

अपीलीय अधिकरण, इन्दौर न्यायपीठ, इन्दौर
IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE BENCH, INDORE

BEFORE HON'BLE KUL BHARAT, JUDICIAL MEMBER
AND
HON'BLE MANISH BORAD, ACCOUNTANT MEMBER

IT(SS)A Nos. 158 to 163/Ind/2015
Assessment Years 2000-01 to 2005-06
&
ITA No.441/Ind/2015
Assessment Year-2006-07

Late Smt. SudeshChawla L/H ShriPremChawla Bhopal	Vs.	ACIT 1(2), Bhopal
(Appellant)		(Revenue)
PAN AAPPC0132J		

ITA No.405/Ind/2015
Assessment Year-2006-07

DCIT 1(1), Bhopal	Vs.	Late Smt. SudeshChawla L/H ShriPremChawla Bhopal
(Revenue)		(Respondent)
PAN AAPPC0132J		

IT(SS)A Nos. 170 to 175/Ind/2015
Assessment Years 2000-01 to 2005-06
&
ITA No.443/Ind/2015
Assessment Year-2006-07

ShriPremChawla Bhopal	Vs.	ACIT 1(2), Bhopal
(Appellant)		(Revenue)
PAN: AAOPC3494N		

IT(SS)A Nos. 164 to 169/Ind/2015
Assessment Years 2000-01 to 2005-06
&
ITA No.442/Ind/2015
Assessment Year-2006-07

Smt. Sarita Chawla Bhopal	Vs.	ACIT 1(2), Bhopal
(Appellant)		(Revenue)
PAN ADGPC8831N		

Appellant by	Shri Ashish Goyal & N.D. Patwa, ARs
Respondent by	Smt. Ashima Gupta, CIT-DR

Date of Hearing:	21.09.2020
Date of Pronouncement:	26.11.2020

आदेश / O R D E R

PER BENCH:

In the above captioned appeals, 21 appeals are at the instance of respective assessee(s) and are directed against the respective orders of Ld. Commissioner of Income Tax (Appeals), (in short 'CIT(A)'), Bhopal and Ld. ACIT 1(2), Bhopal as under :-

Name of assessee	Assessment Year	Date of order of CIT(A)_1	Date of order of ACIT-1(2)	Section under which passed
Late Smt. Sudesh Chawla	2000-01 to 2005-06 and 2006-07	30.03.2015	19.03.2013	153C r.w.s. 143(3) 143(3)
Prem Chawla	2000-01 to 2005-06 and 2006-07	30.03.2015	19.03.2013	153C r.w.s. 143(3) 143(3)
Smt. Sarita Chawla	2000-01 to 2005-06 and 2006-07	31.03.2015	19.03.2013	153C r.w.s. 143(3) 143(3)

Revenue's appeal No.ITA/405/Ind/2015 in the case of Late Smt. Sudha Chawla for Assessment Year 2006-07 is directed against the order of Ld. Commissioner of Income Tax(Appeals), (in short 'CIT(A)'), Bhopal order dated 30.03.2015.

2. As the issue raised in all these appeals are similar, these were heard together and are being disposed off by this common order for the sake of convenience and brevity.

3. (i) The assessee late Smt. Sudesh Chawla (Through Legal Heir Shri Prem Chawla) raised following grounds of appeal:-

Assessment Year 2000-01, IT(SS)A No.158/Ind/2015

1. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in not giving the clear finding regarding the grounds taken that the set aside assessment was made arbitrarily without following the directions of the Hon'ble I.T.A.T. properly and without considering the fact that regular and proper books of account are maintained and the Hon'ble CIT(A) has allowed the appeal after considering the documents submitted at the time of appellate proceedings and the Hon'ble I.T.A.T. has set aside the assessment only for the reason the all the aforesaid documents were submitted for the first time at the appellant stage only.
2. That on the facts and in the circumstances of the case, the ld. CIT(A) erred in confirming the addition of Rs.4,65,192/- being 1/10th of the total purchases of Rs.46,51,915/- without considering the fact that the entire disallowance was made arbitrarily, without any concrete basis and without specifying and particular item of disallowable nature.
3. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the addition of Rs.16,258/- being 1/10th of the total salary & wages of Rs.1,16,580/- without considering the fact that the entire disallowance was made arbitrarily, without any concrete basis and without specifying any particular item of disallowance nature.
4. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the addition of Rs.11,519/- being 1/10th of the total salary & wages of Rs.1,15,193/- without considering the fact that the entire disallowance was made arbitrarily, without any concrete basis and without specifying any particular item of disallowance nature.
5. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the charging of interest u/s 234A, u/s 234B and u/s 234C.
6. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the initiation of penalty proceedings u/s 271(1)(c).
7. That the appellant craves leave to add, to urge, to alter or to amend any of the ground of appeal on or before the date of hearing.

Assessment Year 2001-02, IT(SS)A No.159/Ind/2015

1. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in not giving the clear finding regarding the grounds taken that the set aside assessment was made arbitrarily without following the directions of the Hon'ble I.T.A.T. properly and without considering the fact that regular and proper books of account are maintained and the Hon'ble CIT(A) has allowed the appeal after considering the documents submitted at the time of appellate proceedings and the Hon'ble I.T.A.T. has set aside the assessment only for the reason the all the aforesaid documents were submitted for the first time at the appellant stage only.

2. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the addition of Rs.5,86,530/- being 1/10th of the total purchases of Rs.358,65,299/- without considering the fact that the entire disallowance was made arbitrarily, without any concrete basis and without specifying any particular item of disallowable nature.

3. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the addition of Rs.34,770/- being 1/10th of the total freight&cartage of Rs.3,47,702/- without considering the fact that the entire disallowance was made arbitrarily, without any concrete basis and without specifying any particular item of disallowance nature.

4. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the addition of Rs.16,258/- being 1/10th of the total salary& wages of Rs.1,16,580/- without considering the fact that the entire disallowance was made arbitrarily, without any concrete basis and without specifying any particular item of disallowance nature.

5. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the addition of Rs.16,258/- being 1/10th of the total salary & wages of Rs.1,16,580/- without considering the fact that the entire disallowance was made arbitrarily, without any concrete basis and without specifying any particular item of disallowance nature.

6. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the addition of Rs.3,40,000/- being unexplained cash payment made without accepting the explanation offered by the assessee and without considering the facts properly.

7. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the addition of Rs.10,01,000/- made on account of security deposits without considering the explanation offered by the appellant and without considering the facts properly.

8. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the charging of interest u/s 234A, u/s 234B and u/s 234C.

9. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the initiation of penalty proceedings u/s 271(1)(c).

10. That the appellant craves leave to add, to urge, to alter or to amend any of the ground of appeal on or before the date of hearing.

Assessment Year 2002-03, IT(SS)A No.160/Ind/2015

1. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in not giving the clear finding regarding the grounds taken that the set aside assessment was made arbitrarily without following the directions of the Hon'ble I.T.A.T. properly and without considering the fact that regular and proper books of account are maintained and the Hon'ble CIT(A) has allowed the appeal after considering the documents submitted at the time of appellate proceedings and the Hon'ble I.T.A.T. has set aside

the assessment only for the reason the all the aforesaid documents were submitted for the first time at the appellant stage only.

2. That on the facts and in the circumstances of the case, the ld. CIT(A) erred in confirming the addition of Rs.7,72,566/- being 1/10th of the total purchases of Rs.77,25,658/- without considering the fact that the entire disallowance was made arbitrarily, without any concrete basis and without specifying and particular item of disallowable nature.

3. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the addition of Rs.77,721/- being 1/10th of the total freight&cartage of Rs.7,77,209/- without considering the fact that the entire disallowance was made arbitrarily, without any concrete basis and without specifying any particular item of disallowance nature.

4. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the addition of Rs.18,025/- being 1/10th of the total salary& wages of Rs.1,80,250/- without considering the fact that the entire disallowance was made arbitrarily, without any concrete basis and without specifying any particular item of disallowance nature.

5. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the addition of Rs.34,814/- being 1/10th of the total salary & wages of Rs.3,48,140/- without considering the fact that the entire disallowance was made arbitrarily, without any concrete basis and without specifying any particular item of disallowance nature

6. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the charging of interest u/s 234A, u/s 234B and u/s 234C.

7. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the initiation of penalty proceedings u/s 271(1)(c).

8. That the appellant craves leave to add, to urge, to alter or to amend any of the ground of appeal on or before the date of hearing.

Assessment Year 2003-04, IT(SS)A No.161/Ind/2015

1. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in not giving the clear finding regarding the grounds taken that the set aside assessment was made arbitrarily without following the directions of the Hon'ble I.T.A.T. properly and without considering the fact that regular and proper books of account are maintained and the Hon'ble CIT(A) has allowed the appeal after considering the documents submitted at the time of appellate proceedings and the Hon'ble I.T.A.T. has set aside the assessment only for the reason the all the aforesaid documents were submitted for the first time at the appellant stage only.

2. That on the facts and in the circumstances of the case, the ld. CIT(A) erred in confirming the addition of Rs.9,62,410/- being 1/10th of the total purchases of Rs.96,24,102/- without considering the fact that the entire

disallowance was made arbitrarily, without any concrete basis and without specifying any particular item of disallowable nature.

3. *That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the addition of Rs.52,590/- being 1/10th of the total freight & cartage of Rs.5,25,895/- without considering the fact that the entire disallowance was made arbitrarily, without any concrete basis and without specifying any particular item of disallowance nature.*

4. *That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the addition of Rs.22,067/- being 1/10th of the total salary & wages of Rs.2,20,670/- without considering the fact that the entire disallowance was made arbitrarily, without any concrete basis and without specifying any particular item of disallowance nature.*

5. *That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the addition of Rs.33,836/- being 1/10th of the total salary & wages of Rs.3,38,362/- without considering the fact that the entire disallowance was made arbitrarily, without any concrete basis and without specifying any particular item of disallowance nature.*

6. *That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the addition of Rs.3,50,000/- made on account of security deposits without considering the explanation offered by the appellant and without considering the facts properly.*

7. *That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the charging of interest u/s 234A, u/s 234B and u/s 234C.*

8. *That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the initiation of penalty proceedings u/s 271(1)(c).*

9. *That the appellant craves leave to add, to urge, to alter or to amend any of the ground of appeal on or before the date of hearing.*

Assessment Year 2004-05, IT(SS)A No.162/Ind/2015

1. *That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in not giving the clear finding regarding the grounds taken that the set aside assessment was made arbitrarily without following the directions of the Hon'ble I.T.A.T. properly and without considering the fact that regular and proper books of account are maintained and the Hon'ble CIT(A) has allowed the appeal after considering the documents submitted at the time of appellate proceedings and the Hon'ble I.T.A.T. has set aside the assessment only for the reason the all the aforesaid documents were submitted for the first time at the appellant stage only.*

2. *That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the addition of Rs.25,46,873/- being 1/10th of the total purchases of Rs.2,54,68,732/- without considering the fact that the entire disallowance was made arbitrarily, without any concrete basis and without specifying any particular item of disallowable nature.*

3. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the addition of Rs.1,12,127/- being 1/10th of the total freight & cartage of Rs.11,21,273/- without considering the fact that the entire disallowance was made arbitrarily, without any concrete basis and without specifying any particular item of disallowance nature.

4. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the addition of Rs.28,818/- being 1/10th of the total salary & wages of Rs.2,88,176/- without considering the fact that the entire disallowance was made arbitrarily, without any concrete basis and without specifying any particular item of disallowance nature.

5. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the addition of Rs.1,29,087/- being 1/10th of the total salary & wages of Rs.12,90,872/- without considering the fact that the entire disallowance was made arbitrarily, without any concrete basis and without specifying any particular item of disallowance nature.

6. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the addition of Rs.14,50,843/- made on account of security deposits without considering the explanation offered by the appellant and without considering the facts properly.

7. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in giving part relied of Rs.2,50,000/- only out of total addition of Rs.12,16,941/- on account of addition in capital account without considering the explanation offered by the appellant and without considering the facts properly.

8. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the charging of interest u/s 234A, u/s 234B and u/s 234C.

9. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the initiation of penalty proceedings u/s 271(1)(c).

10. That the appellant craves leave to add, to urge, to alter or to amend any of the ground of appeal on or before the date of hearing.

Assessment Year 2005-06, IT(SS)A No.163/Ind/2015

1. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in not giving the clear finding regarding the grounds taken that the set aside assessment was made arbitrarily without following the directions of the Hon'ble I.T.A.T. properly and without considering the fact that regular and proper books of account are maintained and the Hon'ble CIT(A) has allowed the appeal after considering the documents submitted at the time of appellate proceedings and the Hon'ble I.T.A.T. has set aside the assessment only for the reason the all the aforesaid documents were submitted for the first time at the appellant stage only.

2. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the addition of Rs.36,22,085/- being 1/10th of the total purchases of Rs.3,62,20,852/- without considering the fact that the entire disallowance was made arbitrarily, without any concrete basis and without specifying any particular item of disallowable nature.

3. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the addition of Rs.99,447/- being 1/10th of the total freight & cartage of Rs.9,94,465/- without considering the fact that the entire disallowance was made arbitrarily, without any concrete basis and without specifying any particular item of disallowance nature.

4. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the addition of Rs.21,644/- being 1/10th of the total salary & wages of Rs.2,16,443/- without considering the fact that the entire disallowance was made arbitrarily, without any concrete basis and without specifying any particular item of disallowance nature.

5. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the addition of Rs.73,865/- being 1/10th of the total salary & wages of Rs.7,38,646/- without considering the fact that the entire disallowance was made arbitrarily, without any concrete basis and without specifying any particular item of disallowance nature.

6. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the addition of Rs.16,50,000/- made on account of security deposits without considering the explanation offered by the appellant and without considering the facts properly.

7. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the charging of interest u/s 234A, u/s 234B and u/s 234C.

8. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the initiation of penalty proceedings u/s 271(1)(c).

9. That the appellant craves leave to add, to urge, to alter or to amend any of the ground of appeal on or before the date of hearing.

Assessment Year 2006-07, ITA No.441/Ind/2015

1. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in not giving the clear finding regarding the grounds taken that the set aside assessment was made arbitrarily without following the directions of the Hon'ble I.T.A.T. properly and without considering the fact that regular and proper books of account are maintained and the Hon'ble CIT(A) has allowed the appeal after considering the documents submitted at the time of appellate proceedings and the Hon'ble I.T.A.T. has set aside the assessment only for the reason the all the aforesaid documents were submitted for the first time at the appellant stage only.

2. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the addition of Rs.38,69,619/- being 1/10th of the total purchases of Rs.3,86,96,192/- without considering the fact that the entire disallowance was made arbitrarily, without any concrete basis and without specifying any particular item of disallowable nature.
3. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the addition of Rs.1,35,825/- being 1/10th of the total freight & cartage of Rs.13,58,248/- without considering the fact that the entire disallowance was made arbitrarily, without any concrete basis and without specifying any particular item of disallowance nature.
4. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the addition of Rs.42,518/- being 1/10th of the total salary & wages of Rs.4,25,176/- without considering the fact that the entire disallowance was made arbitrarily, without any concrete basis and without specifying any particular item of disallowance nature.
5. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the addition of Rs.2,23,260/- being 1/10th of the total salary & wages of Rs.22,32,600/- without considering the fact that the entire disallowance was made arbitrarily, without any concrete basis and without specifying any particular item of disallowance nature.
6. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the addition of Rs.14,00,000/- made on account of security deposits without considering the explanation offered by the appellant and without considering the facts properly.
7. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in giving part relief of Rs.38,86,483/- by giving relief of Rs.90,68,460/- only out of total addition of Rs.1,29,54,943/- on account of suppressed sales without considering the explanation offered by the appellant and without considering the facts properly.
8. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the addition of Rs.24,39,857/- on account of difference in stock as per the Commercial Tax Department and as per the books of account without accepting the explanation offered by the assessee that the stock of the assessee is duly tallied with the excise records and there is no difference as such.
9. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the addition of Rs.2,85,709/- on the basis of loose papers on which certain expenses are mentioned without accepting the explanation offered by the assessee that all the expenses mentioned on these loose papers are duly recorded in the books of account for which necessary information was submitted during the course of assessment proceedings.

10. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the charging of interest u/s 234A, u/s 234B and u/s 234C.

11. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the initiation of penalty proceedings u/s 271(1)(c).

12. That the appellant craves leave to add, to urge, to alter or to amend any of the ground of appeal on or before the date of hearing.

(ii) Revenue has raised following grounds of appeal in the case of late Smt. Sudesh Chawla (Through Legal Heir Shri Prem Chawla);

Assessment Year 2006-07, ITA No.405/Ind/2015

On the facts and in the circumstances of the case, the CIT(Appeals) has erred in:

1.Restricting the disallowance of purchase and wages and salary to 10% of total expenses as against the disallowance of 40% of purchase and freight-cartage expenses and disallowance of 33.33% of wages and salary expenses made by the A.O

2.Deleting the addition of Rs.15,32,527/- made by the AO on account of explained capital.

3.Deleting the addition of Rs.90,68,460/- made by the AO on account of suppressed sales.

4.The appellant reserves his right to add, amend or alter the grounds of appeal on or before the date, the appeal is finally heard for disposal.

(iii) Assessee Shri Prem Chawla has raised following grounds of appeal :-

Assessment Year 2000-01, IT(SS)A No.170/Ind/2015

1. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in not giving the clear finding regarding the grounds taken that the set aside assessment was made arbitrarily without following the directions of the Hon'ble I.T.A.T. properly and without considering the fact that regular and proper books of account are maintained and the Hon'ble CIT(A) has allowed the appeal after considering the documents submitted at the time of appellate proceedings and the Hon'ble I.T.A.T. has set aside

the assessment only for the reason the all the aforesaid documents were submitted for the first time at the appellant stage only.

2. That on the facts and in the circumstances of the case, the ld. CIT(A) erred in confirming the addition of Rs.3,61,730/- being 1/10th of the total purchases of Rs.36,17,299/- without considering the fact that the entire disallowance was made arbitrarily, without any concrete basis and without specifying and particular item of disallowable nature.

3. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the addition of Rs.13,835/- being 1/10th of the total salary& wages of Rs.1,38,352/- without considering the fact that the entire disallowance was made arbitrarily, without any concrete basis and without specifying any particular item of disallowance nature.

4. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the addition of Rs.14,627/- being 1/10th of the total salary& wages of Rs.1,46,273/- without considering the fact that the entire disallowance was made arbitrarily, without any concrete basis and without specifying any particular item of disallowance nature.

5. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the addition of Rs.8,74,400/- made on account of security deposits without considering the explanation offered by the appellant and without considering the facts properly.

6. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the charging of interest u/s 234A, u/s 234B and u/s 234C.

7. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the initiation of penalty proceedings u/s 271(1)(c).

8. That the appellant craves leave to add, to urge, to alter or to amend any of the ground of appeal on or before the date of hearing.

Assessment Year 2001-02, IT(SS)A No.171/Ind/2015

1. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in not giving the clear finding regarding the grounds taken that the set aside assessment was made arbitrarily without following the directions of the Hon'ble I.T.A.T. properly and without considering the fact that regular and proper books of account are maintained and the Hon'ble CIT(A) has allowed the appeal after considering the documents submitted at the time of appellate proceedings and the Hon'ble I.T.A.T. has set aside the assessment only for the reason the all the aforesaid documents were submitted for the first time at the appellant stage only.

2. That on the facts and in the circumstances of the case, the ld. CIT(A) erred in confirming the addition of Rs.4,95,333/- being 1/10th of the total purchases of Rs.49,53,330/- without considering the fact that the entire

disallowance was made arbitrarily, without any concrete basis and without specifying and particular item of disallowable nature.

3. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the addition of Rs.19,700/- being 1/10th of the total salary& wages of Rs.1,97,000/- without considering the fact that the entire disallowance was made arbitrarily, without any concrete basis and without specifying any particular item of disallowance nature.

4. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the addition of Rs.19,280/- being 1/10th of the total salary& wages of Rs.1,92,795/- without considering the fact that the entire disallowance was made arbitrarily, without any concrete basis and without specifying any particular item of disallowance nature.

5. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the addition of Rs.4,00,000/- made on account of security deposits without considering the explanation offered by the appellant and without considering the facts properly.

6. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the charging of interest u/s 234A, u/s 234B and u/s 234C.

7. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the initiation of penalty proceedings u/s 271(1)(c).

8. That the appellant craves leave to add, to urge, to alter or to amend any of the ground of appeal on or before the date of hearing.

Assessment Year 2002-03, IT(SS)A No.172/Ind/2015

1. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in not giving the clear finding regarding the grounds taken that the set aside assessment was made arbitrarily without following the directions of the Hon'ble I.T.A.T. properly and without considering the fact that regular and proper books of account are maintained and the Hon'ble CIT(A) has allowed the appeal after considering the documents submitted at the time of appellate proceedings and the Hon'ble I.T.A.T. has set aside the assessment only for the reason the all the aforesaid documents were submitted for the first time at the appellant stage only.

2. That on the facts and in the circumstances of the case, the ld. CIT(A) erred in confirming the addition of Rs.6,71,606/- being 1/10th of the total purchases of Rs.67,16,065/- without considering the fact that the entire disallowance was made arbitrarily, without any concrete basis and without specifying and particular item of disallowable nature.

3. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the addition of Rs.126,325/- being 1/10th of the total salary& wages of Rs.2,63,250/- without considering the fact that the

entire disallowance was made arbitrarily, without any concrete basis and without specifying any particular item of disallowance nature.

4. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the charging of interest u/s 234A, u/s 234B and u/s 234C.

5. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the initiation of penalty proceedings u/s 271(1)(c).

6. That the appellant craves leave to add, to urge, to alter or to amend any of the ground of appeal on or before the date of hearing.

Assessment Year 2003-04, IT(SS)A No.173/Ind/2015

1. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in not giving the clear finding regarding the grounds taken that the set aside assessment was made arbitrarily without following the directions of the Hon'ble I.T.A.T. properly and without considering the fact that regular and proper books of account are maintained and the Hon'ble CIT(A) has allowed the appeal after considering the documents submitted at the time of appellate proceedings and the Hon'ble I.T.A.T. has set aside the assessment only for the reason the all the aforesaid documents were submitted for the first time at the appellant stage only.

2. That on the facts and in the circumstances of the case, the ld. CIT(A) erred in confirming the addition of Rs.10,98,148/- being 1/10th of the total purchases of Rs.1,09,81,477/- without considering the fact that the entire disallowance was made arbitrarily, without any concrete basis and without specifying and particular item of disallowable nature.

3. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the addition of Rs.133,240/- being 1/10th of the total salary& wages of Rs.3,32,400/- without considering the fact that the entire disallowance was made arbitrarily, without any concrete basis and without specifying any particular item of disallowance nature.

4. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the addition of Rs.43,031/- being 1/10th of the total salary& wages of Rs.4,30,310/- without considering the fact that the entire disallowance was made arbitrarily, without any concrete basis and without specifying any particular item of disallowance nature.

5. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in giving relief of Rs.4,75,000/-only out of total addition of Rs.6,52,100/- and thereby confirming the addition of Rs.1,77,100/- without considering the explanation offered by the appellant and without considering the facts properly.

6. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the charging of interest u/s 234A, u/s 234B and u/s 234C.
7. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the initiation of penalty proceedings u/s 271(1)(c).
8. That the appellant craves leave to add, to urge, to alter or to amend any of the ground of appeal on or before the date of hearing.

Assessment Year 2004-05, IT(SS)A No.174/Ind/2015

1. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in not giving the clear finding regarding the grounds taken that the set aside assessment was made arbitrarily without following the directions of the Hon'ble I.T.A.T. properly and without considering the fact that regular and proper books of account are maintained and the Hon'ble CIT(A) has allowed the appeal after considering the documents submitted at the time of appellate proceedings and the Hon'ble I.T.A.T. has set aside the assessment only for the reason the all the aforesaid documents were submitted for the first time at the appellant stage only.
2. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the addition of Rs.12,99,114/- being 1/10th of the total purchases of Rs.1,29,91,144/- without considering the fact that the entire disallowance was made arbitrarily, without any concrete basis and without specifying and particular item of disallowable nature.
3. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the addition of Rs.21,478/- being 1/10th of the total salary & wages of Rs.2,14,778/- without considering the fact that the entire disallowance was made arbitrarily, without any concrete basis and without specifying any particular item of disallowance nature.
4. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the addition of Rs.64,076/- being 1/10th of the total salary & wages of Rs.6,40,755/- without considering the fact that the entire disallowance was made arbitrarily, without any concrete basis and without specifying any particular item of disallowance nature.
5. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in giving relief of Rs.16,40,000/- only out of total addition of Rs.18,52,520/- and thereby confirming the addition of Rs.2,12,520/- without considering the explanation offered by the appellant and without considering the facts properly.
6. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the addition of Rs.1,29,200/- being agriculture income treated as income from other sources without considering the explanation offered by the appellant and without considering the facts properly.

7. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the charging of interest u/s 234A, u/s 234B and u/s 234C.
8. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the initiation of penalty proceedings u/s 271(1)(c).
9. That the appellant craves leave to add, to urge, to alter or to amend any of the ground of appeal on or before the date of hearing.

Assessment Year 2005-06, IT(SS)A No.175/Ind/2015

1. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in not giving the clear finding regarding the grounds taken that the set aside assessment was made arbitrarily without following the directions of the Hon'ble I.T.A.T. properly and without considering the fact that regular and proper books of account are maintained and the Hon'ble CIT(A) has allowed the appeal after considering the documents submitted at the time of appellate proceedings and the Hon'ble I.T.A.T. has set aside the assessment only for the reason the all the aforesaid documents were submitted for the first time at the appellant stage only.
2. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the addition of Rs.25,28,512/- being 1/10th of the total purchases of Rs.2,52,85,121/- without considering the fact that the entire disallowance was made arbitrarily, without any concrete basis and without specifying and particular item of disallowable nature.
3. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the addition of Rs.52,233/- being 1/10th of the total salary & wages of Rs.5,22,330/- without considering the fact that the entire disallowance was made arbitrarily, without any concrete basis and without specifying any particular item of disallowance nature.
4. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the addition of Rs.96,442/- being 1/10th of the total salary & wages of Rs.9,64,416/- without considering the fact that the entire disallowance was made arbitrarily, without any concrete basis and without specifying any particular item of disallowance nature.
5. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the addition of Rs.2,95,000/- made on account of security deposits without considering the explanation offered by the appellant and without considering the facts properly.
6. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in giving relief of Rs.3,01,000/- only out of total addition of Rs.4,00,000/- and thereby confirming the addition of Rs.99,000/- on account of purchase of property. The Ld. CIT(A) further erred in enhancing the addition by Rs.3,38,810/- on account of registration expenses incurred

on purchase of property without considering the explanation offered by the appellant.

7. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in giving relief of Rs.5,33,000/- only out of total addition of Rs.7,45,520/- and thereby confirming the addition of Rs.2,12,520/- without considering the explanation offered by the appellant and without considering the facts properly

8. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the charging of interest u/s 234A, u/s 234B and u/s 234C.

9. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the initiation of penalty proceedings u/s 271(1)(c).

