

**INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "F": NEW DELHI
BEFORE SHRI H. S. SIDHU,
JUDICIAL MEMBER
AND
SHRI PRASHANT MAHARISHI,
ACCOUNTANT MEMBER**

ITANo. 5417/Del/2010
(Assessment Year: 2005-06)

ACIT, Central Circle-23, Room No. 359, 3 rd Floor, ARA Centre, Jhandewala Extension, New Delhi (Appellant)	Vs.	Rama Krishna Jeweler (India), D-54, Central Market, Lajpat Nagar, New Delhi PAN:AAEFR1351H (Respondent)
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Revenue by :	Mrs. Nandita Kanchan, CIT DR
Assessee by:	Dr. Rakesh Gupta, Adv Shri Abhishek Anand, Adv
Date of Hearing	21/04/2016
Date of pronouncement	11/05/2016

ORDER

PER PRASHANT MAHARISHI, A. M.

1. This is appeal filed by the assessee against the order of the Id. CIT (A)-III, New Delhi dated 08.09.2010 for the Assessment Year 2005-06.
2. The assessee has raised the following grounds of appeal:-
 - “1. *On the facts and in the circumstances of the case, the CIT (A) has erred in law and on facts in deleting the addition of Rs. 19,37,800/- made by AO u/s the Income Tax Act 1961.*
 2. *On the facts and in the circumstances of the case, the CIT (A) has erred in law and on facts in deleting the addition of Rs. 1,74,17,828/- made by the AO on account of unaccounted sales and Rs. 9988104/- on account of unrecorded purchase by holding that the surrender made by the assessee is subsequently year covers this amount.*
 3. *On the facts and in the circumstances of the case, the CIT (A) has erred in law and on facts in deleting the disallowance of Rs. 7,51,790/- made by the AO on account of making charges.*
 4. *whether on the facts and in the circumstances of the case, the CIT (A) has erred in law and on facts in admitting additional evidences under rule 46A?”*
3. Honourable high court has remanded back this matter by the order of Hon’ble Delhi High Court in ITA No. 461/2014 dated 13.11.2014. Hon’ble High Court was pleased to frame the following substantial question of law as under:-

“Whether the order passed by the Income Tax Appellate Tribunal dismissing the appeal of the Revenue for estimated profits of Rs. 1,74,17,828/- on account of unaccounted sales and estimated investment of Rs. 99,88,104/- is perverse and non-reasoned?”

4. Hon’ble High Court directed the Tribunal to re-examine the whole issue afresh on merits without being influenced by the first order of the ITAT or the present order passed by the Hon’ble High Court.
5. To understand the factual matrix it is important to note the facts in chronological order. Revenue carried out search and seizure operation on 20.01.2006 on assessee and pursuant to that, issued a notice u/s 153A of the act. In response to the notice the assessee vide letter dated 22.03.2007 submitted that return of income originally filed may be considered as return filed in response to the notice. Subsequently on 28.12.2007 assessment u/s 153A of the Income Tax Act was framed wherein several additions were made to the total income of the assessee. Original return of income of assessee was Rs. 182762/- whereas the assessed income was Rs. 31610916/-. Subsequently, assessee carried the matter before the Id. CIT(A), who in turn decided the appeal of the assessee vide order dated 08.09.2010 and against which both parties preferred appeal before ITAT. The ITAT decided the appeal of the parties for several assessment years vide order dated 01.11.2013. Against this order of the ITAT revenue preferred appeal before Hon’ble Delhi High Court wherein the above question of law is set aside for fresh adjudication and is remanded back to the Tribunal.
6. Based on this facts Id. DR and Id. AR both agreed that now only ground No. 2 of that appeal is required to be decided. Therefore on perusal of the order of the Hon’ble High Court and also appreciating the arguments of both the parties we proceed to decide ground No. 2 of the appeal which is as under:-

“On the facts and in the circumstances of the case, the CIT(A) has erred in law and on facts in deleting the addition of Rs.1,74,17,828/- made by the AO on account of unaccounted sales and Rs.99,88,104/- on account of unrecorded purchase by holding that the surrender made by the assessee is subsequently year covers this amount.”

7. During the course of search and seizure, revenue seized certain loose papers and diaries and asked assessee to explain the nature of transactions recorded in the seized material. In response to such letter of Id. AO dated 29.10.2007 assessee submitted vide letter dated 02.11.2007 as under:-

“6..... it would be abundantly clear that the loose papers seized and marked as Annexure A-28 to A-36 reflect transactions of sale and purchase i.e. incoming funds and outgoing expenses not for the 12 months of the year but only for such months which witness a boom in the jewellery market due to the peak season such a festive occasions and wedding season. It would impliedly mean that the loose papers in question indicated the purchase and sale of jewellery outside books of accounts during the peak season as averred above. Here, we would be unhesitatingly branded as having indulged in mal practices like suppression of sales (purchase also due to the recycling of the sale proceeds outside books of accounts) but we would yet expect your good self to believe that assessee firm in its stressful contentions (as to the fact of such suppression only for part of the year as indicated by the Annexures herein above referred to having regard in particulars to an obvious and natural conclusion that in case

the assessee firm had undertaken such transactions out of its books of accounts, loose papers in relation thereto would also have been found in and around its business premises during an extensive search by your full team. In this view of the matter, it would be appreciated by your good self as inspiring sufficient confidence, we would indeed expect a fair deal and accept in good grace the net result as reflected in the summary of annexures which manifestly shows in the assessee firm sales as per annexures at Rs.19.49 crores and as per the books of accounts at Rs.8.04 crores and net sales affected outside books of accounts at Rs.11.44 crores.”

