. A search action u/s.132 of the Income Tax Act, 1961 (in

short “the Act”) was carried out in the case of a third party, namely, Mustufamiyan Hussainmiya Shaikh and his group companies (MHS Group) on 16/11/2021. Simultaneously, a search and seizure action was carried out at the residential premises of Shri Mayank Ashokbhai Khatri, an employee of the assessee company on 16/17 November, 2021, wherein, certain documents (loose sheets marked as pages 156 to 159 of Annexure A/3) allegedly pertaining to assessee company were found and seized from an Aactiva two wheeler parked in the residential premises of Shri Mayank Ashokbhai Khatri. These loose sheets contained certain hand-written figures in coded form. On the basis of these documents and the statement of Shri Mayank Khatri recorded during search and post-search proceedings, the Assessing Officer formed a belief that these loose-sheets represented unaccounted sales of tobacco products by Zen Group to entities of the MHS Group, namely M/s. Mustufa Sales Agency and M/s. Sojas Corporation, which were not recorded in the regular books of account of Zen Industries Pvt. Ltd. and other group concerns. On the basis of the said documents, the Assessing Officer formed the belief that the income of the assessee for the year under consideration has escaped assessment. He, therefore, reopened the assessment in the case of the assessee u/s 147 of the Act by issuing notice u/s 148 of the Act.

4. During the reassessment, the Assessing Officer referred to the statement of Shri Mayank Khatri, wherein, he had, in an answer given on 31.12.2021, stated that the transactions noted on the seized pages may be related to sales made to M/s. Mustufa Sales Agency and M/s. Sojas

Corporation and that the figures may be in lakhs. The Assessing Officer also referred to the statement of Shri Rashmin M. Majithia, Director of the assessee company, recorded under section 131, where he stated that Mustufa Sales Agency, Manali Sales Agency and Sojas Corporation were buyers of Zen Industries Pvt. Ltd. and Zen Tobacco Pvt. Ltd. On the strength of these statements and the loose sheets, the Assessing Officer concluded that pages 156 to 159 represented unaccounted sales of Zen Group to the said concerns. He worked out year-wise totals as per these loose sheets, treated them as unaccounted turnover, rejected the assessee's books of account under section 145(3) alleging that they were incomplete and did not reflect true profit, and proceeded to estimate gross profit at 15 per cent on the aggregate of recorded sales and alleged unaccounted sales. The difference between such estimated gross profit and the gross profit disclosed in the audited books was brought to tax as unaccounted / undisclosed profit on unaccounted sales, resulting in an addition of Rs. 3,85,22,432/- in the hands of the assessee.

5. Being aggrieved by the aforesaid order of the Assessing Officer (AO), the assessee preferred appeal before the Ld. CIT(A).

5.1 Before the Ld. CIT(A), the assessee submitted that the seized loose sheets did not contain the name of the assessee, the name of any purchaser, description of goods, quantity, rate, mode of transport, place of delivery, or details of payment; that a search had also been conducted in the case of the alleged purchaser group (MHS Group), but no incriminating material was found evidencing any unrecorded purchases by the said group or any of its

concerns from Zen Group, no excess physical stock was found and no unrecorded cash payments to Zen Group were detected; and that the regular transactions between the assessee and entities of the MHS Group were duly recorded in both sets of books and fully verifiable from the ledgers. It was also pointed out that in his statement, Shri Rashmin M. Majithia had categorically disowned the seized pages 156 to 159 as pertaining to Zen Group and denied any unaccounted sales in cash to Mustufamiyan H. Shaikh or Sojas Corporation; that Shri Mayank Khatri himself later clarified, in his statement recorded under section 131 and in a duly notarised affidavit, that the impugned loose sheets were related to his own personal financial dealings and not to Zen Group or the MHS Group; and that the Assessing Officer, in Mayank Khatri's own assessment, had accepted this position and completed assessment on that footing.

5.2. The Ld. CIT(A), after examining the assessment order, seized material and submissions, observed that the entire addition in Zen's case was based on pages 156 to 159 found from the Aactiva two wheeler of Shri Mayank Khatri and that these pages did not contain any vital particulars such as the name of the assessee, the name of the purchaser, description or quantity of goods, rate, delivery details or payment trail. That even the said documents were not found from the premises of the assessee. Further that the AO had failed to establish that these documents belonged to the assessee and even there was no evidence brought on record that the assessee hadf made any unaccounted sales or that the MHS Group was indulged in making any unaccounted purchases from the assessee. The Ld. CIT(A) considering the

overall facts and circumstances of the case, as narrated above, deleted the additions so made by the AO by observing as under:

"4.3 I have carefully considered the assessment order and submission filed by the appellant. In this case, it is observed from the record that the addition was made by the AO on the basis of page No. 156 to 159 seized from the activa two wheeler of Shri Mayank Ashokbhai Khatri during the course of search action.

