

<b>Assessment Year</b>	<b>Income returned by assessee</b>	<b>Income Assessed by AO (Rs.)</b>
2001-02	1,95,780	9,69,032
2002-03	2,07,430	50,72,085
2003-04	2,15,277	1,10,88,629
2004-05	2,98,280	74,60,161
2006-05	10,48,190	71,39,541
2007-08	16,95,402	1,28,19,928

3.1 The assessee, being aggrieved by the impugned orders of CIT(A)-VI, Bangalore, dated 11.01.2012 for Assessment Years 2001-02 to 2004-05, 2006-07 and 2007-08, has preferred appeals for these years before us. Revenue's cross appeals for Assessment Year 2003-04 and 2007-08 are also up for consideration before us.

**Grounds of appeal (Assessee's appeals)**

**Assessment Year 2001-02**

1. *The order of the Authorities below in so far as it is against the Appellant is opposed to law, equity, weight of evidence, probabilities and the facts and circumstances in the Appellant's case.*
2. *The appellant denies itself liable to be assessed under section 153A r.w.s. 143(3) of the Act under the impugned order on the ground that:-*
  - i. *The search initiated in the case of the appellant is illegal and ultra vires the provisions of section 132(1)(a), (b) and (c) of the Act;*
  - ii. *That the search is conducted not on the basis of any prior information or material inducing any belief but purely on the suspicion and therefore, the action under section 132(2) is*

*bad in law [224 ITR 19 (SC)] and consequent assessment under section 153A is null and void-ab-initio on the parity of the ratio of the decision of the Hon'ble Apex Court in the case of Ajith Jain, reported in 260 ITR 80.*

- iii. The learned authorities below has not discharged the burden of proving that there is a valid initiation of search under section 132(1)(a), (b) & (c) of the Act, its execution and its completion in accordance with law to render the proceedings valid and to assume jurisdiction to make an assessment under section 153A of the Act.*
- 3. The authorities below failed to appreciate that a valid search is a sine qua non for making a valid assessment under section 153A of the Act on the parity of the ratio of the decision of the Hon'ble Apex Court in the case of Ajit Jain, reported in 260 ITR 80. Reliance is also placed on the decision of the Hon'ble Jurisdictional High Court of Karnataka in the case of C. Ramaiah Reddy Vs. DCIT, 39 ITR 210.*
- 4. Without prejudice the appellant denies himself liable to be assessed over and above the total income of Rs. 1,95,780/- as reported by the appellant on the facts and circumstances of the case.*
- 5. The learned Commissioner of Income-tax [Appeals] is not justified in making an addition of Rs 1,08,173/- as undisclosed income from profession without any basis and the entire addition is purely imaginary, arbitrary, uncalled for and not backed with any cogent evidence on record under the facts and circumstances of the case.*
- 5.1 The learned Commissioner of Income-tax [Appeals] failed to appreciate the fact that the learned AO has not even established the identity (name and address) of the parties who allegedly have paid the income, assessed as undisclosed by the learned AO. The learned A.O. erroneously and arbitrarily concluded that the P.P. books and balance P.P. books are record fee received from the clients.*
- 5.2 The learned Commissioner of Income-tax [Appeals] further failed to appreciate the fact that the fees as confirmed by the clients (those who have taken the service and paid fee) are not at all matching with the P.P. Book or Bal. P.P. Book and therefore the theory propounded by the AO (that A/VG/01, A/VG/02, A/VG/03, A/VG/04 Et A/VG/05*

*are record of fee collections) is imaginary, surmise and not based on actual facts. In this regard it is respectfully submitted that the learned Authorities cannot be heard to say that the fee paid is as per what they have concluded is correct and final; disregarding the confirmation by the client who has paid the said amount themselves.*

- 6. Without pre-judice to any other contention that may be taken and even assuming for argument sake but not conceding that the addition based on the P.P. Books & Bal. P.P. books are erroneous and the learned Authorities has considered only partial amount of the duplication of entries, adequately demonstrated during the course of assessment. The AO has made totaling errors from the totals made out of the seized records and there is a difference between what is stated in the show cause and the assessment order, which has not been explained by the AO.*
- 7. Without prejudice to any other contention, it is submitted that the profit assumed at 25% from LOK ADALAT cases and 40% on professional fees other than LOK ADALAT cases is highly excessive and deserves to be reduced substantially. The appellant works with a group of professionals who have to be paid and the profit margin in this field of profession is generally lower due to higher expenditure for the getting the claims. Hence is it submitted that the addition made on account of gross professional receipt be restricted to 8% instead of 25% and 40% as mentioned above.*
- 8. The learned CIT (A) is not justified in accepting the conclusion arrived at by the learned Deputy Commissioner of Income Tax that the entries in the P.P. Book and Balance P.P. BOOK have to be read after removing the decimals and adding zero without any basis. The learned Authorities are dissecting and bisecting the expenditure register seized as AGV/01 & AGV/04 purportedly based on the statements recorded from the following persons,*
  - a. Shri. M.S. Chandrashekar.*
  - b. Shri. K.V. Venkataramana Reddy.*
  - c. Shri. K.V. Ravindra Gowda.*
  - d. Shri. T. Manjunath.*
- 9. without considering their statements in full and given during the entire course of proceedings. It is respectfully submitted that the*

*learned Authorities has considered only a portion of their statement conveniently ignoring the balance which are in favour of the appellant for the reasons well known to them.*

- 10. Without prejudice to any other contention, it is submitted that the learned CIT (A) is not justified in confirming the income at 25% from LOK ADALAT cases and 40% on professional fees other than LOK ADALAT cases, after having accepted the stand of the appellant that the appellant had no other assets and or lavish spending to justify the income assessed.*
- 11. The learned CIT (A) is not justified in directing the AO to add a sum of Rs.1,36,400/- which was added by the learned AO for the A.Y.2007-08, holding that the cases were filed during 1994 to 2001, which has no relevance for assessing income in the hands of the appellant. Further, there are no dates against these amounts and hence the same cannot be added as income of the appellant, especially after when the learned CIT (A) has given findings to delete the additions, wherever the dates are not found against the amounts mentioned in the seized records. (CIT (A) findings in Para 4.3 (b), pages 49, 52, 55, 57, 59, 61).*
- 11. Without prejudice to any other contention that may be taken at the time of hearing or during the course of hearing it is submitted that the determination of undisclosed income is highly excessive and deserves to be reduced substantially.*
- 12. Without prejudice the learned Commissioner of Income-tax (Appeals) failed to appreciate the fact that the appellant was not given reasonable opportunity of being heard by the learned assessing officer before concluding the assessment and thus the order passed consequently is bad in law and in violation of principles of natural justice.*

#### **PRAYER FOR ADMITTING ADDITIONAL GROUNDS OF APPEAL**

*The appellant begs to submit the under mentioned additional grounds of appeal which were not urged specifically before the learned Commissioner of Income-tax [Appeals] due to inadvertence. The additional grounds raised do not involve any investigation of any facts otherwise on the record of the department*