10. That the appellant craves leave to add, to urge, to alter or to amend any of the ground of appeal on or before the date of hearing.

Assessment Year 2006-07, ITA No.443/Ind/2015

1. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in not giving the clear finding regarding the grounds taken that the set aside assessment was made arbitrarily without following the directions of the Hon'ble I.T.A.T. properly and without considering the fact that regular and proper books of account are maintained and the Hon'ble CIT(A) has allowed the appeal after considering the documents submitted at the time of appellate proceedings and the Hon'ble I.T.A.T. has set aside the assessment only for the reason the all the aforesaid documents were submitted for the first time at the appellant stage only.

2. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the addition of Rs.25,42,596/- being 1/10th of the total purchases of Rs.2,54,25,960/- without considering the fact that the entire disallowance was made arbitrarily, without any concrete basis and without specifying any particular item of disallowable nature.

3. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the addition of Rs.30,223/- being 1/10th of the total salary & wages of Rs.3,02,226/- without considering the fact that the entire disallowance was made arbitrarily, without any concrete basis and without specifying any particular item of disallowance nature.

4. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the addition of Rs.2,240,388/- being 1/10th of the total salary & wages of Rs.24,03,875/- without considering the fact that the entire disallowance was made arbitrarily, without any concrete basis and without specifying any particular item of disallowance nature

5. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the addition of Rs.7,80,000/- made on account of

unsecured loan without considering the explanation offered by the appellant and without considering the facts properly.

6. *That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in giving relied of Rs.1,00,000/- only out of total addition of Rs.2,00,000/- on account of suppressed sales without considering the explanation offered by the appellant and without considering the facts properly*

7. *That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the addition of Rs.3,34,500/- on account of cash found during the course of search without considering the explanation offered by the appellant that belongs to Smt. SaritaChawla wife of the appellant and found in her locker only and necessary explanation in this regard was given by her.*

8. *That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the charging of interest u/s 234A, u/s 234B and u/s 234C.*

9. *That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the initiation of penalty proceedings u/s 271(1)(c).*

10. *That the appellant craves leave to add, to urge, to alter or to amend any of the ground of appeal on or before the date of hearing.*

(iv) Assessee Smt. Sarita Chawla has raised following grounds of appeal:-

Assessment Year 2000-01, IT(SS)A No.164/Ind/2015

1. *That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in not giving the clear finding regarding the grounds taken that the set aside assessment was made arbitrarily without following the directions of the Hon'ble I.T.A.T. properly and without considering the fact that regular and proper books of account are maintained and the Hon'ble CIT(A) has allowed the appeal after considering the documents submitted at the time of appellate proceedings and the Hon'ble I.T.A.T. has set aside the assessment only for the reason the all the aforesaid documents were submitted for the first time at the appellant stage only.*

2. *That on the facts and in the circumstances of the case, the ACIT erred in confirming the addition of Rs.34,800/- on account of income from computer programming without considering the fact that the said addition was made arbitrarily without any concrete basis.*

3. *That on the facts and in the circumstances of the case, the ACIT erred in confirming the addition of Rs.82,350/- being balance of opening capital without considering the explanation offered by the appellant and without*

considering the fact that the advances were given out of current year's income only.

4. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the charging of interest u/s 234A, u/s 234B and u/s 234C.

5. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the initiation of penalty proceedings u/s 271(1)(c).

6. That the appellant craves leave to add, to urge, to alter or to amend any of the ground of appeal on or before the date of hearing.

Assessment Year 2001-02, IT(SS)A No.165/Ind/2015

1. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in not giving the clear finding regarding the grounds taken that the set aside assessment was made arbitrarily without following the directions of the Hon'ble I.T.A.T. properly and without considering the fact that regular and proper books of account are maintained and the Hon'ble CIT(A) has allowed the appeal after considering the documents submitted at the time of appellate proceedings and the Hon'ble I.T.A.T. has set aside the assessment only for the reason the all the aforesaid documents were submitted for the first time at the appellant stage only.

2. That on the facts and in the circumstances of the case, the ACIT erred in confirming the addition of Rs.36,600/- on account of income from computer programming without considering the fact that the said addition was made arbitrarily without any concrete basis.

3. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the charging of interest u/s 234A, u/s 234B and u/s 234C.

4. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the initiation of penalty proceedings u/s 271(1)(c).

5. That the appellant craves leave to add, to urge, to alter or to amend any of the ground of appeal on or before the date of hearing.

Assessment Year 2002-03, IT(SS)A No.166/Ind/2015

1. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in not giving the clear finding regarding the grounds taken that the set aside assessment was made arbitrarily without following the directions of the Hon'ble I.T.A.T. properly and without considering the fact that regular and proper books of account are maintained and the Hon'ble CIT(A) has allowed the appeal after considering the documents submitted at the time of appellate proceedings and the Hon'ble I.T.A.T. has set aside the assessment only for the reason the all the aforesaid documents were submitted for the first time at the appellant stage only.

2. That on the facts and in the circumstances of the case, the ACIT erred in confirming the addition of Rs.44,300/- on account of income from computer programming without considering the fact that the said addition was made arbitrarily without any concrete basis.
3. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the charging of interest u/s 234A, u/s 234B and u/s 234C.
4. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the initiation of penalty proceedings u/s 271(1)(c).
5. That the appellant craves leave to add, to urge, to alter or to amend any of the ground of appeal on or before the date of hearing.

Assessment Year 2003-04, IT(SS)A No.167/Ind/2015

1. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in not giving the clear finding regarding the grounds taken that the set aside assessment was made arbitrarily without following the directions of the Hon'ble I.T.A.T. properly and without considering the fact that regular and proper books of account are maintained and the Hon'ble CIT(A) has allowed the appeal after considering the documents submitted at the time of appellate proceedings and the Hon'ble I.T.A.T. has set aside the assessment only for the reason the all the aforesaid documents were submitted for the first time at the appellant stage only.
2. That on the facts and in the circumstances of the case, the ACIT erred in confirming the addition of Rs.34,650/- on account of income from computer programming without considering the fact that the said addition was made arbitrarily without any concrete basis.
3. That on the facts and in the circumstances of the case, the ACIT erred in confirming the addition of Rs.1,99,900/- being unexplained investment in the firm M/s AtulSolvoChem without considering the explanation offered by the appellant and without considering the fact that the said transaction is duly reflected in the books of account.
4. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the charging of interest u/s 234A, u/s 234B and u/s 234C.
5. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the initiation of penalty proceedings u/s 271(1)(c).
6. That the appellant craves leave to add, to urge, to alter or to amend any of the ground of appeal on or before the date of hearing.

Assessment Year 2004-05, IT(SS)A No.168/Ind/2015

1. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in not giving the clear finding regarding the grounds taken that the set aside assessment was made arbitrarily without following the directions of the Hon'ble I.T.A.T. properly and without considering the fact that regular and proper books of account are maintained and the Hon'ble CIT(A) has allowed the appeal after considering the documents submitted at the time of appellate proceedings and the Hon'ble I.T.A.T. has set aside the assessment only for the reason the all the aforesaid documents were submitted for the first time at the appellant stage only.
2. That on the facts and in the circumstances of the case, the ACIT erred in giving relied of Rs.2,000/- only out of total addition of Rs.50,640/- on account of income from retail trade without considering the explanation offered by the appellant and without considering the fact that the said addition was made arbitrarily without any basis.
3. That on the facts and in the circumstances of the case, the ACIT erred in confirming the addition of Rs.1,87,500/- being unexplained loan and sundry creditors arbitrarily without considering the explanation offered by the assessee that the said loan is taken in the personal capacity and sundry creditors are for expenses and purchase of material.
4. That on the facts and in the circumstances of the case, the ACIT erred in confirming the addition of Rs.1,51,775/- by treating the agriculture income as income from undisclosed sources without accepting the explanation offered by the assessee that the assessee has taken agriculture land on lease and on the same agriculture activities were done and necessary details regarding lease agreement, details of agriculture produce sale receipts were submitted during the course of assessment proceedings.
5. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the charging of interest u/s 234A, u/s 234B and u/s 234C.
6. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the initiation of penalty proceedings u/s 271(1)(c).
7. That the appellant craves leave to add, to urge, to alter or to amend any of the ground of appeal on or before the date of hearing.

Assessment Year 2005-06, IT(SS)A No.169/Ind/2015

1. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in not giving the clear finding regarding the grounds taken that the set aside assessment was made arbitrarily without following the directions of the Hon'ble I.T.A.T. properly and without considering the fact that regular and proper books of account are maintained and the Hon'ble CIT(A) has allowed the appeal after considering the documents submitted at the time of appellate proceedings and the Hon'ble I.T.A.T. has set aside

the assessment only for the reason the all the aforesaid documents were submitted for the first time at the appellant stage only.

2. That on the facts and in the circumstances of the case, the ld. ACIT erred in confirming the addition of Rs.92,426/- on account of income from computer programming stating that this ground was not raised in first appeal without giving specific finding in the merit of addition.

3. That on the facts and in the circumstances of the case, the Ld. ACIT erred in confirming the addition of Rs.8,73,364/- on account of capital account without accepting the explanation of the assessee that the addition in the capital account is made out of the transfer from personal account and loan taken from relatives for which necessary information was submitted during the course of assessment proceedings.

4. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the addition of Rs.5,90,619/- being 1/10th of the total purchases of Rs.59,06,192/- without considering the fact that the entire disallowance was made arbitrarily, without any concrete basis and without specifying any particular item of disallowance nature.

5. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the addition of Rs.43,608/- being 1/10th of the total salary& wages of Rs.36,080/- without considering the fact that the entire disallowance was made arbitrarily, without any concrete basis and without specifying any particular item of disallowance nature.

6. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the addition of Rs.13,048/- being 1/10th of the total salary & wages of Rs.22,32,600/- without considering the fact that the entire disallowance was made arbitrarily, without any concrete basis and without specifying any particular item of disallowance nature

7. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the charging of interest u/s 234A, u/s 234B and u/s 234C.

8. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the initiation of penalty proceedings u/s 271(1)(c).

9. That the appellant craves leave to add, to urge, to alter or to amend any of the ground of appeal on or before the date of hearing.

Assessment Year 2006-07, ITA No.442/Ind/2015

1. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in not giving the clear finding regarding the grounds taken that the set aside assessment was made arbitrarily without following the directions of the Hon'ble I.T.A.T. properly and without considering the fact that regular and proper books of account are maintained and the Hon'ble CIT(A) has allowed the appeal after considering the documents submitted at the time of appellate proceedings and the Hon'ble I.T.A.T. has set aside

the assessment only for the reason the all the aforesaid documents were submitted for the first time at the appellant stage only.

2. That on the facts and in the circumstances of the case, the ld. ACIT erred in confirming the addition of Rs.12,14,092/- being 1/10th of the total purchase of Rs.1,21,40,919/- without considering the fact thaqt the entire disallowance was made arbitrarily, without any concrete basis and without specifying anyparticular item of disallowable nature.

3. That on the facts and in the circumstances of the case, the ld. ACIT erred in confirming the addition of Rs.5,094/- being 1/10th of the total purchases of Rs.50,936/- without considering the fact that the entire disallowance was made arbitrarily, without any concrete basis and without specifying any particular item of disallowance nature.

4. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the addition of Rs.95,352/- being 1/10th of the total salary expenses of Rs.9,53,523/- without considering the fact that the entire disallowance was made arbitrarily, without any concrete basis and without specifying any particular item of disallowance nature.

5. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the charging of interest u/s 234A, u/s 234B and u/s 234C.

6. That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming the initiation of penalty proceedings u/s 271(1)(c).

7. That the appellant craves leave to add, to urge, to alter or to amend any of the ground of appeal on or before the date of hearing.

4. Brief facts of the case as culled out from the records are that search u/s 132 of the Act were conducted at the residence of the assessee(s) on 21.12.2005 at Bhopal. Simultaneously survey operations u/s 133A of the Act were also carried out on the very same day at various business concerns of the group. In the instant appeal 3 assessee(s) are running following business concerns :-

(i) Late Smt. Sudesh Chawla

- (Through L/H Shri Prem Chawla) Partners of M/s Atul Solvo Chemical & Prop. M/s Anand Organics
- (ii) Shri Prem Chawla Partner of M/s Atul Solvo Chemical, Prop.M/s Anand Paints &Anand Industries
- (iii) Smt. Sarita Chawla Partnerof Sarita Consultancy& Prop. Anand Coatings

5. In the instant appeals we are dealing with the 3 individuals named herein above, therefore the partnership firm M/s. Atul Solvo Chemical is not under consideration. During the course of search and seizure operations u/s 132 of the Act and during the survey actions u/s 132(A) of the Act certain documents were found and seized. In the statement given on 5.1.2006 u/s 132(4) of the Act Shri Prem Chawla surrendered Rs.9,50,000/- on behalf of his mother Late Smt. Sudesh Chawla, Rs.12,00,000/- was surrendered in the name of Shri Prem Chawla and Rs.3,50,000/- was surrendered in the hands of wife Smt. Sarita Chawla. Consequent

to search operations assessee(s) furnished returns u/s 153A of the Act. Assessments were completed u/s 143(3) of the Act after making additions. Assessee(s) appeal before Ld. CIT(A) was partly allowed. Matter thereafter reached before this Tribunal. Vide order dated 31.03.2011 orders of Ld. CIT(A) were set aside and the matter of the assessment orders in question before us were restored to the file of Ld. A.O for making assessments afresh after examining the documents which were submitted for the first time before Ld. CIT(A) and the Ld. A.O was not given any opportunity to verify the same. In view of the directions of this Tribunal fresh notices were issued and the assessments were reframed again after making various additions. Against the same appeals were filed before Ld. CIT(A) and the assessee(s) are partly succeeded. Both the assessee and revenue filed appeals before the Tribunal, however some of the appeals were dismissed due to low tax effect on account of CBDT Circular No. 17 of 2019 dated 8th August, 2019. Now all the 3 assessee(s) are in appeal before the Tribunal and Revenue is in appeal only for Assessment Year 2006-07 in the case of Late Smt. Sudesh Chawla.