8. Based on the above submission Id. Assessing Officer tabulated Annexure A-28 to Annexure A-36 seized from the premises of the assessee determined total sales recorded in above annexures amounting to Rs. 194904393/-. Before the Assessing Officer assessee submitted that against the sales recorded in the above annexures assessee has already recorded sales in the books of accounts for this it showed various invoices. Therefore, the sale recorded in the books of accounts needs to be reduced for determining the unrecorded sales contained in those annexures. However, it was rejected holding that the assessee could not pin point sales out of sales recorded in those annexures which are recorded in the books of accounts. Therefore, out of total sales Rs.194904393/- Assessing Officer worked out total sales of Rs.138271298/- pertaining to the above Assessment year. Further, AO was of the view that the above sales is in respect of only 191 days and therefore it was extrapolated to 300 working days for the year and such sum was determined at Rs. 217179900/-. The Id. Assessing Officer applied gross profit rate of 8.02% on this sales based on the disclosed GP rate of the assessee and made an addition of Rs.17417828/- to the income of the assessee being profit earned by the assessee out of undisclosed sales.
9. Further, Id. AO was of the view that as assessee has clocked unaccounted sales of Rs. 217179900/- and therefore to make that kind of sale assessee must have made unaccounted purchases and therefore Id. AO presumed cycle of 15 days sales based on the annual sale of Rs. 217179900/- and from that sales reduced the gross profit rate applied and determine the sum of Rs. 9988104/- as unaccounted purchases as amount invested in the business for making unaccounted sales.
10. Therefore, in nutshell Id. Assessing Officer made an addition of Rs.17417828/- as gross profit earned out of unaccounted sales and further made an addition of Rs.9988104/- as initial investment for facilitating the above-unaccounted sales.
11. Against this addition, assessee preferred an appeal before Id.CIT (A). Before Id.CIT (A) it was submitted by the assessee that at the time of search on 20.01.2006 assessee surrendered an income of Rs. 2.5 crores for AY 2006-07 which has been honored by the assessee and due tax thereon, has been paid and accepted by Id.AO. Assessee submitted copy of computation of income and balance sheet for AY 2006-07 submitting that the Id. AO has erred in not grating telescoping of the addition against this surrendered amount. Several judicial precedents were cited. On merits also it was submitted before Id. CIT(A) that out of the sales allegedly stated to be

unrecorded sales, assessee has already recorded sales of Rs. 44847768/- in the regular books of accounts out of above sales of Rs. 138271298/- therefore even otherwise the unaccounted sales remains of Rs. 93423530/-only. For this Id., AR submitted corresponding invoices traced with the amount of sales recorded in various seized annexures. Ld. AR further stated that AO could not extrapolate the sales, which was found for 191 days for 300 days. Before the Id.CIT (A) further contention was raised that gross profit rate of 8.02% is excessive, as it did not cover up for the expenses incurred by the assessee. Therefore, assessee submitted that only net profit rate could be adopted and not gross profit rate. For the addition in investment in purchase of unrecorded sales, assessee contended that the addition has been made without any justification as assessee has ample stock in its books of accounts as per statement recorded of Shi Prem Prakash Choudhury. Therefore both the addition made was contested before the Id. CIT(A) on merits as well as on telescoping with surrendered amount of Rs 2.5 Crore in subsequent year.

12. Ld.CIT (A) after obtaining the remand report from the Id. AO deleted the addition of Rs.17417828/- holding that the addition has to be telescoped against the surrender of Rs.2.5 crores made by the assessee in AY 2006-07. For the deletion of this addition, Id.CIT (A) perused the statement recorded of Mr. Prem Prakash Choudhury that confesses that the assessee maintains the stock register and further out of profits earned out of unrecorded sales invested in 31 gold bars. The disclosure was specifically made because of seized loose paper and other materials. The Id. AO in remand report did not make any adverse comments on the argument put forth by the assessee. Therefore, the Id.CIT (A) held that when the assessee has made a surrender of Rs.2.5 crores with respect to all the documents seized pertaining to AY 2000-01 to 2006-07 no further addition based on these loose papers can be made. Hence he deleted the addition of Rs.17417828/-. As Id.CIT (A) has already deleted the addition because of profit on unaccounted sales the corresponding addition because of investment in purchase of unrecorded sales was also deleted. Therefore, revenue is in appeal before us. As already pointed out of four effective grounds of the appeal only ground no. 2 are required to be adjudicated all other grounds i.e. 1, 3, 4 and 5 are already adjudicated by the order of coordinate bench.
13. Coming to the ground No. 2 of the appeal Id. CIT DR vehemently submitted that Id.CIT (A) has deleted the addition without appreciating the reasons given by the Id. Assessing Officer for addition based on the seized material found during the course of search. She further pointed out that out of the annexure A-28 to A-36 only annexure A-30, A-32 and A-36 are not pertaining to this year and same have been excluded rightly by the Assessing Officer. She submitted that as assessee himself has submitted vide letter dated 02.11.2007 that his sales effected outside the books of account is Rs. 11.44 crores therefore, her submission was that assessee itself has admitted unaccounted sales and therefore Id.CIT (A) has given relief without any reasoning. She further took us to Page 348 of the Paper Book, which is the assessment order for AY 2006-07 and submitted that there is no addition of Rs.2.5 crores in that order as noted by the Id.CIT (A). She further submitted that regarding the recorded sales to be reduced from unaccounted sales,

assessee could not produce any evidence such as cash sales register etc. but only produced invoices. Simply those invoices cannot be an evidence of the sales recorded in the books of account. She relied on the decision of Prakash Chand Sharma Vs. DCIT 90 CCH 0198 (All) and submitted that even in that case despite filing copy of ledger no benefit of accounted sales was given as assessee could correlate the entries found in the seized material with the ledger of the regular books of account. She further relied on the decision of Hon'ble Delhi High Court in CIT vs. Ajay Kapoor 91 DTR 337 submitting that the Id. AO has also made investment in the inventory for effecting unrecorded sales rightly. Regarding extrapolation of the sales she relied on the decision of Hon'ble Supreme Court in case of CST Vs. HM Eyusuf Ali HM Abdul Ali 90 ITR 271 (SC) wherein Hon'ble Supreme Court has specifically held that such estimate can be made. She further submitted that Id. AO has rightly took gross profit rate for determining the profit arising out of unaccounted sales as all other expenditure has already been debited in the books of accounts. For this contention, she relied upon decision of Indore Bench of ITAT in case of M/s. Ramani Icecream Pvt. Ltd. vs. ACIT ITA No.224/Ind/2012 for AY 2007-08-dated 31.01.2013. She further relied on decision of Mumbai Bench of ITAT in Nissar Khan vs. ITO in ITA No.4698/Mum/2009 dated 12.07.2013 wherein it has been held that gross profit rate needs to be applied on unaccounted sales for determining the profit thereon. She further referred to various written submission made by the assessee before Id.CIT (A). in the nutshell her argument was that the unrecorded sales was rightly determined by the Id. AR by not granting deduction for sales already recorded in the books of accounts and further extrapolation of the sales of 191 days to 300 days. She further stated that the amount invested in the business for recording such a huge amount of sales necessary investment of Rs.9988104/- has rightly been determined by Id. Assessing Officer.

