

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES,"A-Bench" JAIPUR

श्री गगन गोयल, लेखा सदस्य एवं श्री नरेन्द्र कुमार, न्यायिक सदस्य के समक्ष
BEFORE: SHRIGAGAN GOYAL, AM& SHRI NARINDER KUMAR, JM

आयकर अपीलसं./ITA No.1196/JPR/2025
निर्धारण वर्ष/AssessmentYear : 2018-19

Deputy commissioner of Income Tax Jaipur.	बनाम Vs.	Samarth Lifestyle Retailing Pvt. Ltd. 601, 6 th Floor, Ganga Heights SB-154, Lal Kothi, Tonk Road, jaipur.
स्थायीलेखा सं./जीआईआरसं./PAN/GIR No.: AAACV7598M		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओरसे / Assesseeby : Shri P. C. Parwal, Learned C.A.
राजस्व की ओरसे / Revenue by: Shri Rajesh Ojha, Learned CIT.

सुनवाई की तारीख / Date of Hearing : 09/10/2025
उदघोषणा की तारीख / Date of Pronouncement: 13/10/2025

आदेश / ORDER

PER: NARINDER KUMAR, JUDICIALMEMBER .

Present appeal has been filed by the department, feeling aggrieved by order dated 20.06.2025, passed by Learned Commissioner, Income-tax of Appeals, NFAC, Delhi, u/s 250 of the Income Tax Act, 1961 (hereinafter referred to as "the Act").

Vide impugned order, Learned CIT(A) allowed the appeal filed by the assessee-respondent herein. As a result, the assessment order dated

14.09.2019, relating to the assessment year 2018-19, passed by the Assessing Officer, NFAC, making certain additions and disallowances, came to be set aside.

Vide said assessment order, 5 additions & 2 disallowances were made, and on their basis, the Assessing Officer had assessed total income of the assessee at Rs. 29,41,88,550/-.

2. Arguments heard. File perused.

First the Facts

3. Assessee-respondent herein is a private limited company engaged in the business- retailing and trading of branded goods like garments, foot - wears, accessories through more than 95 retail outlets in the States of Rajasthan and NCR, Delhi.

The assessee also claims to be earning commission income by managing and operating stores of various brands, and as such incurring expenditure like staff salary, rental, electricity expenses, and day to day running expenses.

4. Return of income relating to the assessment year 2018-19 was filed by the assessee declaring its income of Rs. 1,59,34,420/-.

Case selected for complete scrutiny

5. Case of the assessee was selected for complete scrutiny through CASS, on the following issues:-

“1. Low receipts from house property in ITR as compared to rental receipts in 26AS.

2. Low income compared to large commission receipts.”

6. On 23.09.2019, notice u/s 143(2) of the Act was issued to the assessee. It was followed by a notice u/s 142(1) of the Act accompanied by a detailed questionnaire.

The assessee submitted reply to the said notice in parts on 02.10.2019, 04.01.2021 and 28.01.2021.

7. In the course of assessment proceedings, the assessee was called upon to submit details regarding expenses by it; payments made u/s 40(2)(b) of the Act; commission income earned during the year; cash deposits; payment to any funds set up under ESI Act, 1948. Supporting documentary evidence was also directed to be filed.

8. As noticed above, the Assessing Officer made two disallowances and 5 additions. Same have been described in para 8 of the assessment order.

Issue of Various Expenses

9. First of all, the Assessing Officer dealt with the issue of various expenses stated to have been incurred by the assessee during the financial year 2017-18.

In this regard, disallowance of expenses to the tune of Rs. 78,95,329/- was made by the Assessing Officer. Observations made by the Assessing regarding said disallowance are available from para 3.1 to 3.8 (from page 2 to 12) of the assessment order.

10. It may be mentioned here that the Assessing Officer had called upon the assessee to submit supporting documentary evidence as regards the expenses shown to have been depicted in its trading account and profit and loss account.

The Assessing Officer observed in para 3.1 that the assessee had failed to submit supporting documentary evidence, and as such, he had to issue show cause notice dated 02.03.2021 to the assessee. Said show cause notice reads as under:-

“1. In your case during the course of assessment proceedings vide various notices it was requested to submit supporting documentary evidences for expenses debited in trading account and profit and loss account, and shown in

books of accounts. However, you have failed to submit supporting documentary evidences for various expenses shown in books of accounts, as under:

Sr. No.	Expense head	Amount
1.	Alteration Charges	1451334
2.	Brokerage expenses	46667
3.	Credit card swap charges	11579503
4.	Even management expenses	7946679
5.	Housekeeping and security charges	29838577
6.	Legal & Professional charges	12217077
7.	Mall maintenance charges	47779742
8.	Miscellaneous expenses	67876
9.	Music and trade licence fees	323526
10.	Packing material	608184
11.	Printing & stationary	1655436
12.	Processing fees and charges for loan	1206647
13.	Trade mark write off	97110
14.	Salary	117463348

In your case on verification of Audit report it is seen that your gross profit ratio has been down from 37.09% to 34.89% in comparison to A.Y. 2017-18, and as mentioned above you have failed to submit supporting documentary evidences for expenditure shown in books of accounts. Hence, I am not satisfied about the correctness or completeness of your books of accounts. Therefore, it is hereby show cause as to why your books of account should not be rejected as per provision of section 145(3) of the Income tax Act and G.P. rate why should not be taken @37.09% instead of 34.89% shown by you and addition of Rs.45770324/- (37.09-34.89-2.2%@2080469305/-) made to your total income for low net G.P. ratio.”

11. The Assessing Officer considered the reply furnished by the assessee to the said show cause notice, and observed that the assessee had submitted details only in part, on 10.03.2021.

12. At page 4 and 5 of the assessment order, the Assessing Officer recorded reasons for disallowing 5 type of expenses, as is available from the following table, which contains columns 1 to 3 on the basis of the details furnished by the assessee in its reply dated 10.03.2021, whereas column 4 depicts the reasons recorded by the Assessing Officer for their disallowance, as under:

Particulars	Amount (Rs.)	Remarks	Reasons for addition/disallowance
Alteration charges	14,51,334	Assessee is engaged in trading of apparel through 98 retail outlets and has to do alteration as per the demand of the customer. Some of the invoices of alteration charges as a sample are enclosed. Uploading each and every invoice would be very bulky to upload and hence not feasible. Still if your goodself requires any specific invoice, please let us know so that same may be submitted.	On perusal of submitted bills it is seen that the same are not issued in the name of assessee company. The assessee failed to submit details for payment and mode of payments. Failed to prove identity of the person to whom the assessee has made payment.
Event management expenses	79,46,679	Invoice of event management expense is enclosed. Assessee has made TDS on this expense of Rs. 1,58,776/-. Assessee has also recognized corresponding income from this event management of Rs. 87,28,814/- which is included under head Commission and other expenses shown in note no. 18 to audited financial statement.	The assessee failed to submit details for payment and mode of payments. Failed to prove identity of the person to whom the assessee has made payment. Reconciliation not possible in absence of complete documentary evidences. Also failed to submit contra confirmation from the said parties.
Housekeeping and security charges	2,98,38,577	These expenses are in respect of store cleaning and security guard inside the stores. List of Outlet wise housekeeping and security charges incurred during the year is enclosed. Some of	The assessee failed to submit details for payment and mode of payments. Failed to prove identity of the person to whom the assessee has made Reconciliation payment. not possible in absence of complete documentary evidences. Also failed to submit contra

		the invoices of housekeeping expenses as a sample are enclosed. Uploading each and every invoice would be very bulky to upload and not hence not feasible. Still if your goodself requires any specific date invoice, please let us know so that same may be submitted.	confirmation from the said parties.
Processing fees and charges of loan	12,06,647	Details of bank and NBFCs wise processing fees paid for renewal of loan or fresh loan taken during the year is enclosed.	Documents submitted only for a amount of Rs. 1,02,614/-. The assessee has failed to submit reason and for which purpose payment made to various banking and non-banking assessee.
Salary	11,74,63,348	Month wise list of salary paid during the ear containing name and designation of employee is enclosed. Assessee has duly complied with the provisions of Chapter XVII-B of the Act, where applicable. Assessee is operating 98 retail outlets. Looking to the nature and size of the business amount of salary paid is fully justified.	The assessee failed to submit details for f payment and mode of payments. Failed to prove didentity of the person to whom the assessee has made salary payment. The assessee has failed to submit address of the employee, their attendance register, copy of their appointment letter, their bank details, and TDS Reconciliation details. not possible in absence of complete documentary evidences. Also failed to submit contra confirmation from the said parties.

13. As regards expenses on account of salary, the Assessing Officer observed in para 3.3 to 3.7 as under:-

“3.3 For the expenses on account of salary, as per column No. 34(a) of return of income, it is observed that the assessee has paid salary of Rs. 92925707/- out of total salary expenses of Rs.117463348/- during the year without made TDS on these payments. The assessee was requested to submit documentary evidences for the above-mentioned expenditure on account of salary i.e. details of employees, their PAN, Bank account details, the relevant entries of salary payment in bank account statement. But the assessee merely submitted an excel sheet having list of employees without any supporting documentary evidences.