*and are also pure questions of law, it is prayed that the additional grounds may kindly be admitted and disposed off on merits for the advancement of substantial cause of justice. Reliance is placed on the decision of the Hon'ble Apex Court in the case of National Thermal Power Co. Ltd. Vs. CIT reported in 229 ITR 383.*

- 13. The authorities below are not justified in law in levying interest under section 234A, 234B and 234C of the Act under the facts and circumstances of the case. Further the interest calculated under sections 234A, B a. C are not in accordance with law since the rate, period, quantum adopted is not discernable from the orders.*
- 14. The appellant craves leave to add, alter, amend, substitute, change and delete any of the grounds of appeal.*
- 15. For the above and other grounds that may be urged at the time of hearing of the appeal, the appellant prays that the appeals may be allowed and justice rendered.*

### **Assessment Year 2002-03**

- 1. The order of the Authorities below in so far as it is against the Appellant is opposed to law, equity, weight of evidence, probabilities and the facts and circumstances in the Appellant's case.*
- 2. The appellant denies itself liable to be assessed under section 153A r.w.s. 143(3) of the Act under the impugned order on the ground that:-*
  - i. search initiated in the case of the appellant is illegal and ultra vires the provisions of section 132( a), (b) & (c) of the Act;*
  - ii. That the search is conducted not on the basis of any prior information or material inducing any belief but purely on the suspicion and therefore, the action under section 132(2) is bad in law [ 224 ITR 19 (SC)] and consequent assessment under section 153A is null and void-ab-initio on the parity of the ratio of the decision of the Hon'ble Apex Court in the case of Ajith Jain, reported in 260 ITR 80.*
  - iii. The learned authorities below has not discharged the burden of proving that there is a valid initiation of search*

*under section 132(1)(a), (b) & (c) of the Act, its execution and its completion in accordance with law to render the proceedings valid and to assume jurisdiction to make an assessment under section 153A of the Act.*

3. *The authorities below failed to appreciate that a valid search is a sine qua non for making a valid assessment under section 153A of the Act on the parity of the ratio of the decision of the Hon'ble Apex Court in the case Ajit Jain, reported in 260 ITR 80. Reliance is also placed on the decision of the Hon'ble Jurisdictional High Court of Karnataka in the case of C. Ramaiah Reddy Vs. DCIT, 339 ITR 210.*
4. *Without prejudice the appellant denies himself liable to be assessed over and above the total income of Rs. 2,07,430/- as reported by the appellant on the facts and circumstances of the case.*
5. *The learned Commissioner of Income-tax [Appeals] is not justified in making an addition of Rs 37,91,967/- as undisclosed income from profession without any basis and the entire addition is purely imaginary, arbitrary, uncalled for and not backed with any cogent evidence on record under the facts and circumstances of the case.*
  - 5.1 *The learned Commissioner of Income-tax [Appeals] failed to appreciate the fact that the learned AO has not even established the identity (name and address) of the parties who allegedly have paid the income, assessed as undisclosed by the learned AO. The learned A.O. erroneously and arbitrarily concluded that the P.P. books and balance P.P. books are record fee received from the clients.*
  - 5.2 *The learned Commissioner of Income-tax [Appeals] further failed to appreciate the fact that the fees as confirmed by the clients (those who have taken the service and paid fee) are not at all matching with the P.P. Book or Bal. P.P. Book and therefore the theory propounded by the AO (that A/VG/01, A/VG/02, A/VG/03, A/VG/04 Et A/VG/05 are record of fee collections) is imaginary, surmise and not based on actual facts. In this regard it is respectfully submitted that the [learned Authorities cannot be heard to say that the fee paid is as per what they have concluded is correct and final; disregarding the confirmation by the client who has paid the said amount themselves.*
6. *Without pre-judice to any other contention that may be taken and even assuming for argument sake but not conceding that the addition based on the P.P. Books Et Bal. P.P. books are erroneous and the learned*

*Authorities has considered only partial amount of the duplication of entries, adequately demonstrated during the course of assessment. The AO has made totaling errors from the totals made out of the seized records and there is a difference between what is stated in the show cause and the assessment order, which has not been explained by the AO.*

7. *Without prejudice to any other contention, it is submitted that the profit assumed at 25% from LOK ADALAT cases and 40% on professional fees other than LOK ADALAT cases is highly excessive and deserves to be reduced substantially. The appellant works with a group of professionals who have to be paid and the profit margin in this field of profession is generally lower due to higher expenditure for the getting the claims. Hence is it submitted that the addition made on account of gross professional receipt be restricted to 8% instead of 25% and 40% as mentioned above.*
8. *The learned CIT (A) is not justified in accepting the conclusion arrived at by the learned Deputy Commissioner of Income Tax that the entries in the P.P. Book and Balance P.P.BOOK have to be read after removing the decimals and adding zero without any basis. The learned Authorities are dissecting and bisecting the expenditure register seized as AGV/01 & AGV/04 purportedly based on the statements recorded from the following persons,*
  - a. *Shri. M.S. Chandrashekar.*
  - b. *Shri. K.V. Venkataramana Reddy.*
  - c. *Shri. K.V. Ravindra Gowda.*
  - d. *Shri. T. Manjunath.*

*without considering their statements in full and given during the entire course of proceedings. It is respectfully submitted that the learned Authorities has considered only a portion of their statement conveniently ignoring the balance which are in favour of the appellant for the reasons well known to them.*

9. *Without prejudice to any other contention, it is submitted that the learned CIT (A) is not justified in confirming the income at 25% from LOK ADALAT cases and 40% on professional fees other than LOK ADALAT cases, after having accepted the stand of the appellant that*

*the appellant had no other assets and or lavish spending to justify the income assessed.*

10. *Without prejudice to any other contention that may be taken at the time of hearing or during the course of hearing it is submitted that the determination of undisclosed income is highly excessive and deserves to be reduced substantially.*
11. *Without prejudice the learned Commissioner of Income-tax (Appeals) failed to appreciate the fact that the appellant was not given reasonable opportunity of being heard by the learned assessing officer before concluding the assessment and thus the order passed consequently is bad in law and in violation of principles of natural justice.*

**PRAYER FOR ADMITTING ADDITIONAL GROUNDS OF APPEAL**

*The appellant begs to submit the under mentioned additional grounds of appeal which were not urged specifically before the learned Commissioner of income-tax [Appeals] due to inadvertence. The additional grounds raised do not involve any investigation of any facts otherwise on the record of the department and are also pure questions of law, it is prayed that the additional grounds may kindly be admitted and disposed off on merits for the advancement of substantial cause of justice Reliance is placed on the decision of the Hon'ble Apex Court in the case of National Thermal Power Co. Ltd. Vs. CIT reported in 229 ITR 383.*