4.4 It is further observed that the appellant has mainly contended that on perusal of the above seized documents, it is evident that exact quantity, precise rate, actual mode of transportation, specific place of delivery of such goods and acceptations of delivery of such goods purchased by any of the entities of Mustufa Group (MHS group) and also the payment made are not mentioned on the above seized documents. It is also an undisputed fact revealed that a search action was also conducted in the MHS group and there was neither any evidence regarding unaccounted purchase of stock by the MHS group entities from Zen Group of concerns nor any excess physical stock found during the search action, which was brought on record by the AO. It is also relevant to note that there was no evidence related to unrecorded payment made in cash to Zen Group of concerns which was found during the course of search. Further, it is also a fact that neither the purchaser party i.e. MHS group entities nor the seller party i.e. Rashmin M. Majithia, director of the appellant company and M/s. Zen Tobacco Pvt. Ltd. had admitted in the statement recorded during the course of search action or post search action that the said seized page no. 156 to 159 was related to the appellant or his group concern regarding unaccounted sale of tobacco or other products.

4.5 It is further observed that the appellant has stated that after recording the statement before the AO during the course of Assessment proceedings, Shri Mayank Ashokbhai Khatri had filed an affidavit and retracted from his earlier statement, however, the AO had not provided the cross objection of Shri Mayank Ashokbhai Khatri. It is also a fact noticed from the record that Shri Mayank Ashokbhai Khatri in his statement dated 31.12.2021, has stated that the transaction mentioned in the said seized documents may be related to sales made to M/s. Mustufa Sales Agency (Prop. Mustufamiyan H. Shaikh) & M/s. Sojas Corporation and the figure may be in lacs, which shows that he was not 100% sure about the statement given. Shri Mayank Ashokbhai Khatri has also further stated in the said statement that Shri Rashmin M. Majithia might be having the complete information about the said seized pages. Shri Rashmin M. Majithia in his statement had categorically denied

having any unaccounted transaction i.e. sales to M/s. Mustufa Sales Agency (prop. Mustufamiyan H. Shaikh) or M/s. Sojas Corporation.

4.6 *It is also pertinent to mention here that based on the documents seized as per page nos. 156 to 159 of Annexure-A/3, from the activa, two wheeler of Shri Mayank Ashokbhai Khatri, the AO held that the appellant made unaccounted sales to M/s. Mustufa Sales Agency (prop. Mustufamiyan H. Shaikh) and M/s. Sojas Corporation and accordingly, holding the unaccounted purchase in the hands of MHS Group, added Rs.11,16,31,500/- & Rs.5,92,40,000/- on account of estimation of GP and Rs.59,08,859/- & Rs.1,47,07,050/- as unaccounted/unexplained investment in stock for the assessment years 2020-21 & 2021-22 respectively. My predecessor CIT(A) while adjudicating the appeals of the alleged purchaser on the basis of the seized page nos. 156 to 159 in the case of Mustufamiyan Hussenmiyan Shaikh (MHS) group in Appeal no: CIT (A) Ahmedabad-11/10688/2019-20, Dated 29.08.2024 held in favour of Mustufamiyan Hussenmiyan Shaikh (MHS) group, the alleged purchaser by deleting the entire additions. The findings of the Ld. CIT(A) as per the concluding para (Para no: 4.6) of the order is as under:*

“Keeping in view of the contentions as discussed supra and record available, it can be concluded that the AO had not brought any record which suggests that the said seized pages were related/belonging/pertaining to unaccounted purchase made by M/s Mustufa Sales Agency (Prop: Mustufamiyan H Shaikh) & Sojas Corporation group as there is no vital details i.e. name of the appellant, quantity of the product/item, description of item, rate of item, details of delivery, dates of payments or cash trail was found either from the possession of Shri Mayank Ashokbhai Khatri or Shri Rashmin M. Majithia or any of the person of Mustufa Group etc. The above details are also not found mentioned on the seized documents. Thus the addition made on account of estimation of GP does not survive”