3.4 In absence of documentary evidences, the expenses as mentioned above difficult to verify, whether it is genuine business expenses, wholly and exclusively for business only, in absence of identity of the person it is difficult to ascertain whether payment made to genuine person.

3.5 As mentioned in final notice with show cause the assessee was requested as to why for the above said discrepancy books of account should not be rejected u/s. 145(3) of the Act, why G.P. rate should not be applied on total turnover as per AY 2017-18. In this regard the assessee has submitted its reply on 09.03.2021 and after considered the reply of the assessee, books of accounts of the assessee not rejected as the submission of the assessee on this issue is accepted.

3.6 As mentioned in final notice and as discussed above the assessee has failed to explain above mentioned, wholly and exclusively for business, the assessee has failed to prove identity to whom payments were made, failed to submit supporting vouchers for payments made, failed to submit supporting evidences in regard business expenses are genuine business expenses.

3.7 In this regard, a show cause notice dated 19.04.2021 (Draft Assessment Order) was issued to the assessee. The assessee submitted its reply vide submission dated 23.04.2021, (uploaded on system on 26.04.2021) the relevant part of which is reproduced here as under:

1. Disallowance out of expenses Rs. 116,14,085-

You have proposed to make disallowance 5% of the expenses claimed under alteration charges, event management expenses housekeeping and security charges, processing fees and charges of foan and salary expenses. In the connection, we would like to submit as under

(1) Alteration charges Rs 14,51.33

You have proposed the disallowances for the reason that the bills submitted are not issued in the name of the assessee, details for payment and mode of payment is not submitted and identity of the person is not proved in this connection it may be noted that assessee has 98 retail outlets mostly in Delhi NCR and Rajasthan in these outlets the readymade garments with multiple brands like Tommy Hilfiger Levi's. Puma, US Polo, Arrow, Van Heusen, Louis Phillipe, etc are sold in retail. These garments are of standard length and fitting and therefore as per the requirement of the customer they are altered. Such alteration is carried out through the small local tailors located near the store. The alteration charges are paid to the tailor ranging between Rs. 40/- to 250/- depending upon the nature of alteration required by the customer. The payment of alteration charges is made to the tailor on the basis of the bills raised by them or on the basis of vouchers signed by the tailor Some sample bill issued by the tailor and some sample voucher through which the payment is made to the tailors is enclosed for ready reference (Pg 1-30) From the Ledger account of the alteration expenses (Pg. 31-42) and the sample voucher it can be noted that these expenses are of small amount incurred on daily basis in the regular course of business. Out of the total expenses of Rs. 14,51,334/ an amount of Rs. 222,220/- has been paid to MR Ansan through banking channel, an amount of Rs. 208,340 has been paid to Jugal Kishore Kumawat through banking channel and an amount of Rs 107425/- has been paid to tailors Avadesh

Kumar, Pankaj, Mohd Yunus, Saalim Khan through banking channel. Copy of account of all these persons is enclosed at (Pg 43-48). The remaining amount has been paid in cash to various small parties located at 98 different location These expenses of Rs. 14.51.334 on total turnover 208 crore is most reasonable and comparable rather on a lower side to the expenses of Rs 25,35,756 on total turnover of Rs. 184 crore incurred in the previous years which has been accepted in the assessment framed u/s 143(3) of the Act. Further never in the past in the assessment framed w/s 143(3) any disallowance was made out of these expenses.

It may be noted that on some of the bills instead of the name of the assessee, the name of the brand is mentioned. This is because the assessee's store are depicting the name of the brand as they are exclusive store of a particular brand and therefore in the bills given by the tailor, generally the name of the brand like Mango, Puma, Tommy, US Polo etc is mentioned. Some of these bills are enclosed at Pg 1-21. This is general practice and therefore, simply because these bills are not in the name of the assessee no adverse inference should be drawn

From the above explanation supported by the documentary evidence you would appreciate that the expenditure under this head is fully vouched and verifiable. The identity of the person to whom/ through whom payment is made is available in the bills/ vouchers itself. Therefore, the disallowance proposed by you is unjustified and uncalled for

(ii) Event management expenses Rs 79,46,679

You have proposed the disallowances for the reason that the assessee has failed to submit details and mode of payment, failed to prove identity of the person to whom amount paid, failed to submit contra confirmation and reconciliation is not possible in absence of complete documentary evidence in this connection it may be noted that expenses of Rs. 79,46,679/-comprises of the following payment:

Name of person	PAN	Amount of bills	GST included in bill	Net amount debited expenses account	TDS
V Marriott Resort	AAECT4152H	9656469	17,17,720	79,38,749	158776
Creative Digi Graphics (2 Bills)		9358	1428	7,930	
Total				79,46,679	

Copy of the bills along with copy of account of the party are enclosed. (Pg 49-50, 57)
The payment has been made through banking channel and in support of the same copy

of bank statement is enclosed (Pg 51-56) Thus the expenses incurred is fully verifiable with reference to mode of payment, identity of the person and reconciliation of bill amount vis-a-vis the expenses debited under this head. Therefore, the disallowance by you is unjustified and uncalled for.

(iii) Housekeeping and security charges Rs. 298,32,577/-

You have proposed the disallowances for the reason that the assessee has failed to submit details and mode of payment, failed to prove identity of the person to whom amount paid, failed to submit contra confirmation and reconciliation is not possible in absence of complete documentary evidence in this connection it may be noted that Housekeeping and security charges expenses (Pg 58-116) has mostly been paid to following housekeeping/security agencies:

S. No.	Name of agency	Address	PAN	Net amount debited to expense account
1.	Allied security services	56, Kumawatpura Surajpole, Udaipur-313001 Rajasthan	ALUPK3524A	87855
2.	Decent security Pvt. Ltd.	F 36A, Lal Kuan, Delhi-110044 Delhi	AADC8510A	2379357
3.	Dev Facility Management	8, Milap nagar, Opposite jaipuria Hospital tonk Road, jaipur-362018 Rajasthan	AOJPG0306C	280752
4.	Durga Webtel Services Pvt. Ltd.	RZF 901/5, Raj nagar, 2, Gali No. 1, Palam Colony, Delhi-110077 Delhi	AADC8349R	1854688
5.	Hind Securities Services & Housingkeeping	19/187, Dekshin Puri Extn., Delhi-110062	AAFFH0038L	5103784
6.	Jbl Security Service	VPO Bhaini Gurmukh Singh, Patti, Tarn Taran-143401, Punjab	DFSPS4640A	16181
7.	Phoenix International Facility Management (India) LLP	128 Amar Jyoti CGHS, CGHS, Mayuur Vihar-1, 110091, Delhi	AAUFP1239N	277334
8.	Real Security & Manpower solutions	U 54/1 Anjali Studio, Nathpur, DLF Phase-3, Gurgaon-122002 Haryana	CVXPK5950M	2308135
9.	Real Security Services	360 Holi chowk, Dunga Neera, Near Jatin Photo Studio, Gurgaon-122016	CULPD4815R	1022676

		Haryana		
10.	Singham Security Services	1T 9, Housing Board, Krishna Nagar, Bharatpur-321001 Rajasthan	EHRPS75 77A	1388220
11.	Sword & shield Security & Facility Management Services Pvt. Ltd.	220, Ghitorni village, Gadaipur, South Delhi, delhi-110030 Delhi	AAWCS17 20L	67065
12.	Teamlease Services Ltd.	Office No. 6, 3 rd floor, C Wing, Laxmi Towers, Bandra Kurla complex, Bandra (E), Mumbai-400051 Maharastra	AABCT545 8K	4137936

Payment to all the above parties has been made through banking channel as is evident from the copy of their account enclosed at Pg 117-147 Total payment made to these parties is Rs. 2,77,85,808 Thus to this extent the expenses incurred is fully verifiable with reference to mode of payment, identity of the person and reconciliation of bill amount vis-a-vis the expenses debited under this head. Out of remaining expenses of Rs. 20,52,769, an amount of Rs. 5,38,631/- is incurred through banking channel and the balance amount of Ra. 15,14, 138/- is Incurred in cash. These expenses are incurred on purchases of various cleaning expenses like soap, Lizol, Surf, broom, Mop etc. All these expenses are fully verifiable for which sample bills are enclosed (Pg 148-211). These expenses of Rs. 2,98,38,577/- on total turnover 208 crore is most reasonable and comparable to the expenses of Rs 2,76,36,039/- on total turnover of Rs. 184 crore incurred in the previous years which has been accepted in the assessment framed u/s 143(3) of the Act. Further never in the past in the assessment framed u/s 143(3) any disallowance was made out of these expenses Since the entire expenses is fully vouched and verifiable with reference to the mode of payment and identity of the person to whom it is paid, the disallowance proposed by you is unjustified and uncalled for (iv) Processing fees and charges of loan Rs. 12,06,647/-

You have proposed the disallowances for the reason that assessee has submitted the documents only for an amount of Rs. 102,614/-, In this connection it is submitted that the said expenditure has been incurred towards processing fees paid to the following banks and financial institutions for renewal of loan/fresh loan taken during the year:.....