12. *The authorities below are not justified in law in levying interest under section 234A, 234B and 234C of the Act under the facts and circumstances of the case. Further the interest calculated under sections 234A, B Et C are not in accordance with law since the rate, period, quantum adopted is not discernable from the orders.*
13. *The appellant craves leave to add, alter, amend, substitute, change and delete any of the grounds of appeal.*

14. *For the above and other grounds that may be urged at the time of hearing of the appeal, the appellant prays that the appeals may be allowed and justice rendered.*

**Assessment Year 2003-04**

1. *The order of the Authorities below in so far as it is against the Appellant is opposed to law, equity, weight of evidence, probabilities and the facts and circumstances in the Appellant's case.*
2. *The appellant denies itself liable to be assessed under section 153A r.w.s. 143(3) of the Act under the impugned order on the ground that:-*
  - i. *The search initiated in the case of the appellant is illegal and ultra vires the provisions of section 132(1)(a), (b) & (c) of the Act;*
  - ii. *That the search is conducted no on the basis of any prior information or material inducing any belief but purely on the suspicion and therefore, the action under section 132(2) is bad in law [ 224 ITR 19 (SC) ] and consequent assessment under section 153A is null and void-ab-initio on the parity of the ratio of the decision of the Hon'ble Apex Court in the case of Ajith Jain, reported in 260 ITR 80.*
  - iii. *The learned authorities below has not discharged the burden of proving that there is a valid initiation of search under section 132(1)(a), (b) & (c) of the Act, its execution and its completion in accordance with law to render the proceedings valid and to assume jurisdiction to make an assessment and section 153A of the Act.*
3. *The authorities below failed to appreciate that a valid search is a sine qua non for making a valid assessment under section 153A of the Act on the parity of the ratio of the decision of the Hon'ble Apex Court in the case of Ajit Jain, reported in 260 IT'80. Reliance is also placed on the decision of the Hon'ble Jurisdictional High Court of Karnataka in the case of C. Ramaiah Reddy Vs. DCIT, 339 ITR 210.*

4. *Without prejudice the appellant denies himself liable to be assessed over and above the total income of Rs. 2,15,277/- as reported by the appellant on the facts and circumstances of the case.*
5. *The learned Commissioner of Income-tax [Appeals] is not justified in making an addition of Rs 82,32,623/- as undisclosed income from profession without any basis and the entire addition is purely imaginary, arbitrary, uncalled for and not backed with any cogent evidence on record under the facts and circumstances of the case.*
- 5.1 *The learned Commissioner of Income-tax [Appeals] failed to appreciate the fact that the learned AO has not even established the identity (name and address) of the parties who allegedly have paid the income, assessed as undisclosed by the learned AO. The learned A.O. erroneously and arbitrarily concluded that the P.P. books and balance P.P. books are record fee received from the clients.*
- 5.2 *The learned Commissioner of Income-tax [Appeals] further failed to appreciate the fact that the fees as confirmed by the clients (those who have taken the service and paid fee) are not at all matching with the P.P. Book or Bal. P.P. Book and therefore the theory propounded by the AO (that A/VG/01, A/VG/02, A/VG/03, A/VG/04 Et A/VG/05 are record of fee collections) is imaginary, surmise and not based on actual facts. In this regard it is respectfully submitted that the learned Authorities cannot be heard to say that the fee paid is as per what they have concluded is correct and final; disregarding the confirmation by the client who has paid the said amount themselves.*
6. *Without prejudice to any other contention that may be taken and even assuming for argument sake but not conceding that the addition based on the P.P. Books Et Bal. P.P. books are erroneous and the learned Authorities has considered only partial amount of the duplication of entries, adequately demonstrated during the course of assessment. The AO has made totaling errors from the totals made out of the seized records and there is a difference between what is stated in the show cause and the assessment order, which has not been explained by the AO.*

7. *Without prejudice to any other contention, it is submitted that the profit assumed at 25% from LOK ADALAT cases and 40% on professional fees other than LOK ADALAT cases is highly excessive and deserves to be reduced substantially. The appellant works with a group of professionals who have to be paid and the profit margin in this field of profession is generally lower due to higher expenditure for the getting the claims. Hence is it submitted that the addition made on account of gross professional receipt be restricted to 8% instead of 25% and 40% as mentioned above.*
8. *The learned CIT (A) is not justified in accepting the conclusion arrived at by the learned Deputy Commissioner of Income Tax that the entries in the P.P. Book and Balance P.P.BOOK have to be read after removing the decimals and adding zero without any basis. The learned Authorities are dissecting and bisecting the expenditure register seized as AGV/01 & AGV/04 purportedly based on the statements recorded from the following persons,*
- a. *Shri. M.S. Chandrashekar.*
  - b. *Shri. K.V. Venkataramana Reddy.*
  - c. *Shri. K.V. Ravindra Gowda.*
  - d. *Shri. T. Manjunath.*
- without considering their statements in full and given during the entire course of proceedings. It is respectfully submitted that the learned Authorities has considered only a portion of their statement conveniently ignoring the balance which are in favour of the appellant for the reasons well known to them.*
9. *Without prejudice to any other contention, it is submitted that the learned CIT (A) is not justified in confirming the income at 25% from LOK ADALAT cases and 40% on professional fees other than LOK ADALAT cases, after having accepted the stand of the appellant that the appellant had no other assets and or lavish spending to justify the income assessed.*
10. *Without prejudice to any other contention that may be taken at the time of hearing or during the course of hearing it is submitted that the determination of undisclosed income is highly excessive and deserves to be reduced substantially.*

11. *Without prejudice the learned Commissioner of Income-tax (Appeals) failed to appreciate the fact that the appellant was not given reasonable opportunity of being heard by the learned assessing officer before concluding the assessment and thus the order passed consequently is bad in law and in violation of principles of natural justice.*

**PRAYER FOR ADMITTING ADDITIONAL GROUNDS OF APPEAL**

*The appellant begs to submit the under mentioned additional grounds of appeal which were not urged specifically before the learned Commissioner of Income-tax [Appeals] due to inadvertence. The additional grounds raised do not involve any investigation of any facts otherwise on the record of the department and are also pure questions of law, it is prayed that the additional grounds may kindly be admitted and disposed off on merits for the advancement of substantial cause of justice Reliance is placed on the decision of the Hon'ble Apex Court in the case of National Thermal Power Co. Ltd. Vs. CIT reported in 229 ITR 383.*

12. *The authorities below are not justified in law in levying interest under section 234A, 234B and 234C of the Act under the facts and circumstances of the case. Further the interest calculated under sections 234A, B & C are not in accordance with law since the rate, period, quantum adopted is not discernable from the orders.*
13. *The appellant craves leave to add, alter, amend, substitute, change and delete any of the grounds of appeal.*
14. *For the above and other grounds that may be urged at the time of hearing of the appeal, the appellant prays that the appeals may be allowed and justice rendered.*