14. On the issue of telescoping, she submitted that in AY 2006-07 no addition has been made because of disclosure stated by the assessee of Rs.2.5 crores. She referred to the assessment order in the case of the assessee for AY 2006-07. She further submitted that the total unaccounted sales was found of Rs.19.49 crores and part of this pertaining to AY 2006-07 and for which no separate addition has been made on account of unaccounted sales and its investment therefore the assessee has already got benefit of telescoping for that year. She relied on the decision of Hon'ble Delhi High Court in case of CIT vs. Pritam Singh submitting that some profits arising out of unaccounted sales of this year would have been used for personal expenses and entertainment etc. and therefore benefit of telescoping cannot be allowed.
15. Before us Id. AR submitted that the statement of Shri Prem Prakash Choudhury was recorded during the course of search and at that particular time the partner of the assessee explained that a stock register is maintained by the assessee and in these stock register 31 gold bars of 24 carat of 1 kg each were not recorded and same were acquired out of profit earned by the assessee from the unrecorded transactions of the assessee therefore he argued that on that account assessee surrendered Rs. 2.5 crores for AY 2006-07 and therefore no separate addition now made on

account of profit on undisclosed sales as well as any investment thereon cannot be made. He further referred to Page No.34 to 36 of the Paper Book wherein assessee gave explanation about annexure A-28 to A-36 (except A-32 and A-36) of the seized material wherein assessee has tabulated against each of the annexure amount of sales recorded in the books of account totaling to Rs. 44847768/-. He submitted that from these annexures item, sales value, matches along with date of the invoices and therefore assessee has pin pointedly explained to Assessing Officer item wise reconciliation for each annexure of sales recorded in the books. He referred to a table at Page 35 of the paper book which according to him shows recorded sales of Rs. 44847768/- out of unrecorded sales of Rs.138271298/-. He submitted that books of accounts were available in the search proceedings and complete sales book was also available. Therefore, his submission that assessee should be granted deduction of recorded sales out of sales recorded in above annexures for working out any profit on unaccounted sales. He further referred to various annexures titled as Annexure A-28, A-29, A-30, A-31 etc. and shown various invoices issued by the assessee. He also submitted that description of the item, gross rate of the item, amount of sales bill and the date of invoice matches with the seized annexure. He further submitted that it is not the case of the AO that these invoices are not recorded in the books of accounts. Therefore, he stated that assessee should be granted deduction of recorded sales out of those annexures. He further submitted that the statement recorded of Shri Prem Prakash Choudhury who is 50% partner in the appellant firm and vide his statement dated 20.01.2006 u/s 132(1) has stated that 31 gold bars found during the course of search are purchased out of unaccounted profit of unrecorded sales. Further, in Q. No. 11, he submitted that stock of Rs.54257254/- is as per the stock records of the firm and further in Q. No.12 he disclosed a sum of Rs.2.5 crores being the value of the 31 gold bars. Therefore based on the above statement he contended that their profits on unaccounted sales are already disclosed by the assessee and further, as huge stock is always available with the assessee there is no investment made by the assessee in unaccounted purchases for effecting sales out of books of accounts. He further stated that during the course of search no evidence was found about any unaccounted purchases therefore, a separate addition made by the Assessing Officer on account of profit on unrecorded sales as well as investment in stocks for making this sales. He further referred to the order of the Id.CIT (A) wherein at Page No.8 his submissions before the Id.CIT (A) were recorded. Regarding extrapolation of sales, he submitted that when evidences are available for only 191 days it cannot be extrapolated for 300 days as done by the Id. AO. For this he referred to several decisions of various tribunals and High Courts as 75 ITD 19 (Pune), 70 STD 77 (Patna), 72 ITD 205 (Hyd) 97 TTJ .. (JP), 199 ITR 247 (All HC), 144 ITR 270 (All HC).

16. Regarding remand report he submitted that during the course of hearing before the Id.CIT (A) Id. AO was asked to submit remand report with respect to additional evidence filed as well as the written submission of the assessee. In response to this Id. AO submitted his remand report on 29.04.2010 but did not offer any comments with respect to the written submission of the assessee.

Therefore, according to him Id.CIT (A) is correct in mentioning that Id. Assessing Officer did not

offer any comments on the written submission of the assessee. Referring to the argument of the Id. DR that assessee has already got benefit of telescoping so far as sales pertaining to AY 2006-07, He submitted that the total sales found by the assessee was Rs.194904393/- out of which recorded sales is Rs.80480400/- and balance is Rs.114423943/- and if gross profit rate applied by the assessee is also accepted which is 8.02% even then the profit that could be estimated is of Rs.91.54 lacs and against this assessee has already disclosed Rs.2.5 crores. Therefore, the disclosure already made by the assessee covers all the infirmities on account of unrecorded sales as well as any investment in the stocks for that. He referred that vide letter dated 02.11.2007 of the assessee is accepted as it is even then no further addition can be made. Regarding the decision of Hon'ble Delhi High Court in case of Ajay Kapoor (supra) which was relied upon by the Id. CIT DR, he submitted that in that case, the assessee did not maintain any day-to-day stock and for that reason, it was not believed that unrecorded sales could have been out of accounted stock. He submitted that during the course of search it was established that assessee is maintaining day-to-day stock register and further no incriminating documents regarding purchase of any stock was found. Further in that case it could not be shown that there exists a stock whereas in the case of the assessee stock of approximately of Rs.5.42 crores was found at stock register. Therefore he submitted that the decision relied upon by Id. DR has a different facts and is distinguishable. He further submitted that as assessee had already disclosed Rs.2.5 crores on this account the addition made in this year i.e. 2005-06 is double addition. For this, he referred to Page 9 and 10 of Id.CIT (A) and further submitted that closing stock surrendered to the tune of Rs.2.5 crores has already been included in the profit for that year. For this he referred to the Profit and Loss account as well as the assessment order for AY 2006-07 wherein u/s 143(3) the disclosure is accepted. Therefore, his argument was that the assessee should be granted benefit of telescoping of disclosure made in AY 2006-07 for this year. For this he relied on following decisions:-

- a) Arun Kala Vs. ACIT 98 TTJ 1046 (Jp),
- b) ITO Vs. Republic PoultryFood 45 ITD 359 (Chd),
- c) Paul Mathews & Sons Vs. CIT 263 ITR 101 (Ker),
- d) CIT Vs. KSM Guruswamy Nadar & Songs 149 ITR 127 (Mad),
- e) CIT Vs. Venkateshwara Timber Depot 222 ITR 768 (AP).