Documentary evidence in form of statement of account loan sanction letter for S No 1 to 8 above is enclosed(Pg 212-221). For the loan processing charges paid at \$ No 9 to 14 letter/bank statement is not available since against the sanctioned amount bank remitted the amount after deducting the processing charges and therefore the voucher prepared for booking the expenses is enclosed (Pg 222-230). Thus the entire expenses is fully verifiable and therefore disallowance proposed by you is uncalled for,

(v) Salary expenses Rs. 11,74,63,348/-

You have proposed the disallowances for the reason that the assessee has failed to submit details and mode of payment, failed to prove identity of the person to whom amount paid, failed to submit address of the employees their attendance register, appointment letter, bank details, TDS details, contra confirmation, reconciliation is not possible in absence of complete documentary evidence and salary of Rs. 9,29,25,707/- has been paid without deducting tax at source. In this connection it may be noted that during the year under consideration assessee has made payment to 1026 employees. The complete statement of salary paid to these employees containing the name of the employee, designation, date of joining, address of the employees, PAN where available, bank account number of employees in which amount of salary is paid to them, month wise details of the payment, gross amount salary due to them, TDS deducted and PF/ESI deducted is enclosed at Pg 231-248. It may be noted that all employees whose gross salary after considering the deduction under chapter VIA is above the basic exemption limit, tax has been deducted at source and all employees on whom PF/ESI is applicable, the same has been deducted, Sample appointment letters issued to the employees at the time of their appointment is enclosed at Pg 249-443. Thereafter employees has been given increment from time to time. The assessee is also maintaining the attendance records either through biometric system or manual attendance register. A sample copy of the manual attendance register/ biometric attendance system is enclosed at Pg 444-505. Thus the payment of salary is fully vouched and verifiable. The salary paid is comparable to the salary of Rs. 11,15,52,911/- paid in last year considering the regular increment of the employees increase in volume of the turnover Therefore, the disallowance proposed by you is unjustified and is uncalled for.

In view of the detailed explanation submitted above supported documentary evidences no disallowance out of the above expenses is called for. Still, if you require any further evidence in support of any of the above expenses, please let us know so that same can be submitted.”

14. As regards **alteration charges**, the Assessing Officer observed in para 3.8 that the assessee had failed to completely justify said expenses.

As regards **Housekeeping and Security charges**, the Assessing Officer observed that the assessee had failed to submit ledger account of Hind Security Services & House Keeping and Real Security Services, to

whom payments of Rs. 51,03,784/- and Rs. 1,01,22,676/- respectively were claimed to have been made.

So far as **processing fees and charges of loans** are concerned, the Assessing Officer observed that the assessee had failed to submit letter/bank statement with respect to loan processing charges of Rs. 1,61,855/-.

15. So far as **salary expenses** are concerned, the Assessing Officer observed that the assessee had failed to furnish bank details and contra confirmation of TDS details of various employees.

16. The Assessing Officer took into consideration that 95% of the said expenses had been allowed, and that he was disallowing only 5 % of the total expenses. This disallowance came to be made u/s 37(1) of the Act.

17. When the matter came up before Learned CIT(A), after going through the assessment order and submissions put forth on behalf of the appellant- assessee, ground no. 1 raised in this regard by the appellant was decided in favour of the assessee by observing in the manner as:-

“i. Alteration Charges - Rs. 14,51,334/-

The appellant stated in his reply that he had provided the complete ledger account for alteration charges amounting to Rs. 14,51,334/- Additionally, a ledger account of six tailors, amounting to Rs. 6,27,753/- on a sample basis, was also submitted. Invoices raised by various tailors, mentioning the name of the appellant or the clothing brands for which the alteration work was done, were also provided.

ii. Event Management Expenses - Rs. 79,46,679/-.

Regarding this expense, the appellant submitted complete details. Of the total amount, Rs. 79,38,749/- was paid to JW Marriott, on which TDS of Rs. 1,58,776/- was deducted. The remaining amount of Rs. 7,930/- was paid to Creative Digi Graphics. The appellant's submission has been duly verified and found to be genuine.

iii. Housekeeping and Security Charges - Rs. 2,98,38,577/-.

The appellant claimed Rs. 2,98,38,577/- in the Income Tax Return (ITR) under housekeeping and security charges. He provided the complete ledger accounts and documentary evidence including bills and vouchers related to these expenses. The ledger accounts of various parties involved were also submitted.

iv. Processing Fees and Charges for Loan - Rs. 12,06,647/-.

These fees were deducted by banks and financial institutions during the year. The appellant submitted statements of account and loan sanction letters issued by nationalized banks and listed NBFCs for processing charges totaling Rs. 10,44,792/- Additionally, the appellant stated that loan processing charges of Rs. 1,61,855/- were deducted by listed banks/NBFCs before remitting the net amount.

v. Salary - Rs. 11,74,63,348/-.

The appellant claimed salary expenses of Rs. 11,74,63,348/- in the ITR. A salary register for the entire year was provided, containing details such as employee name, designation, date of joining, PAN, bank account, and month-wise salary payments. The attendance register for each employee was also submitted and duly verified.

In addition to the above details, it is worth noting that the Principal Chief Commissioner of Income Tax (Pr. CCIT), Rajasthan, observed after the appellant filed a grievance against the assessment order that no specific defect had been pointed out by the AO in relation to these expenses. This observation was conveyed in the letter dated 11.05.2022, referring to the meeting of the High-Pitched Scrutiny Assessment Committee held on 20.04.2022 and 21.04.2022 in the case of M/s Samarth Lifestyle Retailing Pvt. Ltd for AY 2018-19, The committee noted that the AO had not rejected the books of account and that the appellant's method of doing business, including reported income and cash deposits (which were less than 12.5% of sales), had been accepted in previous assessment years.

In view of the above discussion, it is clear that the disallowance of 5% of the total expenses by the AO is not justifiable. The expenses claimed by the appellant in the ITR for the year under consideration are fully allowable. Therefore, Ground No. 1 of the appeal is hereby allowed.”

Contentions before this Appellate Tribunal

18. Ld. DR for the department-appellant has opened his arguments by submitting that Learned CIT(A) took into consideration certain details/material, which the assessee had not submitted to the Assessing Officer, and as such, Learned CIT(A) should have called for remand report before relying on the said details/material made available in the appellate proceedings.

The contention is that since no remand report was called, Learned CIT(A) fell in error in allowing ground no. 1 raised by the assessee in respect of the above mentioned expenses.

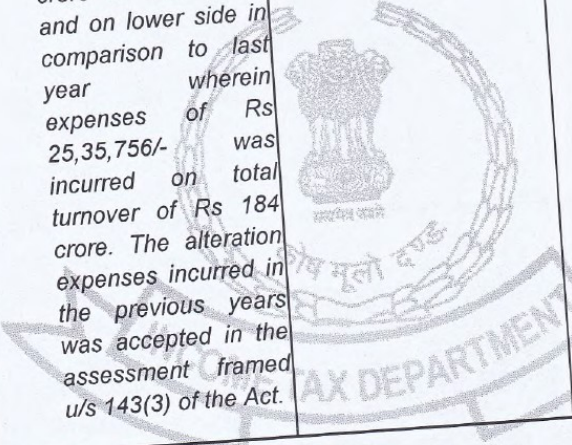
19. On the other hand, Ld. AR for the assessee has referred to the written submissions put forth by the assessee, available from page 4 to 10 of the impugned order to point out that no additional evidence was submitted by the assessee in the appellate proceedings, and that every detail was already made available to the Assessing Officer during assessment proceedings.

20. As to what was made available by the assessee to the Assessing Officer, in its written submissions presented before Learned CIT(A), the assessee submitted in proof, information furnished to the Assessing Officer

in the form of a table, which is available from page 5 to 10 of the impugned order.

The last column pertaining to the details in respect of each of the above expenses, was made available by the appellant to the Assessing Officer in a table, said table reads as under:

Particulars and amount	Nature of expenditure and its detailed explanation	Reason for disallowance by the AO	Details furnished to the AO
<p>Alteration charges of Rs 14,51,334</p>	<ul style="list-style-type: none"> The expenditure was incurred on account of alteration of clothes as per the demand of the customer at the retail outlets. The Appellant sells readymade garments of multiple brands such as Tommy Hilgigher, Levi's, Puma, US Polo, Arrow, Van Heusen, Louis Phillipe, etc. Alteration charges are paid to the tailor ranging between Rs 40/- to 250/- depending upon the nature of alteration required by the customer. At the month end, the payment of alteration charges is made to the tailor either on the basis of the bills raised by them or on the basis of voucher duly signed by the tailor. Out of the total 	<p>At para 3.2 of the assessment order "On perusal of submitted bills it is seen that the same are not issued in the name of assessee company. The assessee failed to submit details for payment and mode of payments. Failed to prove identity of the person to whom the assessee has made payment."</p> <p>At para 3.8 of the assessment order The Appellant has submitted bills/ vouchers for Rs 5,37,985 out of total expense of Rs 14,15,334 and stated that the remaining amount is paid in cash to various small parties. Therefore, the Appellant has failed to fully justify the alteration expense made by it.</p>	<ul style="list-style-type: none"> Complete ledger account of the alteration charges of Rs 14,51,334 is enclosed at PB 1286-1297 Ledger account of 6 tailors amounting to Rs 6,27,753 submitted, on a sample basis at PB 1298-1303 Invoices raised by various tailors mentioning the name of the Appellant or the clothing brand on which alteration was done by the tailors are enclosed at PB 1256-1285, on sample basis. It was submitted to the AO that uploading each and every voucher/ invoice would be very difficult as the voucher/ invoices are bulky and therefore not feasible. It was also submitted that if the AO requires any specific invoice/ voucher for verification, the same can be asked from the Appellant and the Appellant will furnish