**Assessment Year 2004-05**

1. *The order of the Authorities below in so far as it is against the Appellant is opposed to law, equity, weight of evidence, probabilities and the facts and circumstances in the Appellant's case.*
2. *The appellant denies itself liable to be assessed under section 153A r.w.s. 143(3) of the Act under the impugned order on the ground that:-*



*concluded that the P.P. books and balance P.P. books are record fee received from the clients.*

- 5.2 The learned Commissioner of Income-tax [Appeals] further failed to appreciate the fact that the fees as confirmed by the clients (those who have taken the service and paid fee) are not at all matching with the P.P. Book or Bal. P.P. Book and therefore the theory propounded by the AO (that A/VG/01, A/VG/02, A/VG/03, A/VG/04 Et A/VG/05 are record of fee collections) is imaginary, surmise and not based on actual facts. In this regard it is respectfully submitted that the learned Authorities cannot be heard to say that the fee paid is as per what they have concluded is correct and final; disregarding the confirmation by the client who has paid the said amount themselves.*
- 6. Without pre-judice to any other contention that may be taken and even assuming for argument sake but not conceding that the addition based on the P.P. Books Et Bal. P.P. books are erroneous and the learned Authorities has considered only partial amount of the duplication of entries, adequately demonstrated during the course of assessment. The AO has made totaling errors from the totals made out of the seized records and there is a difference between what is stated in the show cause and the assessment order, which has not been explained by the AO.*
- 7. Without prejudice to any other contention, it is submitted that the profit assumed at 25% from LOK ADALAT cases and 40% on professional fees other than LOK ADALAT cases is highly excessive and deserves to be reduced substantially. The appellant works with a group of professionals who have to be paid and the profit margin in this field of profession is generally lower due to higher expenditure for the getting the claims. Hence is it submitted that the addition made on account of gross professional receipt be restricted to 8% instead of 25% and 40% as mentioned above.*
- 8. The learned CIT (A) is not justified in accepting the conclusion arrived at by the learned Deputy Commissioner of Income Tax that the entries in the P.P. Book and Balance P.P. BOOK have to be read after removing the decimals and adding zero without any basis. The learned Authorities are dissecting and bisecting the expenditure register seized as AGV/01 & AGV/04 purportedly based on the statements recorded from the following persons,*

- a. *Shri. M.S. Chandrashekar.*
- b. *Shri. K.V. Venkataramana Reddy.*
- c. *Shri. K.V. Ravindra Gowda.*
- d. *Shri. T. Manjunath.*

*without considering their statements in full and given during the entire course of proceedings. It is respectfully submitted that the learned Authorities has considered only a portion of their statement conveniently ignoring the balance which are in favour of the appellant for the reasons well known to them.*

9. *Without prejudice to any other contention, it is submitted that the learned CIT (A) is not justified in confirming the income at 25% from LOK ADALAT cases and 40% on professional fees other than LOK ADALAT cases, after having accepted the stand of the appellant that the appellant had no other assets and or lavish spending to justify the income assessed.*
10. *Without prejudice to any other contention that may be taken at the time of hearing or during the course of hearing it is submitted that the determination of undisclosed income is highly excessive and deserves to be reduced substantially.*
11. *Without prejudice the learned Commissioner of Income-tax (Appeals) failed to appreciate the fact that the appellant was not given reasonable opportunity of being heard by the learned assessing officer before concluding the assessment and thus the order passed consequently is bad in law and in violation of principles of natural justice.*

**PRAYER FOR ADMITTING ADDITIONAL GROUNDS OF APPEAL**

*The appellant begs to submit the under mentioned additional grounds of appeal which were not urged specifically before the learned Commissioner of Income-tax [Appeals] due to inadvertence. The additional grounds raised do not involve any investigation of any facts otherwise on the record of the department and are also pure questions of law, it is prayed that the additional grounds may kindly be admitted and disposed off on merits for the advancement of substantial cause of justice Reliance is placed on the decision of the*

*Hon'ble Apex Court in the case of National Thermal Power Co. Ltd. Vs. CIT reported in 229 ITR 383.*

12. *The authorities below are not justified in law in levying interest under section 234A, 234B and 234C of the Act under the facts and circumstances of the case. Further the interest calculated under sections 234A, B Et C are not in accordance with law since the rate, period, quantum adopted is not discernable from the orders.*
13. *The appellant craves leave to add, alter, amend, substitute, change and delete any of the grounds of appeal.*
14. *For the above and other grounds that may be urged at the time of hearing of the appeal, the appellant prays that the appeals may be allowed and justice rendered.*

**Assessment Year 2006-07**

1. *The order of the Authorities below in so far as it is against the Appellant is opposed to law, equity, weight of evidence, probabilities and the facts and circumstances in the Appellant's case.*
2. *The appellant denies itself liable to be assessed under section 153A r.w.s. 143(3) of the Act under the impugned order on the round that:-*
  - i. *The search initiated in the case of the appellant is illegal and ultra vires the provisions of section 132(1) (a), (b) & (c) of the Act;*
  - ii. *That the search is conducted of on the basis of any prior information or material inducing any belief but purely on the suspicion and therefore, the action under section 132(2) is bad in law [ 224 ITR 19 (SC) ] and consequent assessment under section 153A is null and void-ab-initio on the parity of the ratio of the decision of the Hon'ble Apex Court in the case of Ajith Jain, reported in 260 ITR 80.*
  - iii. *The learned authorities below has not discharged the burden of proving that there is a valid initiation of search under section 132(1)(a), b) & (c) of the Act, its execution and its completion in accordance with law to render the*

*proceeding valid and to assume jurisdiction to make an assessment under section 153A of the Act.*

3. *The authorities below failed to appreciate that a valid search is a sine qua non for making a valid assessment under section 153A of the Act on the parity of the ratio of the decision of the Hon'ble Apex Court in the case of Ajit Jain, reported in 260 ITR 8P. Reliance is also placed on the decision of the Hon'ble Jurisdictional High Court of Karnataka in the case of C. Ramaiah Reddy Vs. DCIT, 339 ITR 210.*
4. *Without prejudice the appellant denies himself liable to be assessed over and above the total income of Rs. 4,67,298/- as reported by the appellant on the facts and circumstances of the case.*
5. *The learned Commissioner of Income-tax [Appeals] is not justified in making an addition of Rs 52,14,195/- as undisclosed income from profession without any basis and the entire addition is purely imaginary, arbitrary, uncalled for and not backed with any cogent evidence on record under the facts and circumstances of the case.*
  - 5.1 *The learned Commissioner of Income-tax [Appeals] failed to appreciate the fact that the learned AO has not even established the identity (name and address) of the parties who allegedly have paid the income, assessed as undisclosed by the learned AO. The learned A.O. erroneously and arbitrarily concluded that the P.P. books and balance P.P. books are record fee received from the clients.*
  - 5.2 *The learned Commissioner of Income-tax [Appeals] further failed to appreciate the fact that the fees as confirmed by the clients (those who have taken the service and paid fee) are not at all matching with the P.P. Book or Bal. P.P. Book and therefore the theory propounded by the AO (that A/VG/01, A/VG/02, A/VG/03, A/VG/04 a A/VG/05 are record of fee collections) is imaginary, surmise and not based on actual facts. In this regard it is respectfully submitted that the learned Authorities cannot be heard to say that the fee paid is as per what they have concluded is correct and final; disregarding the confirmation by the client who has paid the said amount themselves.*
6. *Without pre-judice to any other contention that may be taken and even assuming for argument sake but not conceding that the addition based on the P.P. Books Et Bat. P.P. books are erroneous and the learned Authorities has considered only partial amount of the duplication of entries, adequately demonstrated during the course of assessment. The*