17. In the rejoinder she submitted that assessment is governed by evidence found during the course of search and cannot be made based on the statement. She submitted that as necessary evidences have been found during the course of search the addition has required to be made. She further stated that the acquisition of gold bars mentioned in the statement of the assessee cannot be presumed that these are acquired out of the profits of unaccounted sales and therefore telescoping cannot be allowed to the assessee. She further reiterated her argument that invoices cannot be the basis of sales recorded in the books of account, as assessee has not produced cash sales register to trace items found in the annexures seized with the sales register. Therefore according to her assessee cannot be granted benefit of sales recorded in the books of account. Regarding the

remand report it was submitted that the observation of the Id. CIT(A) that assessee has not objected is incorrect and it was only on admission of additional evidence. Therefore she submitted that order of the Assessing Officer may be restored and order of the Id.CIT (A) be reversed.

18. We have carefully perused the contentions of the Id. CIT DR and Id. AR of the assessee and appraised ourselves with the facts of the case. On the basis of this we are of the view that following issues needs our adjudication:-

- a. Whether reduction of accounted sales needs to be allowed on the facts of the case out of unrecorded sales found and admitted during the course of search.
- b. Whether the documents seized during the course of search pertaining to 191 days can be extrapolated for 300 days and whether profit rate applied should be Gross profit or net profit.
- c. Whether any addition is warranted on account of unaccounted purchase for effecting unaccounted sales of the assessee.
- d. Whether assessee is eligible for set off disclosure made in AY 2006-07 of Rs.2.5 crores covers the addition made by Id. Assessing Officer on account of profit and investment arising out of unaccounted sales in AY 2005-06.

19. We deal with all the above issues as under:-

- a) Firstly, the issue that arises is whether assessee should be allowed the reduction of accounted sales from total unaccounted sales found in the seized material. During the course of search 8 documents were found which are titled as Annexure A-28 to Annexure A-36 and in those annexures it was found that these papers contained sales on various dates as under:-

Annexure No.	Period	Amount of sales recorded therein	Amount of sales pertaining to AY 2005-06	Sales Recorded in the books of accounts	Net Unrecorded sales as per annexures
(1)	(2)	(3)	(4)	(5)	(6)
					(3-5)
A-28	01.11.2004 to 25.11.2004	4054035	4054035	Nil	4054035
A-29	19.01.2006 to 28.09.2004	18987808	13287155	1428617	11858538
A-30				Nil	Nil
A-31	03.08.2004 to 31.08.2004	17791965	17791965	6025455	11765510
A-32	25.09.2005 to 31.12.2005	6733840	No sales recorded in this annexure	NA	Nil

			pertains to AY 2005- 06		
A-33	01.10.2004 to 31.10.2004	25690248	25690248	9403431	16286817
A-34	11.07.2004 to 28.11.2004	38863605	38863605	13713905	25149700
A-35	01.06.2004 to 01.08.2004	14754125	38584290	14276360	24307930
A-36	28.09.2005 to 24.12.2005	44198602	No sales recorded in this annexure pertains to AY 2005- 06	Nil	Nil
	Total	194904393	138271298	44847768	93423530

- b) There is no dispute between the assessee as well as revenue that above annexures are pertaining to sales made by the assessee. In the letter dated 02.11.2007 assessee has submitted before the Assessing Officer, which is at Page 31 of the assessment order that all these annexures show sales of Rs.19.49 crores and as per books of accounts Rs.8.04 crore of the sale is recorded therefore only sales effected out books of account (unrecorded) is Rs. 11.44 crores. Ld. Assessing Officer has believed the contention of the assessee that Rs.19.49 crores in the annexures are sales of the assessee. However, Assessing Officer has disbelieved that out of these sales, reduction claimed by the assessee of Rs.8.04 crores cannot be granted as assessee has failed to pin point the items sold as per annexures which are recorded as sales in the books of accounts and therefore ld. Assessing Officer has considered total sales recorded in those annexures as unaccounted sales of the assessee. Before us, ld. AR of the assessee has submitted that out of total sales recorded in those annexures assessee has accounted for these sales in the books of accounts. He referred that page No. 222 of the paper book which is dated 04.11.2004 and submitted that item No.5 recorded therein showing the description of D. Tops showing the gross weight of 0.50 carats for Rs.7000/- has been recorded by invoice no.2134 dated 04.11.2004 showing same item with the weight and the price. He also referred to item No.1 which is DR for Rs.5600/- on that date is also booked by invoice No.2136 on 04.11.2004 for the same amount of Rs.5600/-. Similarly item No.3 shown as DR for Rs.5500/- is also recorded by invoice No.2139 dated 04.11.2004 for Rs.5500/- for Diamond Ring. Similarly at page No.223. Dated 05.11.2004 assessee has shown two diamond rings for Rs.1500/- are recorded in that annexure, which are billed by invoice No.2168, dated 05.11.2004 for two diamond rings showing same weight. Similarly, at page No.230 he has shown sales recorded in that annexure Sl. NO.26,27,32 on

08.09.2004 which is recorded vide invoice No.1521, 1522 and 14422. Similarly at Page No.231 the assessee has shown several items for which invoices have been raised. On Page No.246 dated 17.08.2004 item No.1 which is for four bangles weighing 43.820 grams amounting to Rs. 23500/- which is also recorded by invoice No.1308 dated 17.08.2004. similarly, on 25.08.2004 assessee has shown at SI No. 2 one set sold for Rs. 16890/- of 302.20 gms which have been booked vide invoice No. 1343 dated 25.08.2004. similarly item No.11 which is a ring sold on the same day for Rs.3200/- is also recorded as sales vide invoice No.1296 dated 25.08.2004 for Rs.3200/-. Similarly, assessee has submitted various sales bills to show that the seized annexures are pertaining to total sales that also include accounted sales in the books of accounts. On verification of these details submitted in the form of paper book it is apparent that sales shown in seized annexures also includes the sales accounted for in the books of accounts. As an evidence for that assessee has submitted the sales bills which matches so far as the date, item, weight and the sales invoice value with the details mentioned in seized annexures. This fact remains uncontroverted that it has maintained stock register showing day-to-day movement of goods. The Arguments of the revenue that merely sales invoices cannot be the evidences of sales accounted for in the books of accounts is also unfounded when during search books of accounts were found and sales was already accounted for therein. It was also not the argument of the revenue that these sales bills are not found recorded in the regular books of accounts. In view of this, the total sales contained in seized annexure cannot be taken as unaccounted sales of the assessee and assessee must be granted deduction of sales recorded in the books of accounts. Further, the reliance of the revenue on the decision of Prakash Ch. Sharma Vs. DCIT in 90 CCH 0198 (All) is also considered wherein the contention of the assessee regarding reduction of unaccounted sales from the sales found in the seized materials was not granted. We have carefully perused the facts, in that decision assessee could not produce any evidence on record to justify that the sales made by the assessee, which is recorded, in the seized material were already recorded in the books of accounts. However, for the purpose of evidence assessee submitted the ledger and also the copies of the seized material but could not correlate the entries found in the seized material with the ledger of the regular books of accounts. We have carefully perused the facts of the appeal before us as well as the facts of that case. In the case of the appellant copies of the sales invoices were matched to the extent of date of sales, material sold, weight of the material sold and sales value with the details mentioned in seized annexures. Therefore in the present case assessee has substantiated its claim by correlating the entries found in the seized material with the actual invoices raised. Further the assessee has maintained day-to-day stock register. Further according to the facts of that case it was noted that parallel set of books were maintained by the assessee whereas in the present case no such facts are found.