	<p>expenses of Rs 14,51,334/-, an amount of Rs 222,220/- has been paid to M R Ansari and an amount of Rs 208,340/- has been paid to Jugal Kishore Kumawat through banking channel. The remaining amount has been paid in cash to multiple tailors. The total expense of Rs 14,51,334/- on total turnover Rs 208 crore is reasonable and on lower side in comparison to last year wherein expenses of Rs 25,35,756/- was incurred on total turnover of Rs 184 crore. The alteration expenses incurred in the previous years was accepted in the assessment framed u/s 143(3) of the Act.</p>		<p>the specific invoice/ voucher.</p> <ul style="list-style-type: none"> • However, the AO has not asked for any specific voucher or invoice and has also not pointed out any defect or inaccuracy in any of the voucher/ invoice or ledger account submitted. Observation of the AO that the Appellant failed to submit the payment details, mode of payment, documentary evidences is incorrect as the same is verifiable from the ledger account containing 655 entries out of which Rs 10,20,774 is paid by cash in multiple small amounts ranging from Rs 40/- to 250. Further, bills/ vouchers were submitted to the AO on sample basis. Hence, ad-hoc disallowance made by the AO be
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<p>Event management expenses of Rs 79,46,679</p>	<ul style="list-style-type: none"> • The expenditure was incurred on account of a brand event carried out by the Appellant. Corresponding income from this event management of Rs 87,28,814/- was also recognized in the profit and 	<p>At para 3.2 of the assessment order "The assessee failed to submit details for payment and mode of payments. Failed to prove identity of the person to whom the</p>	<p>directed to be deleted.</p> <ul style="list-style-type: none"> • The Appellant vide submission dated 23 April 2021 had submitted complete details of expenditure. Amount was paid to J W Marriott of Rs 79,38,749 on which TDS of Rs 1,58,776
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	<p>loss account under head Commission and Other Income shown in note no - 18 of the audited financial statement.</p>	<p>assessee has made payment. Reconciliation not possible in absence of complete documentary evidences. Also failed to submit contra confirmation from the said parties".</p> <p>No observation at para 3.8 of the assessment order</p>	<p>was deducted. Balance amount of Rs 7,930 was paid to Creative Digi Graphics</p> <ul style="list-style-type: none"> Ledger account of J W Marriott and Creative Digi Graphics, invoice raised by J W Marriott on the Appellant and relevant extracts of bank statements enclosed at PB 1304-1312. Thus, the observation of the AO that the Appellant failed to submit the payment details, mode of payment, documentary evidences is incorrect and therefore the ad-hoc disallowance made by the AO be directed to be deleted.
<p>Housekeeping and security charges of Rs2,98,38,577</p>	<ul style="list-style-type: none"> The expenditure was incurred on account of store cleaning and security inside the retail stores. Information on name of security agency, address, PAN and amount paid along with bills and ledger accounts were furnished to the AO vide submission dated 23 April 2021. It was also mentioned that out of total expenditure of Rs 2,98,38,577, amount of Rs 2,83,24,439 has been paid through 	<p>At para 3.2 of the assessment order "The assessee failed to submit details for payment and mode of payments. Failed to prove identity of the person to whom the assessee has made payment. Reconciliation not possible in absence of complete documentary evidences. Also failed to submit contra confirmation from the said parties."</p> <p>At para 3.8 of the assessment order</p>	<ul style="list-style-type: none"> Complete ledger account of housekeeping and security charges of Rs 2,98,38,577 is enclosed at PB 1313-1371. Ledger account of various parties enclosed at PB 1372-1428, on sample basis. Housekeeping bills and vouchers for various petty expenses enclosed at PB 1429-1492, on sample basis. It was submitted to the AO that uploading each and every voucher/invoice would be very difficult as the voucher/invoices are bulky and therefore not feasible. It

	<p>banking channel and the balance amount of Rs 15,14,138 has been paid in cash which is on account of purchase of various cleaning products like soap, lizol, surf, broom, mop, etc. Sample bills were also submitted to</p>	<p>was also submitted that if the AO requires any specific invoice/ voucher for verification, the same can</p>
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	<p>verify the petty expenses.</p> <ul style="list-style-type: none"> It was also mentioned that the total expense of Rs 2,98,38,577/- on total turnover Rs 208 crore is reasonable in comparison to last year wherein expenses of Rs 2,76,36,039/- was incurred on total turnover of Rs 184 crore. The housekeeping and security expenses incurred in the previous years were accepted in the assessment framed u/s 143(3) of the Act. 	<p>The ledgers accounts of Hind Security Services & Housekeeping and Real Security Services are not submitted by the Appellant. The payments made to these parties are Rs 51,03,784/- and Rs 1,01,22,676/- respectively</p>	<p>be asked from the Appellant and the Appellant will furnish the specific invoice/ voucher.</p> <ul style="list-style-type: none"> However, the AO has not asked for any specific voucher or invoice and has also not pointed out any defect or inaccuracy in any of the voucher/ invoice or ledger account submitted. Observation of the AO that the Appellant failed to submit the payment details, mode of payment, documentary evidences is incorrect as explained above. The ledger account of Hind Security Services & Housekeeping and Real Security Services is enclosed at PB 1403-1428. Hence, the ad-hoc disallowance made by the AO be directed to be deleted.
<p>Processing fees and charges for</p>	<ul style="list-style-type: none"> The expenditure was incurred on account 	<p>At para 3.2 of the assessment order</p>	<ul style="list-style-type: none"> Party wise detail on processing charges is

<p>loan of Rs 12,06,647</p>	<p>of processing of fresh loan or renewal of loan taken from banks and NBFC.</p> <ul style="list-style-type: none"> Information on name of bank (ICICI, SBI, Kotak Mahindra, Equitas, Tata Capital, etc) along with amount paid and GST charged by the bank was submitted vide submission dated 23 April 2021. Statement of account/ loan sanction letter was also submitted. It was also mentioned that for processing charges of Rs 1,61,855, paid to nationalized banks and listed companies, the statement of account/ loan sanction was not available as the banks remitted the amount after deducting the processing charges and therefore the voucher prepared for booking the expense was submitted. 	<p>Documents submitted only for an amount of Rs 1,02,614/-. The assessee has failed to submit reason and for which purpose payment made to various banking and non banking assessee".</p> <p>At para 3.8 of the assessment order</p> <p>The Appellant failed to submit letter/ bank statement with respect to loan processing charges of Rs 1,61,855/-.</p>	<p>enclosed at PB 1493.</p> <ul style="list-style-type: none"> Statement of account/ loan sanction letter issued by nationalized banks, listed banks, listed NBFC's for loan processing charges of Rs 10,44,792 submitted with the AO is enclosed at PB 1494-1511. Thus, the observation of the AO that the Appellant failed to submit reason for charges incurred and documentary evidences is incorrect. It was explained to the AO that for loan processing charges of Rs 1,61,855, the listed banks/ NBFC's remitted the amount after deducting the applicable charges. However, the Appellant submitted the loan statement with the AO to evidence that the Appellant has taken loan from these parties (PB 1504 to 1512). Thus, the ad-hoc disallowance made by the AO be directed to
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			<p>be deleted.</p>
<p>Salary of Rs</p>	<ul style="list-style-type: none"> The expenditure was 	<p>At para 3.2 of the</p>	<ul style="list-style-type: none"> Salary register for the

<p>11,74,63,348</p>	<p>incurred on account of salary paid to various employees employed by the Appellant.</p> <ul style="list-style-type: none"> It was submitted to the AO that the Appellant made payment to 1026 employees for the subject AY. The complete salary register containing name of the employee, designation, date of joining, address of the employees, PAN, bank account number, month wise payment details, etc was furnished to the AO. Tax has been deducted in cases where total income exceeds the basic exemption limit. Sample appointment letters and attendance register recorded through biometric system or manual register was also submitted. 	<p>assessment order</p> <p>"The assessee failed to submit details for payment and mode of payments. Failed to prove identity of the person to whom the assessee has made salary payment. The assessee has failed to submit address of the employee, their attendance register, copy of their appointment letter, their bank details, and TDS details. Reconciliation not possible in absence of complete documentary evidences. Also failed to submit contra confirmation from the said parties."</p> <p>At para 3.8 of the assessment order The AO mentioned that the Appellant has submitted sample appointment letters and sample attendance registers but the Appellant failed to furnish bank details, contra confirmation, TDS details of various employees.</p>	<p>entire year containing details such as name of employee, designation, date of joining, address of the employees, PAN, bank account number, month wise payment details, etc enclosed at PB 1512-1529</p> <ul style="list-style-type: none"> Appointment letters issued to employees enclosed at PB 1530-1551 Attendance register enclosed at PB 15521562 Observation of the AO that the Appellant failed to submit the bank details, TDS details, documentary evidences is incorrect as the Appellant had submitted all these details as mentioned above. Thus, the ad-hoc disallowance made by the AO be directed to be deleted.
<p>Total expense of Rs 15,79,06,585</p>			

21. In the course of arguments, before this bench, we have enquired from Ld. DR for the department-appellant and asked him to point out from the impugned order as to which material came to be submitted by the appellant-assessee before Learned CIT(A) in respect of the above said expenses.