*AO has made totaling errors from the totals made out of the seized records and there is a difference between what is stated in the show cause and the assessment order, which has not been explained by the AO.*

7. *Without prejudice to any other contention, it is submitted that the profit assumed at 25% from LOK ADALAT cases and 40% on professional fees other than LOK ADALAT cases is highly excessive and deserves to be reduced substantially. The appellant works with a group of professionals who have to be paid and the profit margin in this field of profession is generally lower due to higher expenditure for the getting the claims. Hence is it submitted that the addition made on account of gross professional receipt be restricted to 8% instead of 25% and 40% as mentioned above.*
8. *The learned CIT (A) is not justified in accepting the conclusion arrived at by the learned Deputy Commissioner of Income Tax that the entries in the P.P. Book and Balance P.P. BOOK have to be read after removing the decimals and adding zero without any basis. The learned Authorities are dissecting and bisecting the expenditure register seized as AGV/01 13 AGV/04 purportedly based on the statements recorded from the following persons,*
  - a. *Shri. M.S. Chandrashekar,*
  - b. *Shri. K.V. Venkataramana Reddy.*
  - c. *Shri. K.V. Ravindra Gowda.*
  - d. *Shri. T. Manjunath.*

*without considering their statements in full and given during the entire course of proceedings. It is respectfully submitted that the [earned Authorities has considered only a portion of their statement conveniently ignoring the balance which are in favour of the appellant for the reasons well known to them.*

9. *Without prejudice to any other contention, it is submitted that the learned CIT (A) is not justified in confirming the income at 25% from LOK ADALAT cases and' 40% on professional fees other than LOK ADALAT cases, after having accepted the stand of the appellant that the appellant had no other assets and or lavish spending to justify the income assessed.*

10. *Without prejudice to any other contention that may be taken at the time of hearing or during the course of hearing it is submitted that the determination of undisclosed income is highly excessive and deserves to be reduced substantially.*
11. *Without prejudice the learned Commissioner of Income-tax (Appeals) failed to appreciate the fact that the appellant was not given reasonable opportunity of being heard by the learned assessing officer before concluding the assessment and thus the order passed consequently is bad in law and in violation of principles of natural justice.*

**PRAYER FOR ADMITTING ADDITIONAL GROUNDS OF APPEAL**

*The appellant begs to submit the under mentioned additional grounds of appeal which were not urged specifically before the [earned Commissioner of Income-tax [Appeals] due to inadvertence. The additional grounds raised do not involve any investigation of any facts otherwise on the record of the department and are also pure questions of law, it is prayed that the additional grounds may kindly be admitted and disposed off on merits for the advancement of substantial cause of justice Reliance is placed on the decision of the Hon'ble Apex Court in the case of National Thermal Power Co. Ltd. Vs. CIT reported in 229 ITR 383.*

12. *The authorities below are not justified in law in levying interest under section 234A, 234B and 234C of the Act under the facts and circumstances of the case. Further the interest calculated under sections 234A, B It C are not in accordance with law since the rate, period, quantum adopted is not discernable from the orders.*
13. *The appellant craves leave to add, alter, amend, substitute, change and delete any of the grounds of appeal.*
14. *For the above and other grounds that may be urged at the time of hearing of the appeal, the appellant prays that the appeals may be allowed and justice rendered.*

**Assessment Year 2007-08**

1. *The order of the Authorities below in so far as it is against the Appellant is opposed to law, equity, weight of evidence, probabilities and the facts and circumstances in the Appellant's case.*
2. *Without prejudice the appellant denies himself liable to be assessed over and above the total income of Rs. 17,10,400/- as reported by the appellant on the facts and circumstances of the case.*
3. *The learned Commissioner of Income-tax [Appeals] is not justified in making an addition of Rs 76,26,334/- as undisclosed income from profession without any basis and the entire addition is purely imaginary, arbitrary, uncalled for and not backed with any cogent evidence on record under the facts and circumstances of the case.*
4. *The learned Commissioner of Income-tax [Appeals] failed to appreciate the fact that the learned AO has not even established the identity (name and address) of the parties who allegedly have paid the income, assessed as undisclosed by the learned AO. The learned A.O. erroneously and arbitrarily concluded that the P.P. books and balance P.P. books are record fee received from the clients.*
5. *The learned Commissioner of Income-tax [Appeals] further failed to appreciate the fact that the fees as confirmed by the clients (those who have taken the service and paid fee) are not at all matching with the P.P. Book or Bal. P.P. Book and therefore the theory propounded by the AO (that A/VG/01, A/VG/02, A/VG/03, A/VG/04 Et A/VG/05 are record of fee collections) is imaginary, surmise and not based on actual facts. In this regard it is respectfully submitted that the learned Authorities cannot be heard to say that the fee paid is as per what they have concluded is correct and final; disregarding the confirmation by the client who has paid the said amount themselves.*
6. *Without pre-judice to any other contention that may be taken and even assuming for argument sake but not conceding that the addition based on the P.P. Books Et Bal. P.P. books are erroneous and the learned Authorities has considered only partial amount of the duplication of entries, adequately demonstrated during the course of assessment. The AO has made totaling errors from the*

*totals made out of the seized records and there is a difference between what is stated in the show cause and the assessment order, which has not been explained by the AO.*

- 7. Without prejudice to any other contention, it is submitted that the profit assumed at 25% from LOK ADALAT cases and 40% on professional fees other than LOK ADALAT cases is highly excessive and deserves to be reduced substantially. The appellant works with a group of professionals who have to be paid and the profit margin in this field of profession is generally lower due to higher expenditure for the getting the claims. Hence is it submitted that the addition made on account of gross professional receipt be restricted to 8% instead of 25% and 40% as mentioned above.*
- 8. The learned CIT (A) is not justified in accepting the conclusion arrived at by the learned Deputy Commissioner of Income Tax that the entries in the P.P. Book and Balance P.P. BOOK have to be read after removing the decimals and adding zero without any basis. The learned Authorities are dissecting and bisecting the expenditure register seized as AGV/01 Et AGV/04 purportedly based on the statements recorded from the following persons,*
  - a. Shri. M.S. Chandrashekar.*
  - b. Shri. K.V. Venkataramana Reddy.*
  - c. Shri. K.V. Ravindra Gowda.*
  - d. Shri. T. Manjunath.*