Therefore this decision is distinguishable on the facts. The assessee has also submitted vide letter dated 02.11.2007 before the Assessing Officer that total sales recorded in these annexures are also include the sales already accounted for in the books of accounts. In view of this when assessee is able to demonstrate that sales recorded in those annexures also contained sales recorded in the books of accounts assessee should be allowed the deduction of sales already recorded in the books of accounts. In the present case for that particular period total sales of Rs. 13,82,71,198/- was found for the year. For the 191 days the assessee has shown that sales of Rs. 44847768/- is recorded in the books of account. For this before Id. CIT(A) the assessee has submitted the annexure B-1 to B-189 showing the sales in the annexure matching with the corresponding invoices. In view of this we are of the view that sales recorded in the annexures seized is a cumulative sales which includes accounted as well as unaccounted portion, therefore for determining the income arising out of unaccounted sales of the assessee it is necessary to exclude sales already accounted for by the assessee in the books of accounts. Assessee has submitted that out of the sale of Rs. 138271298/- sales amounting to Rs. 44847768/- has already been recorded in the books of accounts which is tallied by the assessee with the invoices showing the identical particulars of goods sold, weight of such goods sold and the amount of sales on the same day. In view of this sales already recorded in the books of accounts of the assessee is amounting to Rs. 44847768/- and therefore unaccounted sales of the assessee for the period as mentioned in annexure A 28, 29, 31,33,34 and 35 is Rs 934235360 only.

- c) Now we come to the issue whether the sales found according to the seized annexure amounting to Rs.138271298/- which is for 191 days can be extrapolated for the whole year of 300 days for making addition in the hands of the assessee. Ld. CIT DR has relied on the decision of Hon'ble Supreme Court in the case of CST Vs. H. M. Eyusufali H. M. Abdulali reported at 90 ITR 271 (SC) wherein it has been held that estimate can be made. Against this Id. AR submitted that the sales cannot be extrapolated in absence of any evidence found. He further submitted plethora of cases wherein it is held that sales cannot be extrapolated beyond the period for which the evidences are available. It is an admitted fact that the annexure A-28 to A-36 are pertaining to sales for the AY 2005-06 and 2006-07. Further, out of these annexure sales figure of Rs. 138271298/- was found which is pertaining to 191 days in AY 2005-06. The search was carried on 20.01.2006 and in the Annexure A-36 sales details were found up to 24.12.2005. In the case relied upon by the Id. CIT D R the issue before the Hon'ble Supreme Court was that when the flying squad of the Sales Tax Department inspected the business premises of the assessee they found a bill book for the period September 01 1996 showing the sales of Rs. 31171.28 which had not been entered into the assessee's account book. In that particular

case assessee denied that the bill book in question pertaining to his dealing. In those facts it was held as under:-

*“5. Now coming to the facts of this case, it is necessary to remember that at the initial stage, the assessee denied that the bill book seized was his bill book and the entries therein related to his dealings. He asserted that he had nothing to do with the bill book in question and the entries therein do not relate to his dealings. But, at a later stage, he conceded that that bill book was his and the entries therein related to his dealings. It is now proved as well as admitted that his dealings outside his accounts during a period of 19 days were of the value of Rs. 31,171.28. From this circumstance, it was open to the STO to infer that the assessee had large-scale dealings outside his accounts. The assessee has neither pleaded nor established any justifiable reason for not entering in his accounts the dealings noted in the bill book seized. It is obvious that he was maintaining false accounts to evade payment of sales tax. In such a situation, it was not possible for the STO to find out precisely the turnover suppressed. He could only make an estimate of the suppressed turnover on the basis of the material before him. So long as the estimate made by him is not arbitrary and has nexus with facts discovered, the same cannot be questioned. In the very nature of things the estimate made may be an over-estimate or an under-estimate. But, that is no ground for interfering with his "best judgment". It is true that the basis adopted by the officer should be relevant to the estimate made. The High Court was wrong in assuming that the assessing authority must have material before it to prove the exact turnover suppressed. If that is true, there is no question of "best judgment" assessment. The assessee cannot be permitted to take advantage of his own illegal acts. It was his duty to place **all** facts truthfully before the assessing authority. If he fails to do his duty, he cannot be **allowed** to call upon the assessing authority to prove conclusively what turnover he had suppressed. That fact must be within his personal knowledge. Hence, the burden of proving that fact is on him. No circumstance has been placed before the assessing authority to show that the assessee's dealings during 1st Sept., 1960, to 19th Sept., 1960, outside his accounts were due to some exceptional circumstance or that they were proportionately more than his dealings outside his accounts during the remaining periods. The assessing authority could not have been in possession of any correct measure to find out the escaped turnover during the periods 1st Nov., 1959, to 31st Aug., 1960, and 20th Sept., 1960, to 20th Oct., 1960. The task of the assessing authority in finding out the escaped turnover was by no means easy. In estimating any escaped turnover, it is inevitable that there is some guess-work. The assessing authority while making the "best judgment" assessment, no doubt, should arrive at its conclusion without any bias and on rational basis. That authority should not be vindictive or capricious. If the estimate made by the assessing authority is a bona fide estimate and is based on a rational basis, the fact that there is no good proof in support of that estimate is immaterial. Prima facie, the assessing authority is the best Judge of the situation. It is his "best judgment" and not of anyone else. The High Court could not substitute its "best judgment" for that of the assessing authority. In the case of "best judgment" assessments, the Courts will have to first see whether the accounts maintained by the assessee were rightly rejected as unreliable. If they come to the conclusion that they were rightly rejected, the next question that arises for consideration is whether the basis adopted in estimating the turnover has reasonable nexus with the estimate made. If the basis adopted is held to be a relevant basis even though the Courts may think that it is not the most appropriate basis, the estimate made by the assessing authority cannot be disturbed. In the present case, there is no dispute that the assessee's accounts were rightly discarded. We do not agree with the High Court that it is the duty of the assessing authority to adduce proof in*

support of its estimate. The basis adopted by the STO was a relevant one whether it was the most appropriate or not. Hence the High Court was not justified in interfering with the same.”