From the impugned order, Id. DR for the appellant has not been able to point out that such and such material/details was not submitted before the Assessing Officer, but which came to be submitted by the assessee in the appellate proceedings.

22. From the observations made by Learned CIT(A) at page 24 of the impugned order, we find that details, explanation and documentary evidence submitted by the assessee were considered by Learned CIT(A), NFAC.

In addition thereto, Learned CIT(A) also took into consideration the fact that after passing of the assessment order, Learned PCIT, Rajasthan on a grievance filed by the assessee against the said order, observed that no specific defects were pointed out by the Assessing Officer in relation to the above said expenses.

A High- pitch Scrutiny Committee was held on 20.04.2022, & 21.04.2022, in view of the observations of the said committee that the

Assessing Officer had not rejected the books of accounts and the method of doing business by the assessee stood already accepted in previous assessment years.

23. Said observation by the committee led to making of the above said observations by Learned PCIT, Rajasthan. Consequently, Learned CIT(A) held that disallowance of 5% of the total expenses by the Assessing Officer was not justifiable.

24. Admittedly, when books of accounts of the assessee were not rejected in the previous assessment years, the method of doing business by the appellant stood accepted, Learned CIT(A), NFAC was justified in setting aside the disallowance of 5% of the expenses made vide impugned assessment order.

25. Accordingly, we uphold the reasoning recorded by Learned CIT(A), NFAC and do not find any merit in the contention raised by Ld. DR for the appellant.

Ground No. 2, as regards addition low income in comparison to income reflected in 26AS.

26. The Assessing Officer, on this aspect made an addition of Rs. 2,16,27,822/-, u/s 69A of the Act. Para 4 to 4.5 of the assessment order pertains to making of said addition.

In the course of assessment proceedings, it is stated to have transpired that there were deficiencies to the tune of Rs. 2,33,29,736/-, on the aspect of commission income earned by the assessee, in comparison to the figures reflected in 26AS.

So, the Assessing Officer called upon the assessee to reconcile the said discrepancy by way of a show cause notice dated 02.03.2021.

In this regard, relevant part of the show cause notice, as is available from page 12 to 14 of the impugned assessment order, is reproduced herein for ready reference:-

Sr. No.	Name of party	Section	Amount as per 26AS	Amount shown by you	Proposed amount for addition
1.	Arvind Lifestyle Brands Limited	194C	11,42,725/-	Nil	1142725
2.	Aditya Birla Fashions and Retail Ltd.	194C	26,66,030/-	Nil	2666030
3.	Paytm e-commerce Pvt. Ltd.	195H	619472	Nil	619472
4.	Jain Amar Clothing Pvt. Ltd.	194I	1571850	Nil	1571850
5.	Jain Amar Clothing Pvt. Ltd.	194C	50000	Nil	50000
6.	Iconic Fashions Ret. Pvt. Ltd.	194C	1063730	NIL	1063730
7.	Iconic Fashions Ret. Pvt. Ltd.	194I	4587340	NIL	4587340
8.	Saurya Urja company of Raj. Ltd.	194I	1212840	Nil	1212840
9.	Bestseller Retail India Pvt. Ltd.	194C	2961237	Nil	2961237
10.	Only Retail Pvt. Ltd.	194C	1334384	Nil	1334384
11.	Only Retail Pvt. Ltd.	194I	4,93,333	Nil	4,93,333
12.	Kapil Prakash	194I	843571	Nil	843571
13.	Savadika Retail Pvt. Ltd.	194C	6092546	Nil	6092546
	Total undisclosed receipt				23329736

27. The assessee furnished following reply to the notice dated 10.03.2021, and said reply reads as under:-

“3. Person wise reconciliation of entire income reflecting in Form 26AS with the income reported in audited financial statement is enclosed. From the reconciliation, it is evident that the assessee has incorporated entire receipts reflecting in 26AS. Assessee has included entire receipts reflecting in form 26AS in the note No. 18 to the audited financial statement, details of which are as under:

Particulars	Amount	Remarks
Commission and other income	11,26,43,589/-	Amount as per Note-18, revenue from operations to the audited financial statements.
Rent and CAM income	1,54,38,563/-	
total	12,80,82,152	

28. However, the Assessing Officer observed that the reply was not acceptable, for want of supporting evidence from the side of the assessee and TDS mismatch having not been explained by the assessee. So, again a show cause notice dated 19.04.2021, was issued to the assessee.

The assessee submitted its response dated 23. 04.2021 thereto.

29. The Assessing Officer was not satisfied with the reply, for the following remarks available in column 6 of the following table:-

S. No.	Name of Party	Section	Amount as per 26AS (Rs.)	Explanation	Remarks
1	Arvind Lifestyle Brands Ltd	194C	11,42,726	The assessee has shown income of Rs. 1358340/-(831708+526632) on account of common area maintenance (CAM) income from this party in respect of two stores at S No 7 and 8 at page 53 of reply dt 01-01-2021 where amount of Rs. 8,31,708/- (Rs. 69309/*12) and 526632/-(43886*12) is shown. However the party has deducted tax at source only on Rs. 11,42,725/-. Thus when assessee has shown correct income in the books of accounts but party has deducted tax at source at lower amount, no adverse inference is to be drawn.	<ol style="list-style-type: none"> 1. The assessee has failed to justify that the transaction in respect of which TDS was deducted does not pertain to its. 2. At page No. 53 of reply dated 01.01.2021, there are no mention of Names, PAN, TAN of the deductor. 3. The assessee has failed to submit contra confirmation from the parties who had deducted TDS amount from payment due of the assessee.
2	Aditya Birla Fashions and Retails Ltd	194C	26,66,030	The correct total as per 26AS is Rs. 27,41,546/-. This income has been declared by the assessee in the books of account as per the details given at S No 9 to14 and S No 18 of the details of rent and common area maintenance (CAM) income enclosed at page 53 of reply dt 01-01-2021.	<ol style="list-style-type: none"> 1. The assessee has failed to justify that the transaction in respect of which TDS was deducted does not pertain to its. 2. At page No. 53 of reply dated 01.01.2021, there are no mention of Names, PAN, TAN of the deductor. 3. The assessee has failed to submit contra confirmation from the parties who had deducted TDS amount from payment due of the assessee.
3	Paytm e-commerce	194H	619472	This amount is incorrectly appearing in form No 26AS of	<ol style="list-style-type: none"> 1. The assessee has failed to justify that the transaction

	Pvt Ltd			<p>assessee in as much as assessee has no dealing with this party. Assessee has also not claimed credit of TDS of this party as reflected in form No 26AS. In Form 26AS initially downloaded by assessee name of party was not appearing but now in latest form 26AS the name of this party is appearing with booking date of transaction as 20-08-2018. Even in the last year name of this party is not appearing in form 26AS. Therefore, it is requested that enquiry may be made directly from this party to revise their TDS return.</p>	<p>in respect of which TDS was deducted does not pertain to its.</p> <ol style="list-style-type: none"> At page No. 53 of reply dated 01.01.2021, there are no mention of Names, PAN, TAN of the deductor. The assessee has failed to submit contra confirmation from the parties who had deducted TDS amount from payment due of the assessee.
4	Jain Amar clothing Pvt Ltd	194I	15,71,850	<p>This income has been declared by the assessee in the books of account as per the details given at S No 3 of the details of rent and CAM income enclosed at page 53 of reply dt 01-01-2021. Thus there is no difference.</p>	<p>The assessee has failed to justify that the transaction in respect of which TDS was deducted does not pertain to its.</p> <p>At page No. 53 of reply dated 01.01.2021, there are no mention of Names, PAN, TAN of the deductor.</p> <p>The assessee has failed to submit contra confirmation from the parties who had deducted TDS amount from payment due of the assessee.</p>
5	Iconic Fashions Retail Pvt Ltd	194C	10,63,730	<p>This income has been declared by the assessee in the books of account as per the details given at S No 6 of the details of rent and common area maintenance (CAM) income enclosed at page 53 of reply dt 01-01-2021. Thus there is no difference</p>	<ol style="list-style-type: none"> At page No. 53 of reply dated 01.01.2021, there are no mention of Names, PAN, TAN of the deductor. The assessee has failed to submit contra confirmation from the parties who had deducted TDS amount from payment due of the assessee.
6	Iconic Fashions Retail Pvt Ltd	194I	45,87,340	<p>This income has been declared by the assessee in the books of account as per the details given at S No 1 of the details of rent and common area maintenance</p>	As Above.