*without considering their statements in full and given during the entire course of proceedings. It is respectfully submitted that the learned Authorities has considered only a portion of their statement conveniently ignoring the balance which are in favour of the appellant for the reasons well known to them.*

- 9. Without prejudice to any other contention, it is submitted that the learned CIT (A) is not justified in confirming the income at 25% from LOK ADALAT cases and 40% on professional fees other than LOK ADALAT cases, after having accepted the stand of the appellant that the appellant had no other assets and or lavish spending to justify the income assessed.*
- 10. Without prejudice to any other contention that may be taken at the time of hearing or during the course of hearing it is submitted that*

*the determination of undisclosed income is highly excessive and deserves to be reduced substantially.*

11. *Without prejudice the learned Commissioner of Income-tax (Appeals) failed to appreciate the fact that the appellant was not given reasonable opportunity of being heard by the learned assessing officer before concluding the assessment and thus the order passed consequently is bad in law and in violation of principles of natural justice.*

**PRAYER FOR ADMITTING ADDITIONAL GROUNDS OF APPEAL**

*The appellant begs to submit the under mentioned additional grounds of appeal which were not urged specifically before the learned Commissioner of Income-tax [Appeals] due to inadvertence. The additional grounds raised do not involve any investigation of any facts otherwise on the record of the department and are also pure questions of law, it is prayed that the additional grounds may kindly be admitted and disposed off on merits for the advancement of substantial cause of justice Reliance is placed on the decision of the Hon'ble Apex Court in the case of National Thermal Power Co. Ltd. Vs. CIT reported in 229 ITR 383.*

12. *The authorities below are not justified in law in levying interest under section 234A, 234B and 234C of the Act under the facts and circumstances of the case. Further the interest calculated under sections 234A, Bit C are not in accordance with law since the rate, period, quantum adopted is not discernable from the orders.*
13. *The appellant craves leave to add, alter, amend, substitute, change and delete any of the grounds of appeal.*
14. *For the above and other grounds that may be urged at the time of hearing of the appeal, the appellant prays that the appeals may be allowed and justice rendered.*

**Grounds of appeal (Revenue's appeals)**

**Assessment Year 2003-04**

1. *The order of the learned Deputy Commissioner of Income-tax, in so far as it is against the appellant is opposed to law, equity, facts, weight of evidence, probabilities and circumstances of the case.*
2. *The learned Deputy Commissioner of Income-tax erred in completing the assessment by determining the income at Rs.110,88,629/- as against the returned income of Rs'.2,15,277/- on the facts and circumstances of the case.*
3. *The order of assessment passed by the learned Deputy Commissioner of Income-tax is bad in law as the mandatory conditions to invoke the jurisdiction u/s 153A did not exist or having not been complied with and consequently the entire proceedings u/s 153 A is bad in law for want of adequate jurisdiction on the facts and circumstances of the case.*
4. *The order of assessment passed by the learned Deputy Commissioner of Income-tax is further bad in law as reasons for issue of notice u/s 153 A of the Income-tax Act, have not been given and the appellant has reasons to believe that the same has not been recorded and consequently the assessment is bad in law. The AO failed to record the reasons, which are mandatory to assume jurisdiction and in the absence of recording of such reasons the assessment is bad in law and is liable to be cancelled.*
5. *The learned Deputy Commissioner of Income-tax failed to give adequate opportunity and has added the income without even giving an opportunity of being heard in the matter, which is violation of principles of natural justice and thereby the order passed by the learned Deputy Commissioner of Income-tax deserves to be cancelled in full.*
6. *The learned Deputy Commissioner of Income-tax erred in making an addition of Rs.1,08,73,349/- as undisclosed income from profession without any basis and the entire addition is purely imaginary, arbitrary, uncalled for and not backed any cogent evidence on record. The AO has not even established the identity (name and*

*address) of the parties who allegedly have paid the income, assessed as undisclosed by the learned AO. The learned A.O. erroneously and arbitrarily concludes that the P.P. books and balance P.P. books are record fee received from the clients. He failed appreciate that the fees as confirmed by the clients (those who have taken the service and paid fee) are not at all matching with the P.P. Book or Bal. P.P. Book and therefore the theory propounded by the AO (that A/VG/01, ANG/02, A/VG/03, A/VG/04 & ANG/05 are record of fee collections) is imaginary, surmise and not based on actual facts. In this regard it is respectfully submitted that the AO cannot be heard to say that the fee paid is as per what he has concluded is correct and final; disregarding the confirmation by the client who has paid the said amount themselves.*

- 7. Without pre-judice, the learned Deputy Commissioner of Income-tax erred in reducing the Net total taxable income from the alleged undisclosed income as against the gross professional receipts offered in the Profit and loss Account. In para 17.1.1 of his order he has concluded that the alleged receipts are gross professional receipts of the appellant and having said that ought to have reduced the gross professional receipt offered in the Profit and loss account, rather than the net income. The learned Deputy Commissioner of Income-tax erred in reducing a sum of Rs. 2,05,837/-, being the net income as against the correct gross professional receipt of Rs.4,43,700/- admitted in the Profit and Loss Account.*
- 8. Without prejudice to any other contention that may be taken and even assuming for argument sake but not conceding that the addition based on the P.P.Books & Bal. P.P. books are erroneous and the learned Deputy Commissioner of Income-tax has not considered the duplication of entries adequately demonstrated during the course of assessment. The AO has made totaling errors from the totals made out of the seized records and there is a difference between what is stated in the show cause and the assessment order, which has not been explained by the AO.*
- 9. Without pre-judice to any other contention that may be taken and even assuming for argument sake but not conceding that the addition based on the P.P.Books & Bal. P.P. books are erroneous and the learned Deputy Commissioner of Income-tax has not considered the expenditure from the very same P.P.Book before arriving at the undisclosed income.*

10. *The learned Deputy Commissioner of Income-tax is erred in concluding that the entries in the P.P. Book and Bal. P.P. BOOK have to be read after removing the decimals and adding zero without any basis. The learned Deputy Commissioner of Income-tax is dissecting and bisecting the expenditure register seized as AGV/01 & AGV/04 purportedly based on the statements recorded from the following persons, without considering their statements in full and given during the entire course of proceedings. It is respectfully submitted that the learned Deputy Commissioner of Income-tax has considered only a portion of their statement conveniently ignoring the balance which are in favuor of the appellant for the reasons well known to him.*
  - a. *Shri. M.S. Chandrashekar.*
  - b. *Shri. K.V. Venkataramana Reddy.*
  - c. *Shri. K.V. RAvinindra Gowda.*
  - d. *Shri. T. Manjunath.*
11. *The learned Deputy Commissioner of Income-tax is not justified in relying on the statement of Sri. T. Narasihmamurthy, who is the ex and disgruntled employee of the appellant and the appellant has reasons to believe that he was instrumental in getting the action u/s 132 done and therefore the statement of the said Sri. T. Narasimhamurthy, is not reliable and liable to be rejected in limine.*
12. *Without pre-judice to any other contention that may be taken at the time of hearing or during the course of hearing it is submitted that the determination of undisclosed income is highly excessive and deserves to be reduced substantially.*
13. *The appellant craves leave to add, alter, amend, substitute, change and delete any of the grounds of appeal.*
14. *For the above and other grounds that may be urged at the time of hearing of the appeal, the appellant prays that the appeals may be allowed and justice rendered.*