Therefore in view of the decision of Hon'ble Supreme court we are of the view that when the assessee is found to effecting unrecorded sales, then assessing Officer is justified in extrapolating the unrecorded sales for the purposes of making estimation of the profit earned by him. However such estimate cannot be unreasonable and without any basis. In the case of the assessee it is found that assessee has recorded the total sales on those seized annexure and out of them part of the sales is recorded and part of the sales is unrecorded. As we have already held that assessee is eligible for reduction of sales already accounted for in the books of accounts from those annexures we also hold that unrecorded sales only can be extrapolated and total sales. Therefore in that case for the year assessee has recorded the total sales in those annexures of Rs. 13,82,71,298/- and out of which the sale of Rs 4,48,47,768/- has already been recorded leaving the balance sale of Rs 9,34,23,530/- for 191 days can be extrapolated for 300 days which amounts to Rs. 14,67,38,528/- . Further regarding the profit we are of the view that as all the expenses have already been booked by the assessee and no evidences were found during search of any accounted trade related expenses we cannot accede to the plea of the assessee for taking the net profit for arriving the profit earned out of unrecorded sales. Therefore we also confirm the decision of Id AO in adopting G P rate for the purposes of earning the profit instead of net profit rate.

- d) Now on the issue of the unaccounted purchases made for the investments in inventory for effecting unaccounted sales Ld. AO has taken the cost of goods sold of 15 days and worked out the unaccounted purchases for the sales affected out of books. We do not find any infirmity in the working of the Id Assessing officer on that count except that for the purposes of sales, the only unrecorded sales is required to be adopted and not the total sales shown in those seized annexures.
- e) Now we come to the last issue of whether the assessee is eligible for telescoping of the disclosure made by the assessee of Rs 2.5 Crore which has been owned by the assessee as disclosed in statement u/s 132 (4) of the act. Hon Supreme court in AnnatharamVeerasinghaiaa& co V CIT 123 ITR 457 on issue of telescoping has held that

“There can be no escape from the proposition that the secret profits or undisclosed income of an assessee earned in an earlier assessment year may constitute a fund, even though concealed, from which the assessee may draw subsequently for meeting expenditure or introducing amounts in his account books. But it is quite another thing to say that any part of that fund must necessarily be regarded as the source of unexplained expenditure incurred or of

cash credits recorded during a subsequent assessment year. The mere availability of such a fund cannot, in all cases, imply that the assessee has not earned further secret profits during the relevant assessment year. Neither law nor human experience guarantees that an assessee who has been dishonest in one assessment year is bound to be honest in a subsequent assessment year. It is a matter for consideration by the taxing authority in each case whether the unexplained cash deficits and the cash credits can be reasonably attributed to a pre-existing fund of concealed profits or they are reasonably explained by reference to concealed income earned in that very year. In each case, the true nature of the cash deficit and the cash credit must be ascertained from an overall consideration of the particular facts and circumstances of the case. Evidence may exist to show that reliance cannot be placed completely on the availability of a previously earned undisclosed income. A number of circumstances of vital significance may point to the conclusion that the cash deficit or cash credit cannot reasonably be related to the amount covered by the intangible addition but must be regarded as pointing to the receipt of undisclosed income earned during the assessment year under consideration. It is open to the revenue to rely on all the circumstances pointing to that conclusion. What these several circumstances can be is difficult to enumerate and indeed, from the nature of the enquiry, it is almost impossible to do so.”

Honourable Gauhati High Court in CIT v. Nabadwip Chandra Dey [1991] 190 ITR 133 has aptly summarised the principles enunciated by the aforesaid decision of the hon. Supreme Court as follows :—

- "(1) Amounts represented by ‘intangible additions’ to the book profits of an assessee during an assessment proceeding constitute undisclosed income of the assessee and are as much a part of his real income as those disclosed by his account books. It has the same concrete existence.
- (2) Income from intangible additions is available to the assessee for meeting expenditure or introducing amounts in his account books.
- (3) If any unexplained cash deposit or cash credit can reasonably be related to the amount covered by the intangible additions made in the past or in that very year, necessary set off may be given by the authorities on that account.
- (4) In each case, the true nature of the cash deficit or cash credit must be ascertained from an overall consideration of the particular facts and circumstances of the case."

On the basis of above principles we examine the issues before us. It is an admitted fact that assessee has disclosed the sum of Rs 2.5 Crores. In the statement recorded of the partners of the assessee firm u/s 132(4) of the act in response to question no 10 it was admitted as under :-

“Q. no. 10 During the physical search of your premises today in the locker situated at the basement 31 gold bars of 24 ct. of 1 kg each have found and inventorised. The perusal of stock register maintained up to 05.01.2006 reveals that gold bars have never been recorded in the said register. During the course of search and seizure operation neither books/ vouchers regarding purchase of these bars have been found nor such purchases and recorded in your books of a/cs. Please explain the source of acquisition of these gold bars.

Ans: I accept that 31 gold bars of 24ct. of one kg. each have been found at my business premises in the locker situated at basement. I accept those gold bars belong to our firm M/s. Rama Krishna Jewellers. The same have not been reflected in our books of a/cs. The source of acquisition of these gold bars is out of the profit earned from the corresponding business transaction. In this regard, I want to state that during the search proceeding conducted at my residence as well as business premises, certain loose papers/ diaries/ registers/ estimate slips/ CPU/ pen drive/ floppy/ vouchers etc. found and seized. The amount invested in the acquisition of these gold bars has been emanated from the unrecorded transactions reflected in all these seized documents.”

Q. No.11 During the course of search conducted today inventory of gold and diamond jewellery found in the locker situated at basement has been prepared in your presence which is affirmed by correctly recorded by you. As per the inventory prepared by the Govt. approved valuer, the total weight of gold is 50858.860 grams and weight of diamond is 3204.35 ct. and total value of this is Rs. 54257254/-. Please state where these jewellery has been reflected in your books of accounts.