				(CAM) income enclosed at page 53 of reply dt 01-01-2021. Thus there is no difference	
7	Surya Urja Company of Rajasthan Ltd	194I	1212840	This income has been declared by the assessee in the books of account as per the details given at S No 2 of the details of rent and common area maintenance (CAM) income enclosed at page 53 of reply dt 01-01-2021. Thus there is no difference	As Above.
8	Only Retail Pvt Ltd	194C	1334384	It comprise of two amounts. One is of Rs. 1309322/- which is reflected as other income in the books of account against the bills raised in respect of recovery of Event Management Expenses. The second is Rs. 25062/- which is towards Common Area Maintenance Charges Against this in the books of accounts the common area charges recorded is 46876/- as per S. No. 17 of page 53 of Reply dt. 01.01.2021. Thus the income recorded is more than reflected in Form 26AS and therefor no adverse inference is called for.	<ol style="list-style-type: none"> 1. At page No. 53 of reply dated 01.01.2021, there are no mention of Names, PAN, TAN of the deductor. 2. The assessee has failed to submit contra confirmation from the parties who had deducted TDS amount from payment due of the assessee.
9	Only Retail Pvt Ltd	194I	4,93,333	This income has been declared by the assessee in the books of account as per the details given at S No 5 of the details of rent and common area maintenance (CAM) income enclosed at page 53 of reply dt 01-01-2021. Thus there is no difference.	<ol style="list-style-type: none"> 1. At page No. 53 of reply dated 01.01.2021, there are no mention of Names, PAN, TAN of the deductor. 2. The assessee has failed to submit contra confirmation from the parties who had deducted TDS amount from payment due of the assessee.
10	Kapil Prakash	194I	8,43,571	This person has paid the rent of Shop No. G-18, Star Mall Gurgaon from April-17 to 14.10.2017 @ Rs. 1,19,700/- i.e. Rs. 7,74,060/- which is duly recorded in the books of accounts as per S. No. 4 of detail of Rent	<ol style="list-style-type: none"> 1. At page No. 53 of reply dated 01.01.2021, there are no mention of Names, PAN, TAN of the deductor. 2. The assessee has failed to submit contra confirmation

				<p>and common area maintenance (CAM) income given at page 53 of reply dt. 01-01-2021. However from Form 26AS it appears that this person has wrongly considered the amount of Rent for the month of Sep-17 as 182911/- instead of Rs. 111970/-. Thus this is a mistake on the part of deductor. The actual rent receipt is only Rs. 774060/- Therefore assessee has recorded the correct income and no adverse inference on the basis of Form 26AS is called for.</p>	<p>from the parties who had deducted TDS amount from payment due of the assessee.</p>
11	Savadika Retail Pvt Ltd	194C	60,92,546	<p>The assessee has accounted for this income as commission and other income in the books of accounts comprising of commission income of Rs. 2318494/- and other income of Rs. 60,92,546/-. Thus there is no difference.</p>	<ol style="list-style-type: none"> At page No. 53 of reply dated 01.01.2021, there are no mention of Names, PAN, TAN of the deductor. The assessee has failed to submit contra confirmation from the parties who had deducted TDS amount from payment due of the assessee.

30. The Assessing Officer, while making said addition u/s 69A of the Act, observed that the assessee had failed to reconcile entries as mentioned in the table reproduced above, for want of supporting evidence; and that the assessee had failed to submit contra confirmations from the parties which deducted TDS amount from payments to the assessee.

31. In appeal, Learned CIT(A), while dealing with the said issue, allowed ground No. 2 raised by the assessee, by observing in the manner as:-

“The appellant also explained that during the financial year 2016-17, it received Rs. 2,16,27,822/- in cash from customers for work carried out during the period, as well as from debtors. All transactions, including cash, were reported in the books of accounts, which were audited in accordance with Section 44AB of the Income Tax Act. Before the AO, the appellant explained that the source of the deposits was cash received from work carried out during the year, cash received from debtors, and redeposit of cash withdrawn by the appellant during the year. Further, the appellant has placed reliance on the judgment of the Hon'ble ITAT Bengaluru in the case of Smt. Teena Bethala vs. ITO (ITA No. 1383/Bang/2019 dated 28.08.2019) and the Hon'ble ITAT Mumbai in the case of DCIT vs. Karthik Construction Co. (ITA No. 2292/UM/2016 dated 23.01.2018). In view of the above discussion, I am of the opinion that the action of the AO in making the addition and treating the cash deposits as unexplained under Section 69A of the Act is not justified in the eyes of the law. Therefore, the AO is directed to delete the addition made under Section 69A of the Act in the case of the appellant. Therefore, Grounds of appeal No. 2 is hereby allowed.”

32. As noticed above, Learned CIT(A) clearly observed that the assessee had explained receipts of cash to the tune of Rs. 2,16,27,822/- from customers/debtors for the work carried out during the relevant period, and further that all the transactions were recorded in the books of accounts, which were audited as per provision of section 44AB of the Act. Learned CIT(A) also observed that the assessee had explained re-deposits of certain cash, withdrawn by it during the said period. Consequently, he arrived at the conclusion that the Assessing Officer was not justified in making the said addition u/s 69A of the Act, by treating the said deposits as unexplained income.

33. In the course of argument, before this Bench, on behalf of the appellant it has not been pointed out as to which relevant documents/details or information was or were not provided to the Assessing Officer during assessment proceedings, or as to which material came to be produced by the assessee, for the first time, during the appellate proceedings.

34. Consequently, it cannot be said that any such information/details or evidence was required to be verified by way of remand report from the Assessing Officer, before being relied on.

35. As a result, for the reasons recorded in the impugned order, we do not find any merit in the contention raised by the department that Learned CIT(A) having deleted said addition, without calling for any remand report from the Assessing Officer impugned order deserves to be set aside.

Ground No. 3- addition of Rs. 29,61,237/-, related to transaction with Best Seller Retail India Pvt. Ltd.

36. Said addition came to be made by the Assessing Officer, while observing that the assessee had failed to explain the said transaction made by the assessee u/s 194 I of the Act, by producing supporting documentary evidence; having not furnished copy of agreement/contract with the said

parties; and also having failed to furnish confirmation letters from the parties.

37. It appears that the assessee had claimed before the Assessing Officer that said transaction was covered by the provisions of section 194C of the Act, but, it was wrongly posted as one pertaining to section 194 I of the Act.

The Assessing officer rejected said claim on the ground that assessee had failed to furnish any revised return to carry out correction as regards said transaction, and also because the assessee company being renowned and a big company, no such blunder was expected from the assessee, in deducting TDS under wrong provisions of law.

The Assessing Officer further observed that the assessee had failed to furnish ledger of the concerned parties related to the said transactions.

38. In appeal, Learned CIT(A), NFAC, while dealing with the said issue, observed that TDS rate in respect of provisions of section 194 I of the Act, and 194H of the Act was previously 10%, but, with effect from 01.04.2016, TDS rate u/s 194H was reduced to 5%. Even otherwise, the party was found to have deducted the amount of TDS higher than actually required to be deducted.

39. In this situation, we find that Learned CIT(A), NFAC was justified in deleting the said addition, while allowing ground no. 3 raised by the assessee.

Ground No. 4- Addition of Rs. 24,03,02,520/- on account of cash deposits.

40. In the course of assessment proceedings, the Assessing Officer observed that the assessee had deposited huge cash to the tune of Rs. 43,29,46,364/- in its Current bank account.

The assessee was called upon to furnish requisite details and supporting documentary evidence regarding source of said cash deposits , like bank agreement, details of agencies, their PANs, details of total cash picked by the bank agencies as provided by the bank, copy of vouchers/receipts of cash deposits, and contra confirmations from such persons.

41. In response, the assessee submitted that cash generated being huge used to be deposited by the assessee directly in its current account, through cash pick up agency of the bank.

For want of proper reply, the Assessing officer issued a show cause notice on 18.02.2021.

The assessee submitted its response thereto, but, the Assessing Officer was not satisfied due to the reason that from the documents submitted by the assessee it was not clear that cash deposits were made out of sale proceeds and also because the assessee had failed to submit cash book in respect of cash receipts, and various bills/vouchers regarding cash sales.

42. Although the assessee had produced agreement arrived at with cash pick up agency, the Assessing Officer observed that the same was dated 24.11.2011 and that too without the period for which the same remained in force. Furthermore, as observed by the Assessing Officer, this document pertained only to Yes Bank.

In other words, the Assessing Officer observed that similar agreements as regards the other two banks, namely, Bank of Baroda (BOB) and HDFC bank were not produced.

Furthermore, as observed by the Assessing Officer, the assessee had failed to produce copy of account activities in respect of the said two banks, even though the same was submitted in case of Yes Bank.

In addition thereto, the Assessing Officer observed that the assessee had not submitted source of cash deposited with the said two banks- BOB

and HDFC Bank or copy of cash book, bank book and bank statements, relating thereto.

Consequently, the Assessing Officer observed that while he was satisfied with the cash deposits with Yes Bank, the assessee had failed to explain the cash deposits with BOB and HDFC Bank.

43. Furthermore, the assessee was found to have failed to produce supporting documentary evidence in regard to certain amounts mentioned in the Excel sheet as regards sales related to its retail stores.