4.7 *In view of the above discussion, factual matrix of the case, and also, in view of the decision of my predecessor Ld. CIT (A), deleting the entire addition of alleged purchase in the hands of M/s Mustufa Sales Agency (Prop: Mustufamiyan H Shaikh) & M/s. Sojas Corporation group, the AO is directed to delete the addition made of Rs.3,85,22,432/- on account of estimation of GP on alleged sale transactions based on the said seized page nos: 156 to 159. Since, the addition made by the AO has been deleted, therefore, the technical/ legal plea taken by the appellant becomes infructuous, hence not adjudicated. Thus, the grounds nos. 1 to 7 of the appeal are allowed."*

6. Being aggrieved by the aforesaid order of the Ld. CIT(A), the Revenue has come in appeal before us.

6.1. The Ld. Departmental Representative (DR) has relied upon the assessment order and submitted that the seized papers were found from the custody of an employee of Zen and that the statement of that employee referred to sales to Mustufa Sales Agency and Sojas Corporation. He has further submitted that even the Director of the assessee-company had admitted that those concerns were buyers of its products. He has further submitted that these circumstances clearly established that the writings on pages 156 to 159 represented cash sales not recorded in the books and that the Ld. CIT(A) erred in ignoring this material.

6.2. The Ld. Counsel for the assessee, on the other hand, has relied upon the order of the Ld. CIT(A) and has submitted that the Ld. CIT(A) has given detailed factual findings which the Department has failed to rebut. He has further relied upon the consolidated order dated 30/04/2025 of the Coordinate Bench of this Tribunal in the cases of the alleged purchaser Shri Mustufamiyan Hussainmiya Shaikh in ITA Nos.1888 & 1889/Ahd/2024 for AY 2020-21 & 2021-22 and submitted that in the purchaser's case the coordinate Bench of this Tribunal has already upheld the deletion of additions made on the strength of these very seized pages and that the additions in the seller's hands cannot survive when the corresponding alleged unaccounted purchases have been held to be non-existent. He has further submitted that even the said Shri Mayank Ashokbhai Khatri from whose scooter the alleged documents were seized had stated that the said documents were relating to

his own financial transactions and the assessment order also stood passed in his case also.

7. We have considered the rival submissions and gone through the record. It is not in dispute that the impugned addition in the hands of Zen Industries Pvt. Ltd. is founded solely on the loose sheets bearing pages 156 to 159 of Annexure A/3, found from the Aactiva two wheeler at the residence of Shri Mayank Ashokbhai Khatri. It is also not in dispute that these very loose sheets were used by the Assessing Officer to make substantive additions in the hands of the alleged purchaser, Shri Mustufamiyan Hussainmiya Shaikh, on account of unexplained investment in stock and estimated gross profit on alleged unaccounted purchases from Zen Group. In the appeals of the said purchaser, the Ld. CIT(A) deleted the additions after a detailed appreciation of facts, inter alia, holding that the seized pages did not contain the name of the assessee, description or quantity of any goods, rate, details of delivery or mode and date of payment, that no excess stock or unrecorded cash payment to Zen Group was found in search, that neither the purchaser nor the Director of Zen had admitted those pages as representing unaccounted trading between them, and that in such circumstances the loose sheets by themselves could not be treated as reliable evidence of unaccounted purchases. These findings have been subsequently affirmed by the co-ordinate Bench of this Tribunal in ITA Nos. 1888 and 1889/Ahd/2024 dated 30.04.2025 (supra), wherein the Tribunal, after noticing the same factual matrix, held as follows:

"It is pertinent to note that the statement of Shri Mayank Ashokbhai Khatri was not confronted to the assessee while recording the assessee's statement by the Assessing Officer. Further the assessee during the assessment proceedings produced copy of ledger account from where the assessee demonstrated that the assessee has regular transactions of purchases from Zen Group and all the transactions of sales and purchase have been duly recorded in the regular books of accounts. While rejecting the books of account, the Assessing Officer has not followed the basis given under provisions of Section 145(3) of the Income Tax Act, 1961, but only rejected the said books on the ground that no record of cash sales viz. name of the party, contract no., exact amounts were maintained by the assessee as DSR after making entries in tally software and the same was destroyed on daily basis. The Assessing Officer has not given any finding as to on what basis he has arrived on the said conclusion. Therefore, the Assessing Officer was not correct in rejecting the books of accounts of the assessee. In fact, Shri Rashminbhai Majithia denied having any connection with financial transaction with M/s Sojas Corporation and M/s Mustufa Sales Agency from entire Zen Group of concerns. And further denied any cash sales to that extent which was not at all considered by the Assessing Officer. In fact, the entire Assessment Order is based only on the statement of Shri Mayank Khatri which was not even verifiable from the evidences produced by the Assessee. The Assessing Officer has not established the nexus of cash sale to the Zen Group to the assessee concern. The CIT(A) in para 4.4 categorically mentioned that there was no evidence related to unrecorded payment made in cash to Zen Group of concern which was found during the course of search action. Besides this, neither the purchase party i.e. the assessee or his family members nor the seller party i.e. Shri Rashminbhai M. Majithia, Director of M/s Zen Tobacco Pvt. Ltd. & M/s Zen Industries Pvt. Ltd. had admitted in the statement recorded during the course of search action or post search action that the said seized page no. 156 to 159 was related to the assessee or his group concern regarding unaccounted purchase of tobacco or other products. Therefore, the CIT(A) as rightly held that the addition made on account of initial investment in unaccounted stock and estimation of GP does not survive. There is no need to interfere with the findings of the CIT(A). Thus, ITA No. 1888/Ahd/2024 for A.Y. 2020-21 filed by the Revenue is dismissed."

8. It is also brought on record that Shri Mayank Ashokbhai Khatri, from whose possession the impugned loose sheets were found, subsequently appeared before the Assessing Officer in response to summons during the

assessment proceedings and his statement under section 131 was recorded wherein he categorically stated that the transactions recorded on pages 156 to 159 represented his own personal financial dealings. He even executed a duly notarised affidavit affirming the same and clarifying that those papers did not belong to Zen Group or to the MHS Group concerns. The Assessing Officer, in the assessment framed in the case of Shri Mayank Khatri for the relevant year, has accepted this position and has taxed the income arising with reference to those papers in Mayank's own hands under section 143(3). In such a factual background, it is difficult to sustain the inference that the same loose sheets simultaneously represent unaccounted sale transactions of Zen Group to the MHS Group entities.

9. Moreover, the Assessing Officer, in making the impugned addition has simply adopted the figures from the loose sheets as unaccounted sales without bringing on record any corroborative material such as transport documents, delivery challans, confirmations, unrecorded cash receipts, or any discrepancy in stock or production vis-à-vis the regular books. The regular books of account of the assessee are audited. Apart from the loose sheets, no specific defect or discrepancy in the maintenance of these books has been pointed out. We, therefore, are in agreement with the reasoning and conclusion given by the Ld. CIT(A) that the seized loose sheets, in the facts of this case, do not constitute reliable evidence of unaccounted sales by the assessee. The rejection of books of account solely on that basis is not sustainable. The impugned addition made by estimating gross profit at 15 per cent on alleged unaccounted sales is therefore without legal and factual

foundation. We accordingly uphold the order of the Ld. CIT(A) deleting the addition of Rs. 3,85,22,432/- and dismiss the ground raised by the Revenue.

10. In the result, the appeal of the Revenue is dismissed.

ITA No.889/Ahd/2025 & ITA No.890/Ahd/2025 for A.Y.2021-22 & ITA No. 891/Ahd/2025 for A.Y.2022-23

11. The facts, issues involved in the aforementioned appeals of the Revenue are identical with that of the appeal filed by the revenue relating to A.Y.2020-21 in ITA No.888/ Ahd/2025, except change in figures. Thus, our findings given above will *mutatis mutandis* apply to the above three appeals also.

12. In the result, all the captioned appeals filed by the revenue are hereby dismissed.

Order pronounced in the Open Court on 16/03/2026.

Sd/-

**(Annapurna Gupta)
Accountant Member**

अहमदाबाद/Ahmedabad, दिनांक/Dated 16/03/2026

टी. सी. नायर, व. नि. स. / T.C. NAIR, Sr. PS

Sd/-

**(Sanjay Garg)
Judicial Member**

आदेश की प्रतिलिपि ँ ग्रेषित/Copy of the Order forwarded to :

1. ँ पीलरुी / The Appellant
2. प्रत्यरुी / The Respondent.
3. संबधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त (ं पील)/ The CIT(A)-11, Ahmedabad
5. विभरुीय प्रतिनिधि, आयकर ँ पीलीय ँ धिकरण ,ं हढदरुद/DR, ITAT, Ahmedabad.
6. गरुड फरुडल /Guard file.

आदेशरुसरु / BY ORDER,

सत्यापित प्रति //True Copy//

सहायक पंजीकार (Asstt. Registrar)
आयकर अपीलीय अधिकरण, ITAT, Ahmedabad