**Assessment Year 2007-08**

1. *The Order of CIT(A) is opposed to law, equity, weight of evidence on record , facts and circumstances of the case.*
2. *The Learned CIT(A) is not justified in estimating the professional income on account of undisclosed income of Professional receipts based on mere submissions by the assessee.*
3. *The Ld CIT(A) legally erred in estimating arbitrarily the professional income at 40% of net professional receipts and 25% of Lok Adalat Receipts without supporting corroborative evidence.*
4. *The Ld CIT (A) erred in fact and law in admitting fresh evidence without giving an opportunity to be heard under rule 46A while determining the assesses income from profession on estimated basis.*
5. *The Ld CIT(A) failed to appreciate that the assessing officer has taken into account the fees paid to junior lawyers and also income declared by the assessee before determining the undisclosed income from profession.*
6. *The Ld CIT(A) is not 'justified in deleting the addition of Unexplained Cash of Rs.21,40,000/- based on the fresh evidence/explanation submitted by the assessee . Further, CIT(A) legally erred in not giving an opportunity to be heard to the AO before admitting the fresh evidence as per Rule 46A.*
7. *The appellant craves to add alter substitute, modify and delete any or all the grounds of appeal urged above.*

4. **Grounds 2 and 3** – **Validity of assumption of**  
**(for Assessment Years** **jurisdiction under section**  
**2001-02 to 2004-05** **153A of the Act**  
**and 2006-07)**

4.1 At the outset of hearings, the learned AR for the assessee submitted at the Bar that common ground Nos. 2 and 3 for assessment years 2001-02 to 2004-05 and 2006-07 that challenged the validity of assumption of jurisdiction by Revenue

for invoking the provisions of section 153A of the Act to pass orders of assessment under section 153A r.w.s 143(3) of the Act, were not being pressed by the assessee and are to be treated as withdrawn. In view of the assessee not pressing and withdrawing ground Nos. 2 and 3 in the appeals before us for Assessment Year 2001-02 to 2004-05 and 2006-07, these grounds are rendered infructuous and are accordingly dismissed as not pressed.

**5. Grounds on merits – Quantum Additions by  
(for all Assessment Years) AO/CIT(A)**

5.1 The main contentions raised by both Revenue (for Assessment Years 2003-04 and 2007-08) and the assessee (Assessment Years 2001-02 to 2004-05, 2006-07 & 2007-08) in their respective appeals is the quantum of income sustained by the CIT(A) in the impugned orders. The assessee contends that it is excessively high and the Revenue contends that, since relief has been given to the assessee, this has resulted in the income sustained being excessively low. In this context, we need to consider the seized material which forms the basis for the additions made by the AO and sustained by the CIT(A).

5.2.1 We have considered the rival contentions / submissions put forth and carefully perused the material on record. Before us, the learned AR for the assessee, demonstrated before the Bench several instances wherein the AO has made addition of the same amount twice or thrice or even more times during a particular Assessment Year. This, it is submitted, has occurred due to the fact that the AO has considered two or more seized material which have the very same amounts, representing the very same case handled by the assessee and the entries which are repeated in more than one seized material has been added to income as many times as the same is repeated. This repetition has occurred on several occasions, spanning all the Assessment Years 2001-02 to 2004-05, 2006-07 and

2007-08, which are before us for consideration, and the same has undoubtedly led to income being assessed in excess of the correct figure. Further, we also find that the material found and seized in the course of search are not complete by themselves, i.e., with the help of which one can arrive at the correct figure of undisclosed income of the assessee for the Assessment Years before us. However, a perusal of the copies of seized material definitely indicates that all is not well and the assessee has certainly not disclosed his true and correct income in the returns of income for the Assessment Years under consideration. The veracity and correctness of the income sustained by the CIT(A) is also questionable due to the errors pointed out by the learned AR and which errors, we are certain, has escaped the attention of the CIT(A) as well.

5.2.2 It is seen from the copies of seized material on record that the assessee has maintained records which contain the amounts received by the assessee on a case to case basis, as well as amounts due and not received. The AO, we find, has treated the amounts received as well as the amounts due and not received to be income of the assessee. The amounts due and not received, obviously, cannot be treated as income of the assessee in the case on hand as he is following the cash system of accounting. Further, in tabulating the amount received as well as the balance amounts due and to be received in the orders of assessment for each of the impugned Assessment Years, the AO has made additions of the same amount twice or thrice and these mistakes, as pointed out by the learned AR, recur time and again and spread over each of the impugned Assessment Years. The learned AR placed an illustrative table before the Bench giving cross references to seized materials, containing 17 instances, spanning over all the impugned Assessment Years, wherein the gross receipts ought to be Rs.6,80,220/- as against the gross fee collection of Rs.20,59,920/-; resulting in excess fee collection of Rs.13,79,700/- being determined by the AO. In this factual matrix of the case, we are of the view that substantial errors have taken place in computing the assessee's income by the AO in assessment proceedings and these errors have also not been considered by

the CIT(A) in appellate proceedings. In the light of the above facts, the learned Standing Counsel for Revenue was quite fair in accepting that errors have taken place in computing the assessee's income.

5.2.3 According to the learned AR for the assessee, the seized material which contains the details of fees paid by the assessee to his junior Advocates would be the best indicator of fees received by the assessee. The AO has also relied on the statements of these junior Advocates in the orders of assessment. The factum of amounts paid to the juniors is also brought out in the orders of assessment and the same has been treated as expenditure of the assessee. It was submitted by the learned AR of the assessee that in order to give a quietus to the appeals on hand, the assessee had agreed to the method wherein the gross fees would be calculated on the basis of fees paid to his junior Advocates, treating the juniors' fees @ 13% of the total fees collected by the assessee. The learned AR also drew our attention to the seized material which contained the details of fees paid to his juniors and also how the same corresponded to the fees received by the assessee as per other portions of the seized material; in order to establish and corroborate that the method adopted to determine the gross fee collections of assessee would be reasonably accurate under the facts and circumstances of the case. Having considered the contentions of both parties in the matter, we are of the considered view that the method suggested is not only fair and equitable but also reasonably accurate in order to arrive at the gross fee collected by the assessee in the peculiar facts and circumstances of the case on hand, as discussed above.