AnsNo.11: All the above mentioned jewellery except 31 gold bars of 24 ct. gold of one Kg each has been reflected in our books of accounts which can be verified from our books of account seized by you.

Q No.12: In response to Q. No.10 he was stated that 31 gold bars found at your business premises belongs to your firm M/s Ram Krishana Jewellers and the same has not been reflected in your books of accounts. In this regard I want to draw your attention to section 132(4) read with explanation 5 to section 271(1)(c). any income/ assets disclosed during the search proceedings which have not been disclosed till now, will not attract any penalty or penal interest or prosecution. Do you wish to avail this opportunity.

Ans. No.12: Yes, I wish to avail this opportunity and I want to disclose an amount of Rs. 2.5 crores which is the value of 31 gold bars and offer the same as my additional income in addition to my regular income during the current financial year.”

20. On perusal of above statements it is noted that assessee's partner has disclosed a sum of Rs. 2.5 crores on account of 31 gold bars of 24 ct of 1 kg each have been found at the business premises of the assessee and belongs to the assessee partnership firm. Further, these gold bars were not part of actual stock register of the assessee. Source of funds for acquisition of these gold bars is stated to be out of profit earned from the corresponding business transactions. It was further stated by the assessee that certain loose papers etc. are found and seized from the business premises of the assessee, which are showing certain unrecorded transactions in the regular books of accounts, and these gold bars have been acquired out of those transactions. Therefore, there is

real income generated out of the unaccounted sales, which is stated to be invested in the acquisition of gold bars. During the course of search in case of the assessee certain loose papers were found which were pertaining to sales of the business and out of which some transactions were accounted for and some transactions were unaccounted. As profit out of the unaccounted sales admitted by the assessee and surrendered Rs. 2.5 crores on that account. Assessee has submitted profit and loss account for the year ended on 31.03.2006 at page No.33 of the paper book wherein assessee has included surrendered stock to the tune of Rs. 2.5 crores in the profit and loss account. Assessee has also submitted the assessment order u/s 143(3) of the Income Tax Act dated 28.12.2007 wherein this disclosure has been accepted by the Id. AO. For this assessment Year Id. Assessing Officer has made an addition of income on account of unrecorded sales and in the assessment year 2006-07 where assessee has offered the application of such income for the taxation it was also accepted. This amounts to taxing sources and application of income simultaneously. Further the argument of the Id. CIT DR is that that it cannot be presumed that the disclosure of Rs. 2.5 crores made by the assessee for acquiring 31 gold bars are acquired out of profit earned by the assessee earned out of unaccounted sales cannot be accepted. We appreciate that there is no direct evidence available about utilization of that profit for acquisition of those gold bars and we also appreciate that there are no evidence led by revenue, which proves that the acquisition of the gold bars is not out of the profit earned by the assessee. Therefore we have to see whether it can be reasonably ascertained that the unaccounted profit earned by the assessee is the sources of funds of the acquisition of those gold bars. During the course of search it was not found that assessee is earning unaccounted income through any other source other than unaccounted sales of gold and jewellery for which seized material was found. Therefore, it cannot be said that the source of income of these gold bars found at the premises of the assessee is not the unrecorded sales of the assessee. It was not also case of the revenue that the profits earned by the assessee out of these unrecorded transactions have been spent or have been utilized for acquisition of other assets, no such evidences were found during the course of search. Therefore, we do not have any hesitation in holding that unrecorded profit of the assessee from the unrecorded sales are invested in the gold bars found during the course of search and the sources of income and the assets acquired out of it have direct nexus. Id. CIT(A) has also recorded that the written submission filed by the assessee before him were sent to the Assessing Officer vide letter dated 11.02.2009 however, Id. Assessing Officer did not comment anything on the written submission of the assessee covering the request of telescoping as well as adjustment of recorded sales from the total sales found in the seized annexures. Further, Id. CIT (A) has further deleted the addition holding that Id. AO has accepted the disclosure made by the assessee of Rs.2.5 crores in AY 2006-07 pertaining to all documents found and seized during the course of search, which also included these annexures (A-28 to A-36) containing sales recorded by the assessee. Hence it can also be reasonably said that the sources of income for acquisition of Gold bars in unaccounted profit earned by the assessee from unrecorded sales contained in those seized

annexures .Therefore, the action of the Assessing Officer is not correct in taxing source of income in assessment year 2005-06 and application of that income in AY 2006-07. According to us, such approach is incorrect and therefore when the Id. AO has accepted the disclosure of Rs. 2.5 crores on account of 31 gold bars being investment in AY 2006-07, he cannot not once against tax source of such income in AY 2005-06 as profit arising out of unrecorded sales. Various decisions cited by the Ld. AR also support the case of the assessee on issue of telescoping of income with unrecorded investments/ expenses. It is important to note that Ld. CIT DR has relied on the decision of CIT Vs. Pritam Singh of Hon'ble Delhi High Court dated 09.12.2014 wherein Hon'ble Delhi High Court has observed that some profit arising out of the transactions would have been used for the personal expenses and entertainment etc. and therefore the entire undisclosed profit could not have been redeployed in trade or for purchase of undeclared stocks. The brief facts of that case are that assessee is an individual, was subject to search and wherein cash, excess stock and some incriminating documents pertaining to expenses, undisclosed assets and marriage expenses were found. Assessee owned Rs.14 lacs in his return of income, however, the Id. Assessing Officer made additions on account of profit on sales outside the books of accounts, excess cash and unexplained investment in excess stock.\ and marriage expenses. In that particular case the diary found as well as the loose papers could not be matched with the entries in the books of account. Therefore, hon'ble High Court has held that some profit would have been used for personal expenses and entertainment expenses etc. In that particular case the assessee was unable to explain and match the entries given in the diary with the entries found in the books of accounts. In the present case, the assessee was not found to have incurred any expenditure on account of personal expenses and entertainment etc. Whereas in the decision relied upon the said assessee surrendered amount on account of incriminating loose papers pertaining to expenses, undisclosed assets and marriage expenses. In the present case out of total sales recorded in the seized annexures, assessee was able to pin point sales, which have already been recorded in the books of accounts. Furthermore in that particular decision which was decided by the Tribunal on the particular facts and circumstances of that particular case and furthers the Hon'ble High Court has accepted the further Rs.2 lacs on account of undisclosed profits and did not lay down any ratio. What so ever it may be, In view of this decision of honourable Delhi high court, it needs to be examined that whether the disclosure made by the assessee of Rs. 2 .5 crores is enough to cover the amount of undisclosed income earned by the assessee and whether it leaves some gap as held by Honourable Delhi high court. The estimate of the income earned by the assessee based on our above findings is calculated as under:-