6. We will first take up common issues and thereafter we will deal with remaining grounds of each assessee(s) separately.

7. We will first take up Ground No.1 commonly raised in all the appeals of the assessee(s) and the same reads as below :-

That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in not giving the clear finding regarding the grounds taken that the set aside assessment was made arbitrarily without following the directions of the Hon'ble I.T.A.T. properly and without considering the fact that regular and proper books of account are maintained and the Hon'ble CIT(A) has allowed the appeal after considering the documents submitted at the time of appellate proceedings and the Hon'ble I.T.A.T. has set aside the assessment only for the reason the all the aforesaid documents were submitted for the first time at the appellant stage only.

8. *Prime facie* this ground is general in nature and since no submissions have been made before us with regard to this ground, we consider the same to be “ground not pressed”. Even otherwise we have perused the impugned orders of Ld. CIT(A) and find that the issue raised by the assessee has been duly addressed in the appellate order in para 5.4 of the impugned order dated 30.3.2015 issued in the case of Late Smt. Sudesh Chawla and similar is the case of other two assessee(s). Therefore this common Ground No.1 in all the appeals of the 3 assessee(s) are dismissed as not pressed.

9. Now we take up the common issue relating to disallowance of purchases and disallowance of other direct and indirect expenses which have been raised by the following assessee(s)

- (i) Late Smt. Sudesh Chawla
Assessment Year 2000-01 Ground No. 2,3 & 4
Assessment Years 2001-02 to
2006-07 Ground No. 2,3,4&5
- (ii) Revenue's appeal in the case
Of Late Smt. Sudesh Chawla
Assessment Year 2006-07 Ground No.1
- (iii) Prem Chawla
Assessment Year 2000-01
to 2001-02 Ground No.2,3 & 4
Assessment Year 2002-03 Ground No. 2 & 3
Assessment Year 2003-04 Ground No.2,3&4
to Assessment Year 2006-07
- (iv) Smt. Sarita Chawla
Assessment Year 2005-06 Ground No. 4,5&6
Assessment Year 2006-07 Ground No.2,3&4

10. On perusal of the above grounds we find that Ld. A.O has taken a common course of action of disallowance of purchases disallowance of some direct and indirect expenses. Therefore for adjudication purpose we will take up the facts of late Smt. Sudesh

Chawla and shall apply the decisions accordingly on the remaining two assessee(s) also with regard to these grounds.

11. Brief facts relating to this grounds are that during the survey proceedings various documents were impounded and some were not recorded in the regular books of accounts. In the statement of Shri Prem Chawla admitted that due to lack of information about the proper head some of the cash vouchers remained to be recorded. During the assessment proceedings it was claimed that books of accounts kept in computer were lost. Most of the staff and labour were working for all the concerns and there were inter mixing of transactions. Most of the expenses Freight, cartage charges, salary were paid in cash. Ld. A.O could not verify the purchases. Though the assessee contended that books of accounts were regularly maintained and audited and due to reasons beyond his control computer books could not retrieved. Thereafter the Ld.A.O though has not disputed the quantum of sales in any of the assessee(s) except for suppressed sale issue for Assessment Year 2006-07 in case of Late Smt. Sudesh Chawla has not made any specific observation about the sales figured and thus accepted the same.

Ld. A.O completed the assessments making disallowance around 33.33% of the purchases and some of the expenses. When the matter came before Ld. CIT(A) he sustained the disallowances to 10%. Now the assessee is in appeal before the Tribunal against the additions confirmed by Ld.CIT(A) and Revenue is in appeal for A. Y. 2006-07 against the additions deleted by Ld.CIT(A).

12. Ld. Counsel for the assessee made detailed arguments referring to the following written submissions contending that abnormal high percentage of disallowance has been made and even when the books of accounts were audited and regular returns were filed such abnormal disallowance of purchases and expenses are uncalled for. Written submissions in respect of Late Smt. Sudesh Chawla with reference to the claim of disallowance of purchases and some of the direct and indirect expenses are reproduced below:-

GROUND ON DISALLOWANCE OF PURCHASE, WAGES & SALARY AND SALARY EXPENSES.

GROUND NO. 2(A) UNEXPLAINED PURCHASE (Rs.4,65,192/-)

AO. PB 4

CIT(A) PB 54(Findings PB 70)

ITAT PB 113

Set-aside AO pg. 2 para 5

CIT(A) pg. 15-20 para 5.4

A.Y	Purchases	Purchases Disallowed		Total disallowed
		Deptt.	Assessee	
2000-01	46,51,915	13,95,575	4,65,192	18,60,766
2001-02	58,65,299	17,59,589	5,86,530	23,46,199
2002-03	77,25,658	23,17,697	7,72,566	30,90,263
2003-04	96,24,102	28,87,230	9,62,410	38,49,640
2004-05	2,54,68,732	76,40,619	25,46,873	1,01,87,492
2005-06	3,62,20,852	78,66,255	36,22,085	1,14,88,340
2006-07	3,86,96,192	1,16,08,857	38,69,619	1,54,78,476

GROUND NO. 3 (A) UNEXPLAINED WAGES (11,519/-) AO. PB 5

CIT(A) PB 74

ITAT PB 113

Set-aside AO pg. 3 para 6

CIT(A) pg. 15-20 para 5.4

A.Y	Wages	Wages Disallowed		Total disallowed
		Assessee	Department	
2000-01	1,15,193	11,519	26,878	38,397
2001-02	1,62,580	16,258	37,935	54,193
2002-03	1,80,250	18,025	42,058	60,083
2003-04	2,20,670	22,067	51,489	73,556
2004-05	2,88,176	28,818	79,240	98,058
2005-06	2,16,443	21,644	50,503	72,147
2006-07	4,25,146	42,518	99,197	1,41,715

GROUND NO 4 OF ASSESSEE UNEXPLAINED SALARY (A.Y. 2000-01)

AO. PB 5

CIT(A) PB 75

ITAT PB 113

Set-aside AO pg. 3 para 7

CIT(A) pg. 15-20 para 5.4

A.Y	Salary	Salary Disallowed		Total disallowed
		Assessee	Department	
2000-01	1,03,110	10,311	24,059	34,370
2001-02	3,16,043	31,604	73,743	1,05,347
2002-03	3,48,140	34,814	81,232	1,16,046
2003-04	3,68,362	33,836	78,951	1,22,787
2004-05	12,90,872	1,29,087	3,01,203	4,30,290
2005-06	7,38,646	73,865	1,72,350	2,46,215
2006-07	22,32,600	2,23,260	5,20,940	7,44,200

FACTS

The addition of Unexplained Purchases, Freight & cartage, wages and salary debited in Trading account and unexplained salary debited in profit & loss account by Id AO are on the basis of following: -

1. Most of the expenses were made in cash.
2. With regard to Freight and cartage - Proper bills and vouchers were not furnished.
3. With regard to salary and wages - name of payee could not be verified.
4. The purchases made in cash were not verifiable

Thus, the Id AO considering the above, disallowed 40 of the purchases and Freight and cartage claimed in A.V. 2000-2001 to 2006-07. With regard to Salary & wages in trading account and Salary debited in profit and loss account, 1/3rd of the total expenses were disallowed. The appellant preferred appeal before Id CIT(A) and filed written submissions.

The Id CIT(A) considering the submissions and facts of the case and also on the basis of the following allegations, contended that the books of accounts were not correct and complete and thus disallowed the expenses at 10% of the total expenses:

A. In earlier assessment, it was stated that books of accounts maintained on computers were lost and could not be retrieved.

B. Sundry Creditors for purchase balance remain unchanged from year to year.

C. In survey u/s 133A, carried out on 21.12.05 at different business premises of the appellant as well as of family members, all the accounts were maintained at business premises of appellant

D.LPS-1 of 69 pages found and impounded during survey relates to cash voucher of M/s. Anand Organics was not recorded in books of accounts.

E.Common pool of labour working for all concern of family members but expenses claimed separately.

F. Inter-mixing of transactions between the business concerns of family members.

Both the department and the assessee are in appeal against the above deletion and confirmation of addition. The following submissions are made:

SUBMISSIONS:-

1. Addition lacks specific defects.

a.The findings of Id AO may be seen. He has not pointed any specific defect in any expenditure. He states "some" of the vouchers are not properly maintained. The disallowance is ad hoc and without pointing any specific defect. {*ReJer AO para5.2,6.2, 7.2*}

b.The Id AO/ CIT(A) has not marked any specific vouchers of disallowable nature but summarily disallowed the large sum at the rate of 40 out of purchases. There is no basis of 40 or 10 as made out by Id AO and Id CIT(A).

2. Non-abated assessment

It is pertinent to submit that the appeal relates to search cases. The time limit for issuance of notice u/s. 143(2) had already elapsed. Thus, the assessment is said to have been completed. It cannot be said that at the time of search the assessment was pending. A non-abated assessment can only be disturbed in respect of incriminating material found as a result of search. This is so held in

CIT vs Kabul Chawla 380 ITR 573 (Del)

CIT vs Gurinder Singh Bawa' 386 ITR 483(Bom.)

In our cases, no incriminating material has been found while making the additions in respect of aforesaid grounds. Whatever

incriminating material was found was already offered and tax was paid on same. No other material remains. In the present case, the addition is purely related to general grounds, which could have been a subject matter of regular assessment and not search assessment. Even in regular assessment, no addition can be made on ad hoc basis holding that "some" vouchers are unexplained.

3. Audited books u/s 44AB

The appellant maintains regular and proper books of account which are audited u/s 44AB of the Act. Auditor's Reports for different years are filed in Paper Book.

<u>A.Y.</u>	<u>PB Ref.</u>
2001-02	PB 148-159
2002-03	PB 205-217
2003-04	PB 259-273
2004-05	PB 331-348
2005-06	PB 422-435
2006-07	PB 520-540

The auditor has not pointed out any discrepancies in the books of accounts.

4.The records of the appellant are governed by the Central Excise Laws. The assessee is maintaining the statutory records as prescribed under the said laws ,in RG 21 Part I & Part 11. The invoice prepared by the assessee is an excisable invoice and after preparation duly recorded in all the statutory records.

5.Case law:-

Pr. CIT vs Jagdish S. Patel 84 taxmann.com 259 (Guj.)

Vijay Trading Co. 76 taxmann.com 366 (Guj)

The court held in above cases that when purchase made by assessee was found to be bogus, not entire amount covered under such purchases but profit element embedded therein would be subject to tax.

6.If the purchases are rejected, the sales would also be reduced. The goods of the appellant are subject to excise. Quantitative details were given with the return of income (alongwith Auditor's report in Form No. 3CD). To illustrative the quantitative data for F.Y. 2001-02 was given at PS 216-217.

7.The Ld. AO has observed that substantive details of expenses in trading and Profit and Loss account has not been filed, whereas the assessee has filed complete ledger accounts of expenses in question, which are as under: -

<u>A.Y.</u>	<u>PB Ref.</u>
2001-02	PB 174-188
2002-03	PB 231-246
2003-04	PB 286-303
2004-05	PB 361-403
2005-06	PB 452-497
2006-07	PB 551-608

8. The disallowance was arbitrarily made and had no supporting basis.

9.Non-production of books before the Id AO in the first round: - Ld AO in the first round (PB 4, Third para from top) has pointed out that assessee did not file any substantive details as he claimed that books of account maintained on computer have lost and cannot be retried. He made an assessment u/s. 144. However, Id CIT(A) in the first round at PS 48 para (b) has stated in fourth line that books of accounts and other documents were seized in search.

Thus, the Id CIT(A) was not justified in relying on the findings of the Id AO. Moreover, the order of the Id AO and of the Id CIT(A) in the first round was set-aside by the Hon'ble ITAT for assessment afresh.

10.The Id CIT(A) referring to one instance of unrecorded transaction in books of Anand Organics (LPS-169 pages), framed similar view for the period of six years covered by sec 153A. The act of drawing inferences, without any basis of evidence is not justified. Moreover, Shri Prem Chawla, who was confronted with the said documents have surrendered Rs.9.5 lakhs as undisclosed income in the hands of the appellant.

11.The disallowance was made simply saying that '*some of the vouchers are not properly maintained and names of the persons to whom amount paid could not be verified*'. Thus, the AO has not marked any specific vouchers of disallowable nature but summarily disallowed the large sum of money on the basis of untenable conjectures and surmises. The case law supporting are:

Dhakeswari Cotton Mills Ltd. Vs. CIT 1954 26 ITR 775 SC

In tax proceedings, addition has to be based on evidences. An addition cannot be made on a mere guess work, presumptions, conjectures and surmises.

Lalchand Bhagat Ambica Ram Vs. CIT (1959) 371TR 288 (SC);

Umacharan Shaw &Bros. Vs. CIT (1959) 371TR 271 (SC)

Omar Salay Mohamed Sait Vs. CIT (1959) 371TR 151 (SC)

Nai Dunia News &Network Pvt Ltd. 171TJ 289 Trib.Indore

AO made adhoc disallowance for expenses holding that "some" vouchers were not verifiable. HELD, no specific defect is pointed out. 'A' has maintained proper books which has not been rejected.

B.

ACIT vs.Popular Art Palace (P) Ltd (1995) 82 Taxman 274 (JP.) (MAG)

It was held that since the addition is based on investigation on similar investigation conducted in earlier years and no new evidence was on record. Thus addition merely on past history of the case is not justified.

C.