5.2.4 The learned AR of the assessee has placed before the Bench a year wise chart of the fees paid to the Juniors and the same is found to be largely matching the figures considered by the AO in the orders of assessment. We now proceed to determine the income of the assessee based on the amount of fees paid by the assessee to his junior advocates, which is admittedly admitted and accepted by both the assessee and the AO.

<b>Particulars</b>	<b>AY 2002-03 (Rs.)</b>	<b>AY 2003-04 (Rs.)</b>	<b>AY 2004-05 (Rs.)</b>	<b>AY 2006-07 (Rs.)</b>	<b>AY 2007-08 (Rs.)</b>
Payment to Junior Advocates (13% of Total Fees)	2,53,229/-	4,52,638/-	2,88,924/-	9,36,470/-	11,58,587/-
Assessee's share of fees (87% of Total Fees)	16,94,686/-	30,29,179/-	19,33,568/-	64,47,838/-	77,53,621/-
Net Income @ 35% of fees retained by assessee	5,93,140/-	10,60,213/-	6,76,749/-	24,50,178/-	27,13,767/-
<b>Less:</b> Income Returned by assessee	2,07,430/-	2,15,280/-	2,98,280/-	4,67,298/-	16,95,400/-
Addition sustained by Tribunal in this order	3,85,710/-	8,44,933/-	3,78,469/-	19,82,880/-	10,18,367/-

### **6.1 Assessment Year 2001-02**

It may be mentioned here that as regards **Assessment Year 2001-02**, Revenue is not in appeal before us at this juncture, as its appeal was dismissed vide Tribunal's order dated 02.01.2019 for the reasons that the tax effect on the relief granted to the assessee in the appellate order of CIT(A) and agitated by Revenue before us is below the monetary limit prescribed for filing appeals before the ITAT in terms of CBDT's Circular No.03/2018, dt.11.07.2018.

6.2 However, as regards the assessee's appeal, there is no seized material which contains details of fees paid to the assessee's Junior advocates. Going by the seized material of the fees collected in the year, the gross fees collected by the assessee as per the order of assessment for this Assessment Year is Rs.5,49,743/-. This excludes the amount of fees due and not collected during the year. If one were to

reduce 13% thereof as fees to Junior Advocates i.e., Rs.71,467/-, the assessee would be left with fee receipts of Rs.4,78,276/-. If the income is determined at 35% thereof, as adopted in the other Assessment Years involved, the net income of the assessee for Assessment Year 2001-02 would be Rs.1,67,397/-. The assessee has returned income of Rs.1,95,780/-. Therefore, the entire addition by the AO needs to be deleted and consequently the addition sustained by the CIT(A) is deleted.

## **7. Assessment Year 2007-08**

7.1 In respect of Assessment Year 2007-08, we find that the AO made an addition of Rs.21,40,000/- on account of cash found and seized in the course of search action. The aforesaid addition made by the AO was deleted by the CIT(A) and the said action of the CIT(A) is now challenged by Revenue. The CIT(A) deleted the said addition of Rs.21,40,000/- on the ground that the assessee had just a few days prior to the search sold agricultural lands and the sale proceeds thereof received in cash was found and seized from the assessee. The assessee had produced the necessary documents in support of his claim, which was examined and accepted by the CIT(A). In fact, it is seen that in the course of search itself, the assessee had made a statement explaining the seized cash as sale proceeds of agricultural lands. The case of the learned DR for Revenue was that the CIT(A) deleted the aforesaid addition of cash seized, based on fresh evidences which were not produced before the AO during assessment proceedings. Before us, the learned AR of the assessee demonstrated, with copies of letters filed by the assessee before the AO in assessment proceedings, that the evidences filed before CIT(A) were also filed before the AO during assessment proceedings; but which the AO ignored for reasons best known to him. In our view, as per an appraisal of the facts on record, we are satisfied that the evidences, based on which the CIT(A) deleted the aforesaid addition made by the AO of cash seized in the course of search; are not fresh evidences, but were before the AO at the time of assessment proceedings. In

this factual matrix of the case, as discussed above, we uphold the action of the CIT(A) in deleting the aforesaid addition of Rs.21,40,000/-. Consequently, the ground raised by Revenue for Assessment Year 2007-08 is dismissed.

8. Another issue of dispute in these appeals is that the CIT(A), while disposing off the assessee's appeals by way of the impugned orders, estimated the net professional income of the assessee @ 25% of fees in the case of Lok Adalat cases and @ 30% of fees in other cases. The assessee disputes the estimation made by the CIT(A) and seeks reduction thereof, whereas the Revenue pleads for the estimates on both types of cases (viz., Lok Adalat and other cases) to be increased. It is also important to take into account the fact that other than the cash of Rs.21,40,000/- seized in the course of search, which stands explained, no other unexplained asset, movable or immovable was found / seized during search and no additions have been made on such courts. In coming to our findings, we have also carefully perused and placed reliance mainly on the seized material which gives details of fees paid to the assessee's Junior Advocates, which makes no distinction between Lok Adalat cases and other cases. We have, therefore, proposed a uniform estimate of the assessee's net professional income @ 35% of the fees on all cases. In the light of the factual matrix and peculiar circumstances of the case and more importantly the fact that no addition is made based on unexplained assets and the only addition to income is more of an estimate basis, we are of the considered opinion that the income as determined by us is fair and reasonable. Consequently, Revenue's plea is partly accepted.

**9. Assessee's appeals for Interest charged under section 234A/234B/234C of the Act**

9.1 In this ground (supra), the assessee denies himself liable to be charged interest u/s 234A/234B/234C of the Act, respectively in the various Assessment Years. The charging of interest is consequential and mandatory and the AO has no discretion in

the matter. This proposition has been upheld by the Hon'ble Apex Court in the case of Anjum H. Ghaswala (252 ITR 1) (SC) and we, therefore, uphold the action of the AO in charging the assessee the aforesaid interest u/s 234A/234B/234C of the Act. The AO is, however, directed to re-compute the interest chargeable u/s 234A/234B/234C of the Act, if any, while giving effect of this order.

10. In the result, both the assessee's appeals for Assessment Years 2001-02 to 2004-05, 2006-07 and 2007-08 and the Revenue's cross appeals for Assessment Years 2003-04 and 2007-08 are partly allowed.

*Order pronounced in the open court on this 24<sup>th</sup> day of April, 2019.*

Sd/-  
**(PAVAN KUMAR GADALE)**  
**Judicial Member**

Sd/-  
**(JASON P BOAZ)**  
**Accountant Member**

Bangalore.

Dated: 24<sup>th</sup> April, 2019.

/NS/\*

Copy to:

- |               |               |
|---------------|---------------|
| 1. Appellants | 2. Respondent |
| 3. CIT        | 4. CIT(A)     |
| 5. DR         | 6. Guard file |

By order

Assistant Registrar,  
ITAT, Bangalore.