Sl NO.	Particular	AY 2005-06	AY 2006-07	Total
1	Sales found in the annexure A-28 to A-36 for the respective years	138,271,298	56,633,095	194,904,393
2	Recorded sales in the books of accounts out of above sales from the seized annexure and also corroborated by the	44,847,768	35,552,232	80,400,000

	supporting invoices and a letter dated 02.11.2007 of the assessee			
3	Unrecorded sales (1-2)	93,423,530	21,080,863	114,504,393
4	Number of day for which the unaccounted sales were found in the seized annexure. For AY 2006-07 the unrecorded sales found up to 31.12.2005 however, still it is taken for the 180 days.	191	180	
5	Total unaccounted sales for the year extrapolated for 300 days of the year (Item No.3/Item No. 4) X300 days)	146,738,529	35,134,772	181,873,300
6	Profit @ 8.02% as determined by the Assessing Officer	11,768,430	2,817,809	14,586,239
7	15 days of unrecorded Sales for the AY 2005-06 as initial investment is required therein only	7,336,926		
8	Amount of Gross Profit involved in Item No. 7 @8.02% to derive at the cost of acquisition of these stock.	588,422		
9	Net Investments (Item No. 7-Item No. 8)	6,748,505		6,748,505
10	Total unaccounted income earned on accounted of undisclosed sales for both the years (6+10)			21,334,744

21. In the above chart the extrapolation of unrecorded sales for AY 2006-07 has also been made despite there being no extrapolation of sales made by the Assessing Officer and making no addition on account profit on unaccounted sales. The total income earned is estimated for both the years as per addition made by the Assessing Officer and adopting the same rate of profit taken by the Assessing Officer and determining the investment in the business of assessee considering the same number of days for estimating the initial investment which comes to Rs.2.13 crores and against which assessee has disclosed a sum of Rs 2.5 crores. Therefore between the amount of disclosure and the amount of estimated profit earned there is still a difference of Rs.37 lacs which may take care of any personal expenses or other expenses, which can be envisaged though there is no such evidence found. In view of this we do not find any infirmity in the order of the Id. CIT(A) in deleting the addition of Rs.17417828/- made by the Assessing Officer on account of profit on unaccounted sales. He has further deleted the addition on account of investment in purchase of unrecorded sales holding that surrender of Rs.2.5 crores made by the assessee also includes the disclosure on account of investment in purchase of unrecorded sales. We have already tabulated the amount of income earned out of the unrecorded sales made by the assessee amounting to Rs.2.13 crores which included investment in purchase of material for unrecorded sales of Rs. 6748505/- whereas the Id. Assessing Officer has worked out the addition of Rs. 9988104/-. The only difference between the two figures have arisen for the reason that Id. Assessing Officer has taken the total sales from the seized annexure whereas in the working made by us we have excluded sales recorded in the books of accounts out of those annexures and then arriving at unaccounted sales. Furthermore, for the accounted purchases for effecting this sales no

- addition can be made as on the date of search assessee assessee was having stock of Rs. 5.42 crores.
22. Further it was not the case of the revenue that the rate of taxes were different in case of the assessee for AY 2005-06 the year in which revenue wants to tax the income of the assessee and in AY 2006-07 in which assessee has offered the amount of Rs 2.5 crore. Therefore the issue is also now revenue neutral.
23. In view of above we hold as under:-
- a. that reduction of accounted sales needs to be allowed to the assessee out of total sales found in annexure A-28 to A-36 to arrive at unrecorded sales and then to determine profit arising therefrom. Therefore the assessee is entitled to deduction of Rs. 44847768/- (being sales recorded in the books of accounts out of the sales recorded in seized annexure) from total sales of Rs. 138271298/- found in those seized annexures and therefore net unrecorded sales worked out for the year of Rs. 93423530/- for deriving the profit therefrom.
 - b. The Id. AO has rightly extrapolated unaccounted sales contained in those annexures pertaining to 191 days for 300 days. Therefore we hold that the net unrecorded sales amounting to Rs. 93423530/- pertaining to 191 days has to be extrapolated for 300 days resulting into unrecorded sales for the whole year amounting to Rs. 146738528/- for the purpose of deriving the profit from unaccounted sales for AY 2006-07. The Id. Assessing Officer has rightly adopted the gross profit @ 8.02% for the purpose of working out the profit derived from unaccounted sales of Rs. 146738528/-. The resulted profit is Rs.11768429/-. Further, the addition on account of investment shall also be Rs.6748505/- on the same no of days (15 days) adopted by the Assessing Officer and applying the same profit rate of 8.02% against Rs. 9988104/- determined by the Assessing Officer. Therefore the total amount earned by the assessee for the year out of unaccounted sales is Rs. 11768429/- on account of profit and Rs. 6748505/- on account of investment for purchases resulting into total addition of Rs. 18516934/- against the addition of Rs. 27405932/- made by the Assessing Officer.
 - c. As the disclosure of Rs. 2.5 crores owned by the assessee and accepted by the Id. AO in the AY 2006-07 the assessee is entitled to telescope the addition made by the Id. Assessing Officer in the assessment year in appeal before us. As the total profit earned by the assessee is less than Rs. 2.5 crores and in absence of any material found during the course of search suggesting otherwise the addition in the year of Rs. 27405932/- is unwarranted.
24. In the result, we confirm the finding of Id.CIT (A) in deleting the addition of Rs.17417828/- on account of profit and Rs.9988104/- on account of investment in purchases amounting to Rs. 27405932/- as the amount of unaccounted income for AY 2005-06 gets telescoped in the already surrendered sum of Rs 2.5 Crore made by the assessee for AY 2006-07 , Therefore no addition is

warranted o in this year on account of profit and investment on account of unaccounted sales made by the assessee for AY 2005-06.

25. In the result appeal of the revenue on solitary ground no 2 of the appeal is dismissed.

Order pronounced in the open court on 11/05/2016.

**-Sd/-
(H.S.SIDHU)
JUDICIAL MEMBER**

**-Sd/-
(PRASHANT MAHARISHI)
ACCOUNTANT MEMBER**

Dated:11/05/2016
A K Keot

Copy forwarded to

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

**ASSISTANT REGISTRAR
ITAT, New Delhi**