Waidhan Engineering & Industries (P) Ltd v JCIT (2015) 60 taxmann.com 440 (Jabalpur – Trib.)

It was held that the fact that some expenditure was supported with self

made vouchers, could be a reason enough to reject books of account as a whole by Assessing Officer nor disallowances purely on basis of surmises and conjectures and without pointing out any specific defects in vouchers could be permissible and, consequently, addition to income of assessee made on account of such disallowance, was to be deleted.

ACIT vs. Ganpati Enterprises Ltd (2013) 32 taxmann.com 262 (Delhi-Trib.)

It was held that where Id AO failed to give details of expenses which were found unverifiable and made an ad hoc disallowance, said disallowance was to be deleted.

The addition is purely based on conjunctures and surmises and liable to be deleted.

13. Per contra Ld. Departmental Representative vehemently argued supporting the order of Ld. A.O and also submitted that the assessee has failed to produce necessary documents to verify the genuineness of the purchases and the expenses figure of wages, freight & cartages and salary. Due to lack of such documents Ld. A.O has rightly made the Ld. A.O to make the disallowance.

14. We have heard rival contentions and perused the records placed before us. The common issue raised by the respective assessee(s) in following grounds relates to disallowance of purchase, freight & cartages, wages and salary expenditure.

(i) Late Smt. Sudesh Chawla

Assessment Year 2000-01

Ground No. 2,3 & 4

- | | |
|--|----------------------|
| Assessment Years 2001-02 to
2006-07 | Ground No. 2,3,4 & 5 |
| (ii) Revenue's appeal in the case
of Late Smt. Sudesh Chawla
Assessment Year 2006-07 | Ground No.1 |
| (iii) Prem Chawla
Assessment Year 2000-01
to 2001-02 | Ground No.2,3 & 4 |
| Assessment Year 2002-03 | Ground No. 2 & 3 |
| Assessment Year 2003-04
to Assessment Year 2006-07 | Ground No.2,3 & 4 |
| (iv) Smt. Sarita Chawla
Assessment Year 2005-06 | Ground No. 4,5 & 6 |
| Assessment Year 2006-07 | GroundNo.2, 3 & 4 |

15. Since we are taking the basis of the facts of Late Smt. Sudesh Chawla we observe that Ld. A.O on the basis of documents impounded during the course of search and survey carried out in the case of assessee on 21.12.2005 and thereafter on observing that books of accounts on computer were claimed to be lost, most of the expenses were incurred in cash and the assessee have failed to furnish the documentary evidence to prove the genuineness of the purchases made disallowance of 40% of total purchases made for

assessment Year 2001-02 to 2006-07, 40% disallowance freight and cartage expenditure for Year 2001-02 to 2006-07 and 1/3rd of disallowance for wages and salary debited in Profit & Loss Account in the following manner:-

A.Y	Disallowance out of purchase	Disallowance out of freight & Cartage	Disallowance out of wages & salary	Disallowance out of salary
2000-01	18,60,766	-	38,397	34,370
2001-02	23,46,199	1,39,080	54,193	1,05,347
2002-03	30,90,263	3,10,883	60,083	1,16,046
2003-04	38,49,640	2,10,358	73,556	1,22,787
2004-05	101,87,492	4,48,509	98,058	4,30,290
2005-06	114,88,340	3,97,786	72,147	2,46,215
2006-07	154,78,476	5,43,299	1,41,715	7,44,200

16. Ld. CIT(A) have partial relief by sustaining the disallowance to 10% in the following manner:-

AY.	Purchases (Rs.)		Freight& Cartage (Rs.)		Wages & Salary (Rs.)		Salary Expenses (Rs.)	
	Total Expenses	Disallow-ance @ 10 %	Total Expenses	Disallow-ance @ 10 %	Total Expenses	Disallow-ance @ 10 %	Total Expenses	Disallow-ance @ 10%
2000-01	46,51,915	4,65,191	-	-	1,15,193	11,519	1,03,110	10,311
2001-02	58,65,299	5,86,530	3,47,702	34,770	1,62,580	16,258	3,16,043	31,604
2002-03	77,25,658	7,72,566	7,77,209	77,721	1,80,250	18,025	3,48,140	34,814
2003-04 ~	96,24,102	9,62,410	5,25,895	52,589	2,20,670	22,067	3,38,362	33,836
2004-05	2,54,68,732	25,46,873	11,21,273	1,12,127	2,88,176	28,818	12,90,872	1,29,089
2005-06	3,62,20,852	36,22,085	9,94,465	99,446	2,16,443	21,644	7,38,646	73,865

IT(SS)ANos.158 to 175/Ind/2015 && others
Chawla Group

2006-07	3,86,96,192	38,69,620	13,58,248	1,35,825	4,25,176	42,518	22,32,600	2,23,260
---------	-------------	-----------	-----------	----------	----------	--------	-----------	----------

Thus the assessee get following relief in these assessment years.

Particulars	Assessment years							
		2000-01	2001-02	2002-03	2003-04	2004-05	2005-06	2006-07
by AO	Disallowance	1860766	2346119	3090263	3849640	10187492	11488340	15478476
Purchases	Disallowance	465191	586530	772566	962410	2546873	3622085	3869620
	Confirmed							
	Relief	1395575	1759589	2317697	2887230	7640619	7866255	11608856
Freight& Cartage	Disallowance by AO	-	139080	310883	210358	448509	397786	543299
	Disallowance	-	34770	77721	52589	112127	99446	135825
	Confirmed							
	Relief	-	104310	233162	157769	336382	298340	407474
Wages & Salary	Disallowance By AO	38397	54193	60083	73556	98058	72147	141715
	Disallowance	11519	16258	18025	22067	28818	21644	42518
	"Confirmed							
	Relief	26878	37935	42058	51489	69240	50503	99197
Salary Expenses	Disallowance By AO	34370	105347	116046	112787	430290	246215	744200
	Disallowance	10311	31604	34814	33836	129089	73865	223260
	Confirmed							
	Relief	27059	73743	81232	78951	301201	172350	520940

17. We observe that the assessee is carrying out the business activities from past many years. Regular return of income were filed even before the conducting of search and survey operations. For most of the years books of accounts were audited. Similar type of business of manufacturing and sale of industrial solvent and thinners and sale of paints and thinners is carried out in the name of other sister concerns.

18. During both the rounds of the assessment proceedings both the lower authorities have not raised any doubts on the genuineness of sales shown by the assessee for Assessment Year 2000-01 to Assessment Year 2006-07 except for the issue of suppressed sale which will be dealt by us in the subsequent paras. The disallowance made by the A.O are not based on any material evidence gathered during the course of search and survey or during the assessment proceedings. It is discernable from the records that the assessee is governed by Central Excise Laws and statutory records as prescribed under such laws are being maintained for making sales and purchase. If the Ld. A.O was not able to lay hands on any documentary evidence to verify the genuineness of the

purchases, he should have resorted to gather reasonable fair market value of goods used in similar type of industries by calling necessary information, but Ld. A.O had not made any such efforts. Even Ld. A.O has also not made efforts to know about the gross profit or net profit offered in such type of industries. Ld. A.O has also not referred to any such precedence of making the disallowance of purchase and disallowance of these expenditure. In short it seems that adhoc disallowance of purchase and expenses have been made for want of verification. Hon'ble Apex Court in the case of *Dhakeshwari Cotton Mills Ltd V/s CIT (1954) 26 ITR 775* has laid down ratio that “in tax proceedings addition has to be based on evidences. An addition cannot be made on guesswork, presumptions, conjectures and surmises”.

19. We also find that Hon'ble Gujarat High Court in the case of *CIT v. President Industries [2002J 258 ITR 654 (Guj.)* held as under:-

In this case, during the course of survey conducted in the premises of the assessee, excise records were found which disclosed godown sales not disclosed in the books of account of the assessee. The Assessing Officer made addition of undisclosed income of the entire sale proceeds thereof. The Commissioner (Appeals) affirmed the addition b the Appellate

Tribunal found that there was no material to indicate that the assessee made investments outside the books of account to make the alleged sales and held that the entire sale proceeds could not have been added as undisclosed income of the assessee but the addition could be only of the profits embedded' in the sales. The Tribunal having declined to state a case, the Department applied to the High Court for an order calling for a reference :

"Held, dismissing the application for reference, that the amount of sales could not represent the income of the assessee who had not disclosed the sales, The sales only represented the price received by the seller of the goods; only the realisation of the excess over the cost incurred could form part of the profit included in the consideration for the sales. Since there was no finding to the effect that investment by way of incurring the cost in acquiring the goods which were sold had been made by the assessee and that that investment was also not disclosed, only the excess over the cost incurred could be treated as profit, "

20. In the instant case also the only difficulty pointed out is that the assessee has failed to produce the record relevant to purchase and expenses but no further enquiry was made on the basis of audit report furnished by the assessee, list of sundry creditors filed therein, extracting information about the net profit and gross profit rates offered in similar kind of industries in the business, the Ld. A.O made abnormal disallowance which has resulted in assessing

the net profit to abnormal level of 70.70% for Assessment Year 2000-01 and also in the range of 35 to 50% for other assessment years which by no scale can be acceptable. Ld. CIT(A) has also resorted to the same pattern but giving partial relief to the assessee by confirming disallowance to 10%.

21. In these given facts and circumstances of the case and following judicial precedence in our considered view the sales declared by the assessee in the respective returns of income should be taken as a basis and net profit rate can be applied evenly for all the years which should be higher than the highest net profit offered by the assessee(s) in any of the assessment years. We find that the net profit offered by the assessee for Assessment Year 2001-02 to Assessment Year 2006-07 is at 0.37%, 1.71%, 1.72%, 2.99%, 1.84%, 0.95% and 1.97% respectively. In the case of another assessee i.e. Shri Prem Chawla net profit rate offered for Assessment Year 2001-02 to Assessment Year 2006-07 in the concern M/s Anand Paints is 2.31%, 3.52%, 1.36%, 1.44%, 1.94%, 1.83% and 2.67% respectively and in case of Smt. Sarita Chawla Net Profit Rate of 3.2% and 4.9% is offered for Assessment Year

2005-06 and Assessment Year 2006-07. From perusal of above net profit rate we find that the net profit rate is ranging from 0.37% to 5% approx. It is also not disputed that during the both rounds before the lower authorities the reasons best known to the assessee necessary documentary evidence to prove the genuineness of the purchases and expenses were not placed and books of accounts were claimed to be lost when the proceedings were undergoing before the appellate authorities. The element of “carelessness” on the part of the assessee cannot be refused. However looking to the fact that the issues raised before us are in the second round and the matters pertaining to Assessment Year 2000-01 to Assessment Year 2006-07 and thus with a view to end litigation, being fair to both the parties and to meet the end of the justice we are of the considered view that **NET PROFIT RATE OF 5%** of the disclosed turnover in the business concern owned by all the assessee(s) in the instant appeal before us i.e. in the case of Late Smt. Sudesh Chawla, Shri Prem Chawla for Assessment Year 2000-01 to Assessment Year 2006-07 and in the case of Smt. Sarita Chawla for Assessment Year 2005-06 and Assessment Year 2006-07 shall be

sufficient to cover up all the discrepancies relating to unverifiable purchase, freight and cartage, wages & salary and salary expenses.

We accordingly order so and direct the Ld.A.O to compute the net profit for the above stated assessee(s) @5% of the disclosed turn over and if in case net profit rate is offered on a higher percentage i.e. more than 5% the same should be accepted. Our this decision of applying Net Profit Rate of 5% shall be sufficient to cover up the disallowance of purchase, freight and cartage, wages & salary and salary expenses in dispute before us. We thus delete the disallowance of purchase, freight and cartage, wages and salary and salary expenses challenged before us in the ground mentioned in Para 14. In the result respective grounds are partly allowed as per terms indicated above.

22. Now we take up remaining grounds of the instant appeal.

23. We will first take up the remaining grounds of assessee

Late Smt. Sudesh Chawla.

Assessment Year 2001-02

ITA No.159/Ind2015

Ground No.6

24. Through Ground No.6 assessee has challenged the finding of Ld. CIT(A) confirming the addition for unexplained cash payment of Rs.3,40,000/-. Brief facts relating to this ground are that the Ld. A.O during the course of assessment proceedings u/s 153A of the Act made addition for cash of Rs. 3,40,000/- towards the payment made to Reliance Industries Ltd, Mumbai since the corresponding entries in the cash book cannot be verified. In the first round Ld. CIT(A) deleted the addition but in the set aside proceedings as per the direction of Tribunal, Ld. CIT(A) confirmed the action of Ld. A.O's action making the addition u/s 69 of the Act. Now the assessee is in appeal before the Tribunal.

25. Ld. Counsel for the assessee submitted that there are regular transactions with Reliance Industries Ltd and demand drafts are issued by depositing cash in bank which is verifiable from the ledger account.

26. Ld. Departmental Representative vehemently argued supporting the orders of both the lower authorities.

27. We have heard rival contentions and perused the records placed before us. Assessee has challenged the findings of Ld. CIT(A)

confirming the addition of Rs.3,40,000/- u/s 69 of the Act made by Ld. A.O for unexplained cash expenditure. We note that the assessee as well as other group concerns make regular purchases from Reliance Industries Ltd. In the ledger account, page 189 to 293 of the paper book dated 4.7.2016 shows the regular transactions between the assessee and Reliance Industries Ltd. In this ledger account various entries for payment through demand draft and cash are appearing. Lower authorities have not doubted the transactions in this ledger account. The additions was made for sources of cash. The assessee's financial statement are duly audited. There is a positive cash balance at the close of the year.