44. Accordingly, show cause notice dated 19.04.2021 was issued to the assessee. The assessee responded thereto. But, the Assessing Officer was not satisfied with the reply dated 23.04.2021 submitted in this regard, for the following reasons, and accordingly, he made addition u/s 68 of the Act.:-

“In view of the above screenshots of the clauses of the said agreement, the assessee has failed to submit the copies of deposit slips for cash deposits made by it. The assessee has also failed to furnish periodic statements for the said transactions to justify the amount of cash deposits. Above mentioned documents are required to be furnished by the assessee to ascertain the amount of cash deposit made by the assessee through cash pickup vans. Mere submission of copy of agreement is not sufficient to ascertain the amount of cash deposits. As per Accounting System, the assessee is required to maintain cash book for each outlet and justify cash balance on the date of deposit of cash in bank. The assessee has not submitted outlet wise cash book or combined cash book of all outlets, from which it can be ascertained that the assessee was having sufficient cash balance on the date of deposit of cash. Therefore, the assessee has also failed to reconcile the cash deposit slip submitted by it with the cash sales. The

assessee has failed to prove that the cash deposits pertain to the cash sales made by the assessee. Therefore, in absence of any supporting documentary evidences, cash deposited of Rs. 240302520/- is treated as unexplained credit in books of account through unexplained cash deposit in bank account and added to the returned income of the assessee u/s 68 of the I. T. Act. Penalty proceedings u/s 271AAC is initiated separately for this addition.

6. Disallowance of late payment to ESI.

6.1 During the course of assessment proceedings, it is observed that Auditor has shown late payment of Any Fund set up under the provision of ESI Act, 1948" for Rs. 146390/-. A query letter was issued to the assessee in this regard. In response to above query letter, the assessee submitted that "due date for depositing the above-mentioned amount is 21st day of the next month. But the assessee failed to submit supporting documentary evidence for due date is 21st of next month. Hence it was requested to justify your claim along with supporting documentary evidences.

6.2 In response to above query the assessee relied on decision of High Court of Rajasthan in the case of CIT v/s SBBJ & Jaipur Vidyut Vitran Nigam Limited, in this case it was held that where contribution is deposited up to due date of filing return of income, no disallowance is to be made. But the same is not found to be acceptable, as in this case in A.Y.2017-18 addition of Rs.487321/- was made in terms of provision of section 36(1)(va) r.w.s. 2(24)(x) of the Income tax Act, on the ground that the issue has not attained its finality as the department has not accepted decision of Hon'ble High Court of Rajasthan and has filed SLP against the said decision. In this regard, a show cause notice was issued to the assessee on 02.03.2021 for addition of above mentioned amount, relevant part of which is reproduced as under:

5. On perusal of Audit Report, it is seen that Auditor has shown late payment of Any Fund set up under the provision of ESI Act, 1948" for Rs. 146390-

In response to above query you have submitted that "due date for depositing the above-mentioned amount is 21 day of the next month."

On perusal your submission it is found that the same is not proper and you have not submitted supporting documentary evidence as called vide above query and failed to submit supporting documentary evidence for due date is 21st of next month. Hence it was requested to justify your claim along with supporting documentary evidences.

In regard to above query you have relied on decision of High Court of Rajasthan in the case of CIT v/s SBBJ & Jaipur Vidyut Vitran Nigam Limited, in this case it was held that "where contribution is deposited up to due date of filing return of income, no disallowance is to be made

Your above reply is found to be not acceptable, as in your case in A.Y.2017-18 addition of Rs. 487321/- was made in terms of provision of section 36(1)(va) r.w.s. 2(24)(x) of the Income tax Act on the ground that the issue has not attained its finality as the department has not accepted decision of Hon'ble High Court of Rajasthan and has filed SLP against the said decision.

Therefore, it is requested to show cause as to why amount of Rs.146390/- should not be disallow in terms of provision of section 36(1)(va) r.w.s. 2(24)(x) of the Income tax Act. Please submit your explanation with evidences.

6.3 The assessee submitted reply on 10.03.2021, wherein the assessee has once again failed to submit any supporting documentary evidences as called for vide show cause notice. Once again the assessee relied on decision of High Court of Rajasthan in the case of CIT v/s SBBJ & Jaipur Vidyut Vitran Nigam Limited, in this case it was held that where contribution is deposited up to due date of filing return of income, no disallowance is to be made." But the same is not found to be acceptable, as in this case in A.Y.2017-18 addition of Rs.487321/- was made in terms of provision of section 36(1)(va) r.w.s. 2(24)(x) of the Income tax Act, on the ground that the issue has not attained its finality as the department has not accepted decision of Hon'ble High Court of Rajasthan and has filed SLP against the said decision. The assessee failed to submit copy of any order from Supreme Court in the case of CIT v/s SBBJ & Jaipur Vidyut Vitran Nigam Limited.

6.4 In this regard, a show cause notice dated 19.04.2021 (Draft Assessment Order) was issued to the assessee. The assessee submitted its reply vide submission dated 23.04.2021, the relevant part of which is reproduced here as under

5. Disallowance on account of late payment of ESI Rs. 146,390/- Your goodself has proposed proposed disallowance of Rs 146390/- on account of late payment of ESI In this connection it may be noted that said disallowance has been worked out by you on the basis of the amount reported in tax audit report, where the auditor has incorrectly specified the due date of payment of ESI for the month of April and May as 15-05-2017 and 15-06-2017 respectively whereas for these two months the due date of payment was 21-05-2017 and 21-06-2017 respectively. The due date of deposit in ESI as 15th of next month was amended for the payment to be made from June 2017 as per notification No. N-12/13/1/2016-PSD-df 01-07-2017 issued by Employee's State Corporation. The assessee has paid the amount of ESI for the month of April and May 2017 on 20-05-2017 and 20-06-2017 and thus there is no delay in deposit of ESI. Therefore the disallowance proposed by you is incorrect and the disallowance proposed by you be dropped

6.5 The above mentioned reply of the assessee is not acceptable as the assessee made reference to notification No. N-12/13/1/2016-P&D- dt 01-07-2017 issued by Employee's State Corporation and stated that the due date for deposition has been revised to 21st of the next month. On perusal of the said circular, it is observed that the same was amended vide circular dated 03.07.2017 which reads as follows,

"Regulation 31 stand amended whereby the contributions in respect of any employee shall be paid within 15 Days of the last day of the calendar month in which the contribution fall due. This shall come into force with effect from the month of June, 2017 i.e. by 15th July, 2017."

Therefore, the circular as referred by the assessee is not applicable in this case wherein late payment made for the month of April and May. In view of above facts, in terms of provisions of section 36(1) (va) read with section 2(24)(x) of the Income tax Act, 1961 the above sum is being disallowed. This will result in an addition of Rs. 146390/- to the total income of the assessee. Penalty proceedings u/s. 270A is being initiated separately for misreporting of income. [Addition Rs.146390/-]

7. Addition on account of unsecured loan:

7.1 During the course of assessment proceedings, the assessee was asked to furnish details and supporting evidences for various unsecured loan received during the year under consideration. In response, the assessee submitted that

"Details of unsecured loan taken during the year is given in Para 31 of Form 3CD to tax Audit Report. Assessee has taken unsecured loans from NBFC, Financial institution only except the unsecured loan taken from SurvaasHomes Pvt.Ltd. In this context, loan confirmation from SurvaasHomes Pvt. Ltd. Is enclosed. Details of TDS deducted on interest expenses is given in annexure in form 26Q to TDS return which was already submitted in the earlier reply dated 01.01.2021."

7.2 On perusal of above reply and evidence, the reply is not to be acceptable as the assessee submitted only confirmation however failed to submit copy of its return of income, bank statement and identity of said company, written agreement for unsecured loan as amount of loan is very large in the case of Survaas Homes Pvt. Ltd. Hence, the assessee has failed to establish creditworthiness, identity and genuineness of loan transaction. Therefore, vide show cause notice dated 02.03.2021 it was requested to show cause as to why unsecured loan of Rs 50,00,000/- taken from Survaas Homes Pvt. Ltd., should not be treated as unexplained credit in books of account and added to your total

income. It is hereby show caused as to why interest paid on said loan should not be disallowed and added to total income”

45. In appeal, Learned CIT(A), NFAC deleted the said addition as well, while arriving at the conclusion that the said cash deposits could not be treated as unexplained credits, especially when the figures corresponded to the same amount with the entries recorded in the cash account. In this regard, Learned CIT(A) referred to the bank statements from HDFC Bank and BOB as well as pick up agency agreements with all the three banks named above. Learned CIT(A), observed that the assessee had submitted daily bills wise sales report in respect of its retail audit, of course, on sample basis, including mode payment specifying as to which were cash sales and which were card sales. Therefore, learned CIT(A) was fully justified in observing that the Assessing Officer had no justification in discarding the documents submitted by the appellant, relating to the cash deposits made with the said two banks.

46. There is nothing in the observations made by Learned CIT(A), while dealing with said ground, to suggest that any fresh details/information/material was produced by the assessee for the first time during appellate proceedings. Even in the course of arguments before this

Bench, it has not been pointed out as to which additional evidence, if any was produced by the assessee in those appellate proceedings.