28. Under these given facts and circumstances of the case the source of cash cannot be doubted which has been used to make Demand Draft for paying to Reliance Industries Ltd. We therefore set aside the finding of Ld. CIT(A) and delete the addition of Rs. 3,40,000/- made for unexplained cash payment and allow Ground No.6 of the assessee's appeal for Assessment Year 2001-02 vide appeal No.IT(SS)A No.159/Ind/2015.

29. Now we take Ground No.7 for Assessment Year 2001-02 wherein the assessee has challenged the finding of Ld. CIT(A) confirming the addition of Rs.10,01,000/- made on account of security deposits. Brief facts are that the assessee received security deposits of Rs.10,01,000/- from M/s. Kanhaya Agencies, Raipur. In the second round Ld. A.O has made addition for unexplained security deposits which has further confirmed by Ld. CIT(A) and now the matter is in Tribunal before us.

30 Ld. Counsel for the assessee submitted that M/s Kanhaya Agencies, Raipur is a dealer of the assessee and regular transactions took place. These deposits were received through account payee cheque and after adjusting the sales effected by this dealer remaining amount was repaid back.

31. Ld. Departmental Representative vehemently argued supporting the orders of both the lower authorities.

32. We have heard rival contentions and perused the records paced before us. Through Ground No.7 assessee has challenged the addition of Rs. 10,01,000/- made for security deposit received from M/s Kanhaya Agencies, Raipur. We note that M/s Kanhaya

Agencies, Raipur was appointed as a dealer of Chattisgarh region. Sales were effected through this dealer on behalf of the assessee. These facts remain undisputed during both the rounds. Records also shows that sales worth Rs.7,50,644/- was made by the dealer. Security deposits were received through account payee cheques in the bank account of the assessee and remaining amount after adjusting the cheque is claimed to have paid back. *Prime facie* we find no reason to doubt the genuineness of the transactions which has been carried out during the regular course of business between the assessee and its dealer since the same have taken place through account payee cheque and are part of the audited financial statements. Thus the impugned addition of Rs. 10,01,000/- deserves to be deleted. Relevant finding of Ld. CIT(A) is set aside and Ground No.7 of assessee's appeal for Assessment Year 2001-02 is allowed.

33. Now we take up Ground No.6 of assessee's appeal for Assessment Year 2003-04 vide IT(SS)A No.161/IND/2015. In this ground assessee has challenged the addition of Rs, 3,50,000/- confirmed by Ld. CIT(A) made by Ld. A.O on account of unexplained

security deposits. Brief facts relating to this ground are that security deposit of Rs. 3,50,000/- received from M/s Anand Agencies, Indore was held to be unexplained by Ld. A.O and his action was confirmed by Ld. CIT(A) and assessee has now challenged the issue before this Tribunal.

34. Ld. Counsel for the assessee submitted that this transaction with M/s Anand Agencies, Indore was a part of regular business transactions between the assessee and the dealer for Indore region i.e M/s Anand Agencies, Indore. The assessee is carrying out business transaction consistently with this dealer and therefore the same should not be doubted.

35. Ld. Departmental Representative vehemently argued supporting the orders of both the lower authorities,

36. We have heard rival contentions and perused the records placed before us. Through Ground No.6 for Assessment Year 2003-04 vide IT (SS)A No.161/Ind/2015 addition of Rs. 3,50,000/- made for unexplained security deposit confirmed by Ld. CIT(A) is in challenge before us. We note that during the Assessment Year 2003-04 gross turnover of assessee is Rs.1,24,03,360/-. Books of

accounts maintained by the assessee is verified by the Auditor for preparing the Tax Audit Report u/s 44AB of the Act. M/s Anand Agencies, Indore was acting as dealer for Indore region. The amount of Rs. 3,50,000/- was received as security deposit. Rs.1,50,000/- was adjusted against the goods sold and the balance amount was shown as security deposit in the audited balance sheet. *Prime facie* these of transaction looks to be genuine and hard to disbelieve it looking to the nature of transactions being part and parcel of business activity. We therefore are of the considered view that the finding of Ld. CIT(A) deserves to set aside and addition of Rs. 3,50,000/- deserves to be deleted. We accordingly order so and allow Ground No.6 raised by the assessee for Assessment Year 2003-04 vide IT (SS)A No.161/Ind/2015,

37. Now we take up Ground No.6 raised by the assessee for Assessment Year 2004-05 vide IT (SS)A No.162/Ind/2015 through which has challenged the finding of Ld. CIT(A) confirming the addition of Rs. 14,50,843/- made by Ld. AO on account of unexplained loan from Shri Prem Chawla.

38. Brief facts relating to this issue are that assessee's son Shri Prem Chawla made various payments on behalf of M/s Anand Organics to various suppliers totaling to Rs.14,50,843/-. Ld. A.O doubted the genuineness of the transaction and made the addition. Ld. CIT(A) in the second round confirmed the addition mainly on account that Shri Prem Chawla accepted the anomalies in the books of accounts and has surrendered Rs. 9,50,000/- on account of debtors/creditors. Now the assessee is in appeal before the Tribunal.

39. Ld. Counsel for the assessee referred to the paper book running page 404 and 405 showing the current account of Shri Prem Chawla in the books of assessee's sole proprietary concern M/s Anand Industries. In this account various payments have been made to suppliers which are claimed to have been made on behalf of M/s Anand Organics. The details of various suppliers is placed on record and the outstanding amount of Rs.14,40,500/- have been shown in the original return of income also.

40. Per contra Ld. Departmental Representative vehemently argued supporting orders of both the lower authorities.

41. We have heard rival contentions and perused the records placed before us. Through Ground No.6 for Assessment Year 2004-05 assessee has challenged the addition of Rs.14,58,348/- confirmed by the Ld. CIT(A) which was made by the Ld. A.O for unexplained credit from Shri Prem Chawla at Rs. 14,50,843/-.

42. We observe that Shri Prem Chawla is the son of the assessee. The assessee and other family relatives are running various proprietaryship and partnership concerns which are carrying out almost similar type of business. When similar type of business is carrying out under various concerns owned by family members, another concern's transactions and payments on behalf of each other at some point of time for business exigencies is quite normal. In the instant case some amount of purchases and other expenses of M/s Anand Organics (Prop. Late Smt. Sudesh Chawla) were paid by Shri Prem Chawla from his proprietaryship concern M/s Anand Industries to the following persons:-

Name of supplier to whom payment was made	Amount (Rs.)

Jindal Polyster Limited	7,35,064
Reliance Industries Ltd	2,66,800
Surat Textile Mills Ltd	1,01,216
Malviya Traders	3,200
Fabrication Work	2,789
Om Plywood	4,639
Cermic World	20,000
Pratap Plywood	23,635
Rashi Insulation	7,783
MP Traders	10,000
Mahaveer Plywood	10,000
Ageco Cables	414
Vidya Corrugator	5,303
Shri Metal Containor	60,000
Total	Rs.12,50,843

43. Apart from the above Rs.2,00,000/- was also paid to Jindal Polyster Limited by Shri Prem Chawla from his personal account, thus payment of Rs. 14,58,843/- has been made by Shri Prem

Chawla through his sole proprietaryship was M/s Anand Industries and his personal account. All these transactions are shown in the regular books of accounts and were also form part of the audited balance sheet which were filed with regular return of income before the search was conducted u/s 132 of the Act.

44. We therefore in the given facts and circumstances of the case are of the view that since the identity and creditworthiness of Shri Prem Chawla is not in doubt and so is the genuineness of the transaction which have been made in the regular course of business between the two sister concerns, are of the view that this addition of Rs.14,50,843/- made for unexplained credit from Shri Prem Chawla deserves to be deleted. We accordingly order so and set aside the finding of Ld. CIT(A) and allow Ground No.6 raised by the assessee for Assessment Year 2004-05 in IT(SS) A No. 162/Ind/2015.

45. Now we take up Ground No.7 for Assessment Year 2004-05 through which the assessee has challenged the finding of Ld. CIT(A) confirming the addition of Rs.9,66,941/- after giving part relief of Rs. 2,50,000/- against the addition of Rs. 12,16,941/- was made by

the Ld. A.O for unexplained addition to the capital account. Brief facts relating to this ground are that during the financial year 2003-04 relevant to Assessment Year 2004-05 assessee made some addition to its capital account in the sole proprietaryship concern M/s Anand Organics which included withdrawal of Rs. 7,00,000/- from M/s Atul Solvo Chem wherein the assessee has partner Rs.2,50,000/- from personal account of Late Sudesh Chawla and Rs.2,04,350/- from agriculture activities. The Ld. A.O was not satisfied with the source of capital introduced in M/s Anand Organics and made addition of Rs.12,16,941/-. In the second round when the matter came up before Ld. CIT(A) he partly allowed assessee's ground by giving relief for the capital introduced through account payee cheque at Rs.2,50,000/- from assessee's own saving bank account and confirmed the remaining amount. Now the assessee is in appeal before the Tribunal against the addition of Rs.9,66,941/-.

46. Ld. Counsel for the assessee referring to the written submission submitted that Rs. 7,00,000/- is received from the partnership firm M/s Atul Solvo Chemicals and the same is

available from the capital gain of M/s Atul Solvo Chemicals and thus the same is explained. As regards income from agriculture at Rs.2,04,350/- it is submitted that the assessee earned agriculture income and have been shown it in the Income Tax return which was filed before the date of search and thus the source of capital introduced in the proprietaryship concern should not have been doubted by both the lower authorities.

47. Ld. Departmental Representative vehemently argued supporting the orders of both the lower authorities.

48. We have heard rival contentions and perused the records placed before us. Through Ground No.7 for Assessment Year 2004-05 assessee has challenged the addition confirmed by Ld. CIT(A) at Rs.9,66,941/-. The Ld. A.O made the addition for Rs.12,69,941/- for the unexplained capital addition to the proprietaryship concern M/s Anand Organics out of which Ld. CIT(A) deleted the addition for Rs.2,50,000/- being the amount received by cheque from others in saving bank account and the remaining amount of Rs.9,66,941/- is not disputed. We observe that out of Rs.9,66,941/- some of Rs.7,00,000/- relates to the cash withdrawn by the assessee from

partnership firm M/s. Atul Solvo Chemical. From perusal of the paper book Page 409 showing the partner's capital account in the books of M/s Atul Solvo Chemical which shows that during the year the assessee has withdrawn Rs.9,47,731.50. Assessee also made addition at Rs.1,00,000/- during the year but the opening and closing balance of the capital account is negative. This was the sole reason for which the lower authorities have not accepted the capital introduced at Rs.7,00,000/- made from cash withdrawals from partnership firm M/s Autul Solvo Chemical. In our view merely for the reason that there is negative or debit balance of the opening and closing of the capital account in the books of partnership firm cannot be estoppels for a partner to withdrawal from partnership firm. There is no finding on record of the Ld. A.O to have investigated into the capital account of the partnership firm to prove any material against the assessee. Thus when the partners capital account is not in dispute then raising doubt of withdrawals made in cash (which the partner is allowed to do so) it was not justified by both the lower authorities to make addition for Rs.7,00,000/- which in our view is duly explained by assessee

having its source from the cash withdrawals from the partnership firm M/s Atul Solvo Chemicals. As regards the income from agriculture activities at Rs. 2,04,350/- the claim of which have been denied by both the lower authorities, we observe that only from Assessment Year 2004-05 the assessee has shown agriculture income in the regular return of income filed u/s 139 of the Act. Before us there is no document produced in the form of agriculture land, proof of agriculture activity being carried out and the basis of computing the agriculture income. The assessee is only claiming that agriculture income should be accepted since it has been shown in the regular Income Tax Return filed before conducting of search u/s 132 of the Act. We note that the assessee has shown the agriculture income at Rs. 1,43,800/- for the first time in the Income Tax Return for Assessment Year 2004-05 filed on 31.10.2004 and the same amount has been reflected in the return filed in reply to notice u/s 153A of the Act. But during the course of assessment proceedings assessee has claimed at Rs. 2,03,450/- is the amount earned from agriculture activities. We thus find that there is a mismatch in the claim of the assessee itself. The agriculture income

shown in the Income Tax return is not matching to the claim made during the assessment proceedings. Assessee has also not provided any documentary evidence to support the claim. We are thus unable to accept the claim of agriculture income of Rs.2,03,450/-. We therefore in the given facts and circumstances of the case and discussions above delete the addition of Rs.7,00,000/- out of the impugned addition of Rs.9,66,941/- and partly allow assessee's Ground No.7 sustaining the addition at Rs.2,66,941/-. Thus ground No.No.7 for Assessment Year 2004-05 in IT(SS)A No.162/Ind/2015 is partly allowed.

49. Now we will take up Ground No.6 for Assessment Year 2005-06 in IT(SS)A No.163/Ind/2015 through which the assessee has challenged the finding of Ld. CIT(A) confirming the addition of Rs.16,50,000/- made by the Ld. A.O on account of unexplained security deposits/unsecured loans. Brief facts are that during the course of assessment proceedings Ld. A.O asked assessee to explain the unsecured loans/security deposits amounting to Rs.16,50,000/-. The assessee submitted before Ld. A.O that mostly the amounts are unsecured loans taken from relatives and other

parties through account payee cheques and having PAN. Few of the cash creditors have also been repaid and the loan accounts were squared off. The Ld. A.O was not satisfied and he confirmed the addition u/s 68 at Rs. 16,50,000/-. When the matter travelled before Ld. CIT(A) in second round the assessee again submitted the detailed submissions with necessary details. Ld. CIT(A) however has not dealt the alleged creditors in detail as well as individually but summarily dismissed the assessee's ground referring to the statement made by Shri Prem Chawla(Son of the assessee) surrendering Rs.9,50,000/- u/s 132(4) of the Act on account of debtors/creditors. Ld. CIT(A) has also mentioned that mere payment by account payee cheque is not sufficient and the transactions are not genuine but Ld. CIT(A) failed to bring any material on record to disapprove the claim of the assessee. Ld. CIT(A) confirmed the finding of Ld. A.O making the addition of Rs.16,50,000/- against which assessee is in appeal before the Tribunal.

50. Ld. Counsel for the assessee vehemently argued and relied on written submissions placed on record and the relevant pages of the

paper boo placed at page 498 to 505 and also submitted that there were regular transactions of unsecured loans and security deposits. Few of the loan accounts have been squared off. Ld. CIT(A) erred in confirming the addition merely referring to the statements of Shri Prem Chawla u/s 132(4) of the Act and also without appreciating the fact irregularity found was already surrendered and offered to tax.

51. Ld. Departmental Representative vehemently argued supporting the orders of both the lower authorities.

52. We have heard rival contentions and perused the records placed before us. Through Ground No.6 for Assessment Year 2005-06 assessee has challenged the finding of Ld. CIT(A) confirming the addition for the unexplained unsecured loan/security deposits totaling to Rs.16,50,000/- received from following parties:-.

Name	Purpose	Amount
ChitraBalwani	Loan	1,00,000/-
M/s Anand Agencies, Gondia)	Security Deposit	3,00,000/-
M/s Anand Agencies, Raipur	Loan	2,00,000/-
M/s Asian Paint House	Security Deposit	40,000/-
Smt. SaritaChawla	Loan	5,10,000/-
M/s Star Hardware, Bhopal	Security Deposit	1,00,000/-

Vishal Kumar Raj Kumar	Loan	2,00,000/-
Sonia Devi	Loan	2,00,000/-
	Total	16,50,000/-

53. In the above stated list the amount referred as security deposits at Rs.3,00,000/-, Rs.40,000/-, Rs.1,00,000/- totaling to Rs.4,40,000/- received from M/s Anand Agencies, Gondia, M/s Asian Paint House, Star Hardware, Bhopal are regular security deposits received on account of appointment as dealers to facilitates sales. Since the assessee sends goods for sale to all these dealers and receive the sale consideration on later dates as and when the goods are sold. The security deposits are kept with the assessee for security purposes. In case the dealers are removed then the assessee adjusts the sale against the security deposit. This issue has been discussed in preceding paras also. We therefore observing the consistency of the business and the transaction being normally carried out in the course of business find no reason to doubt the genuineness of the security deposits received by cheque and duly appearing in the audited balance sheet for Assessment Year 2005-06 and the balance carry forward to Assessment Year 2006-07 also.

Therefore the addition for these amounts of security deposits Rs.4,40,000/- is directed to be deleted.

54. Now the remaining amount of Rs.12,10,000/- is the unsecured loans. Out of this amount Rs.5,10,000/- is loan received from assessee's daughter in law Smt. Sarita Chawla. The identity and genuineness of transaction is not in doubt. As regards of creditworthiness of Smt. Sarita Chawla is concerned she being professional having knowledge of computer is having regular source of income from professional sources, her credibility cannot be doubted for the loan amount of Rs.5,10,000/- received through the banking channel which is duly reflected in her balance sheet also. No addition was thus called for u/s 68 of the Act for the loan of Rs.5,10,000/- received from Smt. Sarita Chawla. As regards the unsecured loan of Rs.2,00,000/- each received from Shri Vishal Kumar Raj Kumar and Sonia Devi, Rs, 1,00,000/- from Smt. Chitra Balwani and Rs.2,00,000/- from M/s Anand Agencies, Raipur, we find that in the Tax Audit Report complete details of the transactions of loan taken from all the four persons are mentioned. In the Tax Audit Report dated 5.10.2005 it is stated that the loan of

Rs.2,00,000/- taken from Shri Vishal Kumar Raj Kumar and Sonia Devi have been squared off during the year. Though the loan being received through account payee cheques and the same are being squared off during the year or later repaid cannot be the sole basis to examine the genuineness and creditworthiness of the transaction but when the details of unsecured loan providers have been placed before the Ld. A.O the burden to proof shifts on the side of revenue. The address of all the cash creditors were available on record but there was no efforts by the revenue to call for information from these cash creditors. We thus looking to the totality of facts find merit in the contention of Ld. Counsel for the assessee and hold that the Ld. A.O was not justified in making addition for unexplained cash credit u/s 68 of the Act at Rs. 7,00,000/- (Rs. 1,00,000/- from Smt. Chitra Balwani, Rs.2,00,000/- from M/s Anand Agencies, Raipur and Rs.2,00,000/- each from Shri Vishal Kumar Raj Kumar and Sonia Devi) ignoring the fact that all the transactions have been taken place through banking channel, address of cash creditors were given in Tax Audit Report, loans were taken before the date of search and the balance sheets were also

furnished before Ld. A.O and some of the loan were squared off during the year. We thus in view of above discussion set aside the finding of Ld. CIT(A) and delete the addition of Rs.16,50,000/- made on unsecured loans and cash creditors. Ground No.6 of assessee's appeal for Assessment Year 2005-06 is allowed.

55. Now we take up Ground No.6 of assessee's appeal for Assessment Year 2006-07 in ITA No.441/Ind/2015 through which the assessee has challenged the finding of Ld. CIT(A) confirming the addition of Rs.14,00,000/- made by Ld. A.O on account of unsecured security deposits. Brief facts relating to this ground are that during the year assessee took loan of Rs.14,00,000/- from his son Shri Prem Chawla. Ld. A.O not satisfied with the explanation given by the assessee that Shri Prem Chawla made payment to M/s Neptune Bulk from his bank account on behalf of M/s Anand Industries. Assessee failed to get any relief from Ld. CIT(A) in second round and now the assessee is in appeal before the Tribunal.

56. Ld. Counsel for the assessee referred to page 11 of written submission and also the relevant copy of account of Shri Prem

Chawla page No.609 of paper book contending that during March 2006 Shri Prem Chawla made various payments totaling to Rs.14,00,000/- to the supplier M/s Neptune Bulk for and on behalf of M/s Anand Organics from his sole proprietaryship concern M/s Anand Industries. These were genuine business transactions and no addition u/s 68 of the Act was called for.

57. Per contra Ld. Departmental Representative vehemently argued supporting the orders of both the authorities.

58. We have heard rival contentions and perused the records placed before us. The assessee is in appeal through Ground No.6 for Assessment Year 2006-07 challenging the finding of Ld. CIT(A) confirming the addition of Rs.14,00,000/- made by the Ld. A.O by treating the loan of Rs.14,00,000/- as unexplained u/s 68 of the Act. We observe that Shri Prem Chawla son of the assessee is running two proprietaryship concern M/s Anand Paints and Anand Industries and is also partner of M/s Atul Solvo Chemicals. In the instant bunch of appeals Shri Prem Chawla is also one of the assessee in appeal before this Tribunal. Shri Prem Chawla is regularly filing return of income and having source of income from

running business. Books of accounts are audited u/s 44AB of the Act, In our view the identity and creditworthiness of Shri Prem Chawla is not in doubt. As regards the genuineness of the transaction is concerned we find that in the preceding years also Shri Prem Chawla has been making payments from his sole proprietorship concern M/s Anand Industries to M/s Anand Organics of which the assessee (Late Smt. Sudesh Chawla) was the Proprietor. During Assessment Year 2006-07 similar type of transaction took place wherein sum of Rs.14,00,000/- was paid to the supplier of the assessee M/s Neptune Bulk through the IDBI Bank account of M/s Anand Industries. Payments of Rs.2,00,000/- ,Rs.1,00,000/-, Rs.3,00,000/-, Rs.2,00,000/-, Rs.2,00,000/- Rs.1,00,000/- and Rs.3,00,000/- were made on 24.3.2006, 24.03.2006, 29.03.2006, 30.03.2006, 31.03.2006, 31.03.2006, and 31.03.2006. Copy of account of Shri Prem Chawla also asserts these facts. Looking to the totality of fact we find that both the lower authorities were not justified in doubting the cash creditor namely Shri Prem Chawla. Since we are satisfied with the identity and creditworthiness of Shri Prem Chawla and genuineness of the

transaction carried out between the assessee and Shri Prem Chawla no addition is called for u/s 68 of the Act at Rs.14,00,000/- for the alleged receipt from Shri Prem Chawla. Relevant finding of Ld. CIT(A) is set aside and Ground No.6 of assessee's appeal for Assessment Year 2006-07 is allowed.

59. Now we take up Ground No.7 of the assessee's appeal for Assessment Year 2006-07 and Ground No.3 of Revenue's appeal in ITA No.405/Ind/2015. Assessee has challenged the finding of Ld. CIT(A) who sustained the addition at Rs.38,86,483/- as against the addition of Rs.1,29,54,943/- made by Ld. A.O on account of suppressed sales. On the other hand Revenue has challenged the deletion of addition of Rs.90,68,460/-. Brief facts relating to addition for suppressed sales are that during the course of assessment proceedings while examining the records Ld. A.O observed that in the internal audit report prepared by Daljit Singh Bhatia Associates figures of sundry debtors were mentioned as on 31.10.2005. On the basis of this figure assessee's sales were estimated and addition of suppressed sale at Rs.1,29,54,943/- was made. In the first round Ld. CIT(A) deleted the addition. In the set

aside proceedings on the direction of this Tribunal, the Ld. A.O again asked information. Assessee filed submissions and contended that quarter ending figures of sundry debtors cannot be taken as a basis to compute the sales and such estimation is not based on any accounting principle. Ld. A.O was not satisfied, he again made addition of Rs.1,29,54,943/-. Assessee preferred appeal before Ld. CIT(A) and partially succeeded as Ld. CIT(A) applied gross profit rate of 30% on the alleged unaccounted suppressed sales of Rs.1,29,54,943/- and sustained the addition at Rs.38,86,483/-. Now the assessee is in appeal against the addition sustained at Rs.38,86,483/- and revenue has challenged the action of Ld. CIT(A) deleting the addition of Rs.90,68,460/-.

60. Ld. Counsel for the assessee referring to the written submissions submitted that the alleged figures of sundry debtors in the internal audit report were mere projections and un reconciled balances and thus should not be compared to the actual figures in the books of accounts, no enquiry was made from the parties to find the real balance and the addition is based merely on surmises and conjectures, regular books of accounts are maintained and are

audited u/s 44AB of the Act but which were lost shortly after the Ld. CIT(A) deleted the addition in the first round. Ld. Counsel for the assessee also submitted that Ld. CIT(A) erred in not sustaining the addition applying gross profit on the alleged suppressed sales even when no addition was called for the suppressed sales.

61. Per contra Ld. Departmental Representative vehemently argued supporting the orders of Ld. A.O.

62. We have heard rival contentions and perused the records placed before us. Both the assessee and revenue are in appeal relating to the issue of suppressed sales. Assessee through GoundNo. 7 has challenged the addition sustained by Ld. CIT(A) at Rs.38,86,489/- out of 30% of alleged suppressed sales at Rs.1,29,54,943/- whereas Revenue has challenged the action of the Ld. CIT(A) deleting the addition of Rs.90,68,460/-.

63. The issue of suppressed sales cropped up from the internal audit report prepared by Daljit Singh Bhatia Associates, CA for M/s Anand Organics. This report is placed at page 611 to 620 of the paper book. On page 611 which is the letter head of the internal auditor following is mentioned:-

“with reference to your letter dated 25.11.2005 regarding reconciliation of opening and closing balance of group debtors and group creditors with your records. This is to inform you that as per our verbal discussion we submit internal audit report for the period June 2005 to October 2005 and checked day to day transaction during the above period without reconciling the actual balance of group debtors and creditors before the said date. Thus there is a difference in opening closing balance of group debtors and group creditors with your records”.

Along with the above remarks the internal auditor has attached some sheets which are closing balance of sundry debtors during the period 1.4.2005 to 31.10.2005. Ld. A.O while examining this report was of the view that if the debtors shown in the alleged report are taken as the basis, sales for the year will be higher than the sales shown by the assessee. He thus computed the suppressed sales at Rs.1,29,54,943/-. Ld. CIT(A) however sustained the addition to 30% of the suppressed sales relying on various judgments including the Hon’ble High Court of Gujarat in the case of *CIT V/s President Industries (2002) 258 ITR 654 (Guj.)*.

64. Before us Ld. Counsel for the assessee contended that Ld. A.O has computed the suppressed sales on surmises and conjectures and figure in the report were mere projections and un reconciled

balance. In the first round Ld. CIT(A) deleted the addition and this Tribunal later on set aside the issue for afresh adjudication by the Ld. A.O. After the first round before Ld. CIT(A) books of accounts were lost.

65. On perusal of the internal audit report and the attached sheets which are the print outs of tally software (software used to prepare books of accounts on computer), the list of sundry debtors attached with the audit report are not prepared in Excel sheet or typed specially for other purpose which can be termed as projected list. The print outs taken by the internal auditor are from the tally software which is showing the balance on the closing date of 31.10.2005 after considering the transactions entered into during the period commencing 1.4.2005. Therefore this contention of the assessee that the figures are mere projections have no merits. Apart from this submission that the addition made by the Ld. A.O are on estimated basis. Ld. Counsel for the assessee failed to rebut the fact with parallel working of trade cycle of sundry debtors and its comparison with the total sales for the year. Though there is no concrete finding by Ld. A.O but so is the case that assessee has also

failed to fulfill the burden of proving by showing that there was no element of suppressed sales, we therefore to meet the end of justice and being fair to both the parties sustained the addition by applying net profit of 5% on the alleged suppressed sales of Rs.1,29,54,943/- and thus sustain the addition to Rs.6,47,747/- and partly allow Ground No.7 of the assessee's appeal and Ground No.3 of the revenue's appeal for Assessment Year 2006-07.