47. Accordingly, we do not find any merit in the said ground of challenge raised by the department in this appeal, and uphold the deletion of the said addition.

Ground No. 5- disallowance of late payment as regards ESI contribution in respect of employee.

48. The Assessing Officer made an addition of Rs. 1,46,390/- on the ground that the assessee had deposited said amount beyond due date.

Show cause notice was issued to the assessee. Thereupon, the assessee referred to notification No. N-12/13/1/2016-P & D dated 01.07.2017 issued by ESI to submit that the due date for deposit of such contributions in respect of employee was revised to 21st of next month .

The Assessing Officer observed that the addition said circular was not applicable. Accordingly, while referring to the provisions of Section 36(1)(va) r.w.s. 2(24)(x) of the Act, he disallowed claim of the assessee regarding said amount.

49. When the assessee challenged the said disallowance, Learned CIT(A), NFAC took into consideration amended circular dated 03.07.2017, issued by ESI, and also judicial precedents relied on by the assessee to

the effect that employees contributions deposited before the due date of filing of return of income u/s 139(1) of the Act could not be disallowed u/s 36(1)(va) of the Act.

50. Learned CIT(A), NFAC was not satisfied with the observations of the Assessing Officer that the contributions pertaining to months of April and May, 2017 having not been deposited within the prescribed period, the provisions of section 36(1)(va) of the Act were attracted.

51 In the course of arguments, before this Bench Ld. DR for the appellant has not been able to successfully assail the above said findings recorded by Learned CIT(A), NFAC or to defend the opinion expressed by the Assessing Officer, while making the said addition.

52. Consequently, this ground raised by the department also deserves to be disallowed. We order accordingly.

Ground No. 6 and 7- Addition on account of unsecured loan and interest on the said unsecured loans.

53. Show cause notice dated 02.03.2021 is stated to have been issued by the Assessing Officer to the assessee finding that the assessee had failed to submit copy of return of income, bank statement, and documents in proof of identity of Survaas Homes Pvt. Ltd. or even any written

agreement in respect of unsecured loan of Rs. 50,00,000/- from the said company.

In its response, the assessee submitted as under:-

"7. Regarding unsecured loan taken during the year, we are to submit as under:

1. That assessee has taken loan mainly from NBFCs. Copy of loan sanction letter following NBFCs is enclosed:

i bajan Finance Limited.

ii Capital Float Limited.

lii Capital Float Limited-Zen Lefin Pvt. Ltd.

Iv tat capital Financila Services Limited.

V. Edelweiss retail Finance Limited.

b. That apart from loan taken from NBFCs, assessee has taken one loan from Survaas Homes Pvt. Ltd of Rs. 50,00,000/- during the year. Assessee has already submitted copy of confirmation containing complete address and PAN of Survaas Homes Pvt. Ltd. is enclosed. This loan is arranged through broker GD Associates, details of which are as under:

Particulars	PAN	Address	Brokerage Paid
GD Associates	ACGPB5164J	Shop 299, Choti Chpped, Chandpole Bazar, Jaipur-302001	16,667/-

Loan transaction is routed through banking channel. Loan creditor is existing income tax assessee and income department contains complete details of loan creditor. Thus transaction of loan is genuine and creditworthiness of loan creditor is proved. Income tax return of loan creditor is accessible to your goodself through your AST software. Assessee is not in direct contact with the lender Assessee has requested to broker for providing bank statement and ITR, however loan creditor denied to provide the same. Considering the limitations of the assessee, it is requested to directly access ITR and other details of loan creditor through AST software or alternatively call bank statement and ITR by issuing notice u/s 133(6) of the Act. Since loan creditor is income tax assessee, transaction is routed through banking channel, complete name and address is verifiable, hence identity and credit worthiness of loan creditor is proved beyond doubt."

54. The Assessing Officer was not satisfied with the above said reply because of failure of the assessee to produce copy of loan agreement, Loan sanction order, details of properties mortgaged against said loans, contra confirmations from the said companies, and to establish that the unsecured loans were exclusively used for business purposes.

Accordingly, show cause notice dated 19.04.2021 came to be issued the assessee.

The assessee responded to the same vide reply dated 23.04.2021. It was accompanied by copy of confirmation letter from GD Associates.

The Assessing Officer was not convinced with the claim put forth by the assessee, and he made an addition of Rs. 50,00,000/-, and further addition of Rs. 3,20,833/- by way of interest paid to the above named company on the unsecured loan transaction, which was found to be not a genuine transaction.

In this regard, the Assessing Officer made following observation in para 7.5 and 7.6 of the assessment order :-

“The above reply of the assessee is found not to be acceptable as the assessee has failed to establish the creditworthiness of the loan creditor with supporting documentary evidences. The assessee has merely stated that the loan is arranged by a middleman and no agreement has been signed for this loan is not acceptable in view of law. Further, as per the confirmation letter from GD Associates, it is stated that the agent charges commission for arranging loans. But the said confirmation letter failed to submit details regarding how much

commission was charged by the agent for arranging this loan amount of Rs, 50 lakhs from Suvaas Homes Pvt. Ltd. The assessee and broker have failed to submit any documents/evidences regarding the commission payment. Further, the assessee has furnished details of processing fees and charges for loans. On perusal of said details, it is seen that there is no mention of any loans from Suvaas Homes Pvt Ltd and no fees have been paid to GD Associates for the said transaction. The assessee has also failed to furnish any TDS details with respect to commission payment to GD Associates. On perusal of various financial statements as downloaded from MCA website by the assessee and submitted to this office, it is observed that the Suvaas Housing Pvt Lts is engaged in business activity of Building/Construction rather than being a NBFC. Further, the assessee has failed to arrange a confirmation letter from the said company despite being in same state and in vicinity. Therefore, in view of various judgments(As discussed in para 9.3) and facts of the case, unsecured loan of Rs. 50,00,000/- as obtained from Survaas Homes Pvt. Ltd. is treated as unexplained loan and unexplained credit in books of account added to total income of the assessee u/s 68 of the Act. Penalty proceedings u/s 271AAC are initiated separately for this addition. As the addition made u/s. 68 of the Income tax Act, hence tax liability on this addition worked under section 115BBE of the Income tax Act.

7.6 As mentioned in show cause, the interest paid to Survaas Homes Pvt. Ltd may be disallowed if loan transaction treated as unexplained credit in books of accounts. As discussed in above para it is established that the unsecured loan transaction is not genuine and the assessee has failed to explain the same with supporting documentary evidences. Therefore, interest paid on it required to be disallowed as paid on non-genuine unsecured loan. Therefore, interest paid to above named company of Rs. 320833/- is disallowed and added to total income of the assessee. Penalty proceeding u/s. 270A separately initiated for this addition. [Addition for disallowance-Rs.320833/-].”

55. When the assessee was in appeal before against said additions, Learned CIT(A), NFAC held that the assessee had successfully discharged its onus by providing evidence to prove identity of the lenders, creditworthiness of the parties and genuineness of the loan transaction. In

this regard, Learned CIT(A), went through audited financial of the Survaas Homes Pvt. Ltd. and was satisfied about the credibility of the said entity, which had sufficient financial standing to advance said loan amount, had turnover of Rs. 12,47,20,000/- and profit before tax to the tune of Rs. 59,10,336/-.

56. On behalf of the department-appellant, nothing has been brought to our notice to contend that the said financial statements were not submitted before the Assessing Officer, or same were submitted by the assessee before learned CIT(A) for the first time.

57. Ld. AR for the assessee has drawn our attention to the written submissions submitted by the assessee before the Assessing Officer, particularly from page 27 to 34 of the assessment order.

Ld. AR for the assessee has also submitted before us copy of index of the paper book submitted by the assessee before Learned CIT(A), wherein at serial no. 7, there is a reference to the screen shot of e-filing portal evidencing filing of all those documents which were submitted to the Assessing Officer. Nothing to the contrary has been brought before us on behalf of the department.

58. In view of the above discussions, we find that Learned CIT(A), NFAC was justified, after recording its satisfaction from the material available on

record that the said addition deserved to be deleted for the reasons recorded at page 38 and 39 of the impugned order. Accordingly, said deletion of addition is upheld.

Result

59. In view of the above discussions and findings, this appeal filed by the department is hereby dismissed.

File be consigned to the record room after the needful is done by the office.

Order pronounced in the open court on 13/10/2025.

Sd/-
(गगन गोयल)
(GAGAN GOYAL)
लेखा सदस्य / Accountant Member

Sd/-
(नरेन्द्र कुमार)
(NARINDER KUMAR)
न्यायिक सदस्य / Judicial Member

जयपुर / Jaipur

दिनांक / Dated:- 13/10/2025

*Santosh

आदेश की प्रतिलिपिअग्रेषित / Copy of the order forwarded to:

1. The Appellant- DCIT, Jaipur.
2. प्रत्यर्थी / The Respondent- Samarth Lifestyle Retailing Pvt. Ltd., Jaipur.
3. आयकरआयुक्त / The Id CIT
4. आयकर आयुक्त / CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur
6. गार्डफाईल / Guard File ITA No. 1196/JPR/2025)

आदेशानुसार / By order,

सहायक पंजीकार / Asstt. Registrar