66. Now we take up Ground No.8 of the assessee's appeal for Assessment Year 2006-07 in ITA No.441/Ind/2015 through which the assessee has challenged the finding of Ld. CIT(A) confirming the addition of Rs.24,39,857/- on account of difference in stock as per the Commercial Tax Department and as per the books of accounts. Brief facts relating to this issue are that during the course of original assessment proceedings u/s 143(3), the Ld. A.O noticed that the Commercial Tax Department of the State Government had conducted a survey at the factory of M/s Anand Organics and at the residence of Shri Prem Chawla on 15.12.2005. A stock inventory on physical verification of the stock found at the factory was prepared by them as on 15.12.2005 as under :-

(i) Finished Goods	Rs. 14,24,200/-
(ii) Raw material & packing material	<u>Rs. 32,30,976/-</u>
Total	<u>Rs.46,55,176/-</u>

Whereas as per No.344 of BF 44 impounded during the survey, the stock position of M/s Anand Organics as on 15.12.2005 was recorded as under:-

(i) Finished Goods	Rs. 3,65,123/-
(ii) Raw material	Rs. 9,46,600/-
(iii)Packing material	<u>Rs. 9,03,614/-</u>
Total	<u>Rs.22,15,339/-</u>

Thus, there was excess stock found on the date of survey on 15.12.2005 to the extent of Rs.24,39,857/- (Rs.46,55,176 – Rs.22,15,339). The appellant was asked to explain the difference. But the AO stated that the appellant did not clarify and explain the difference. Therefore, the AO made addition of Rs.24,39,857/- on account of unexplained investment in the excess stock found. The Ld. CIT(A) had deleted the addition. But the Hon'ble ITAT set aside the assessment to the file of the A.O. During set aside proceedings Ld. AO asked the appellant to explain the difference and show

cause as to why the addition of Rs.24,39,857/- on account of excess stock should not be made. It was submitted that the appellant used to prepare sheet of stock to monitor the activity at the floor level and, therefore, the summary sheet on page 344 of BF 44 was not containing the actual stock. The stock was also kept in tanks, which was not included in the stock summary. It was also contended that the stock taken by the Commercial Tax Department at Rs.46,55,176/- was not taken by scientific approach and based only on visual estimation. It was submitted that as per excise records maintained by the appellant, the closing stock as on 15.12.2005 was Rs.43,89,893.63 which was also monitored by Excise Department. But the Ld. A.O did not accept the submission of the appellant stating that the appellant could not give satisfactory explanation and item wise stock was not tallied. Therefore, the AO made addition of Rs.24,39,857/- on account of unexplained investment in excess stock found. In the appellate proceedings before Ld. CIT(A) assessee made following submissions:-

11.3 In appellate proceedings, the appellant submitted as under :-

"It is submitted that in the original assessment addition of Rs.24, 39, 8571- was made being difference in stock as per the Commercial Tax Department and the books of accounts. In this reference, we submits as under:

Sir, the unit of the assessee is an excisable unit and being monitored by the excise department on day to day basis.

The Summary sheet mentioned by the Assessing Officer as Page No. 344 of BF 44 is not a complete stock. The assessee use to prepare this sheet to monitor the activity at shop floor only. The stock being kept at tanks are not included in the said summary sheet. Further whatever the stock recorded in the summary sheet (at Rs.2215339) is not in excess of the stock as per excise records. Therefore no addition being warranted on this ground.

Stock taken by the Commercial tax, department at Rs. 4655176 is' not being taken by scientific approach. It was only a visual estimation, as is evident from the detailed sheet enclosed. As the assessee deals in the chemicals and solvents, the. stock is being taken. by dip method. The approach of commercial tax department was very casual.

As per the Excise records maintained by the assessee closing stock as on 15.12.2005 the stock was Rs. 4389893.63. The said excise records-are being monitored by the excise department on regular interval. Copy of all the relevant documents are enclosed herewith as Annexure-II.

Sir, from above, it is clear that the assessee shown the correct stock which' is tallied with the excise records also and the stock taken by the Commercial Tax Department is the disputed one. Hence, the actual stock shown by the assessee as per books of accounts may kindly be accepted as correct. "

However Ld. CIT was not satisfied and confirmed the

addition for excess stock observing as follows:-

11.4 I have carefully considered the submission of the appellant and facts of the

case. It is noticed that the Commercial Tax Department had taken proper inventory, item wise and value wise which was duly signed by Shri Prem Chawla, who was looking after the affairs of M/s Anand Organics. Thus, the contention of the appellant that Commercial Tax Department had not properly taken the stock inventory is not found acceptable. The' appellant also could not explain the difference before the Commercial Tax Authorities. They have also impounded certain documents. The appellant also failed to furnish a copy of assessment order made by the Commercial Tax Department after conducting the survey. Page no. 344 of BF 44 was prepared in the normal course of business and was reflecting the position of stock as per books as on 15.12.2005. The appellant also failed to explain the difference with any cogent and unimpeachable evidence and furnished a general explanation. . Since, the appellant failed to satisfactorily explain the excess stock found by the Commercial Tax Department as on 15.12.2005, the AO was justified in making addition of Rs.24,39,857/- on account of unexplained investment in the excess stock found. Hence, the addition of Rs.24,39,857/,. is confirmed.

67. Now the assessee is in appeal before the Tribunal.

68. Ld. Counsel for the assessee reiterated the submissions made before Ld. CIT(A) and stressed on the fact that since the assessee is dealing in excisable goods and monitored by Excise Department on day to day basis no case of excessive stock should have been made. He also submitted that the Commercial Tax Department have not adopted a scientific approach but was merely a visual estimation. An alternative submission was also made that in any case of

investigation in unaccounted stock is explained by the unaccounted sale of Rs.1,29,54,943/-.

69. Per contra Ld. Departmental Representative vehemently argued supporting the orders of both the lower authorities.

70. We have heard rival contentions and perused the records placed before us. Through Ground No.8 for Assessment Year 2006-07 assessee has challenged the addition for excess stock of Rs.24,39,857/-. As discussed above that the assessee was subjected to survey by Commercial Tax Department (In short 'CTD'). As per the inventory prepared by CTD stock was valued at Rs.46,55,176/- and stock as per books as on 15.12.2005 was Rs. 22,15,339/-. One of the person looking after the business namely Shri Prem Chawla accepted the working of CTD showing excess stock of Rs.24,39,857/-. No documents in the form of sales tax assessment orders were filed before the lower authorities about the fate of the survey conducted at assessee's business premises. Even before us no information has been filed to show about the fate of survey proceedings of CTD. Ld. Counsel for the assessee has mainly referred to the process of physical verification adopted by

CTD but has not filed any evidence to show that assessee has challenged the alleged excess stock before the assessing authority or any other appellate authority of the Commercial Tax Department. Alternate submission of the assessee that the investigation in unaccounted stock is excessively added by unaccounted sales of Rs.1,29,54,943/- and it shows that assessee has no material evidence to rebut the excess stock found by CTD. However the fact also remains that the assessee is registered with Excise Department and is also claimed to have maintained regular books. Lower authorities have not called for such records to find out quantitative stock shown in those records. While adjudicating the issue of suppressed sales we sustained the addition of Rs.6,47,747/- @3% of the alleged suppressed sales amount.

71. We therefore in the given facts and circumstances of the case and totality of the facts hold that since we have partly sustained addition applying Net Profit Rate of 5% on disclosed turnover in Assessment Year 2000-01 to 2006-07 and also 5% of suppressed sales for Assessment Year 2006-07 assessee deserves telescoping benefit and the addition confirmed by us shall be sufficient to cover

up the addition of excess stock of Rs.24,39,857/-. We accordingly order so and delete the addition of Rs. 24,39,857/- and allow the assessee's Ground No.8 for Assessment Year 2006-07 in ITA No.441/Ind/2015.

72. Now we take up Ground No.9 challenging the addition of Rs.2,85,709/- made on the basis of loose papers found during the course of search. Assessee has not challenged the genuineness of the loose papers and the entries contained therein. Loose papers shows some expenses incurred by the assessee at Rs.2,85,709/-but the purpose of expenses and the same being incurred for business has not been proved at any stage by the assessee. Before us also assessee has given general statement which is not sufficient to prove that Rs.2,85,709/- were expenses incurred in the regular course of business. Since the documents were found during the course of search the assessee is duty bound to explain the contents therein with supporting evidences. Since the assessee failed to do so we find no force in the contention of the assessee and thus confirm the addition of Rs.2,85,709/- made on the basis of loose papers. In

the result Ground No.9 of the assessee for Assessment Yeqr 2006-07 in ITA No.441/Ind/2019 is dismissed.

73. Remaining grounds raised by the assessee Late Smt. Sudesh Chawla through Legal Heir Shri Prem Chawla in the appeals for Assessment Years 2000-01 to 2006-07 are consequential, premature and general in nature relating to the charging of interest u/s 234A, 234B & 234C, initiation of penalty proceedings and thus needs no adjudication..

74. In the result all the appeals of the assessee Prem Chawla are partly allowed.

75. Now we take up remaining ground No.2 raised by Revenue in the case of assessee Late Smt. Sudesh Chawla for Assessment Year 2006-07 (ITA No.451/Ind/2015) challenging the finding of Ld. CIT(A) deleting the addition on account of unexplained capital addition made by Ld. A.O at Rs.15,32,527/-.

76. Brief facts relating to this ground are that there were credits in the capital account of the assessee at Rs.15,32,527/- which were claimed to be sale proceeds from sale of equity shares. In the first round Ld.A.O made addition treating them as unverifiable but Ld. CIT(A) has allowed and deleted the addition. In the set aside

proceedings by this Tribunal again the Ld. A.O called for the information and similar submissions were made by the assessee about sale of shares through share broker but same were not appreciated by the Ld. A.O and again addition of Rs.15,32,527/- was made. Thereafter assessee preferred appeal before Ld. CIT(A) and succeeded as Ld. CIT(A) on observing that the assessee has shown Long Term Capital Gain in the Income Tax Return and sale consideration of Rs.15,32,527/- was credited to capital account allowed the claim of assessee and deleted the addition. Now the revenue is in appeal before the Tribunal.

77. Ld. Departmental Representative vehemently argued supporting the order of Ld. A.O.

78. Ld. Counsel for the assessee supported the finding of Ld. CIT(A) and also the submissions made before him.

79. We have heard rival contentions and perused the records placed before us and carefully gone through it. Revenue has challenged the finding of Ld. CIT(A) deleting the addition of Rs.16,52,527/- made by the Ld. A.O for unverifiable capital addition during the year. We observe that during the year under

appeal assessee claimed to have received sale consideration of Rs.15,32,167/- from sale of equity shares through Nirman Share Broker. Following amounts were received :-

Date	Particulars	Amount (Rs.)
5.12.2005	Chq No. 000271	10,95,795
20.12.2005	Chq No. 000375	4,00,000/-
27.12.2005	Chq No. 000433	36,372/-
	Total	15,32,167/-

80. Above stated amount is shown to have been received as sale consideration for sale of equity shares. The entries are reflected in the bank statement. Ld. CIT(A) has verified with the above stated amount of sale consideration at Rs.15,32,167/-for which Long Term Capital Gain u/s 10(38) is claimed exempt by the assessee. Ld. Departmental Representative failed to bring any contrary material to disapprove the claim made by the assessee as well as finding of Ld. CIT(A). We thus find no reasons to interfere in the finding of Ld. CIT(A) deleting the addition of Rs.15,36,167/-. Accordingly Ground No.3 of the Revenue for Assessment Year 2006-07 in ITA No.451/Ind/2015 as dismissed.

81. In the result Revenue's appeal for Assessment Year 2006-07 is partly allowed.

82. Now we take up the remaining grounds of the assessee namely Shri Prem Chawla for Assessment Year 2000-01 to 2006-07.

83. The common issue relating to unsecured loan/security deposits confirmed by Ld. CIT(A) amounting to Rs.8,74,400/-, Rs.4,00,000/-, Rs.2,95,000/- and Rs.1,00,000/- pertaining to Assessment Year 2000-01, 2001-02, 2005-06 and 2006-07 are raised by the assessee in Ground No.5 (Assessment Year 2000-01), Ground No.5 (Assessment Year 2001-02), Ground No.5 (Assessment Year 2005-06) and Ground No.6 (Assessment Year 2006-07) respectively.

84. Brief facts in common are that the assessee has shown amount received as security deposit from dealers. Ld. A.O was not satisfied that the genuineness of the transactions, he thus made the addition. Assessee failed to get any relief from Ld. CIT(A). Now the matter is before this Tribunal.

85. Ld. Counsel for the assessee vehemently argued referring to the following written submissions:-

In the original assessment proceedings, the appellant failed to prove the genuineness of the unsecured loan/security deposits which was received from following persons in the relevant assessment year as under:-

A.Y	Name	Amount	Remarks
2000-01	Security deposit from 17 parties (Refer CIT(A) order Pg no.20-21)	8,74,400/-	1. Security deposits are received from customers/dealers to whom goods are regularly supplied, the balance is adjusted in succeeding years out of sales. 2. The deposits received are in nature of trading liability and not an unsecured loan
		8,74,400	
2001-02	Asha Devi, Udaypur	2,00,000/-	1. The appellant received security deposit were received through account payee cheques and deposited in the bank account of the assessee. 2. This account was settled into account of her concern- New Ramesh paints, Udaypur, against the goods sold in F.Y 2001-02 (PB 188)
	Krishna Agencies, Kota	2,00,000/-	1. The appellant received security deposit were received through account payee cheques and deposited in the bank account of the assessee. 2. This amount was settled against the goods sold them in F.Y 2001-02, the account statement is on (PB 190-192)
		4,00,000/-	
2005-06	Deep Colour & Chemicals, Kota	2,00,000/-	1. The appellant maintains proper books of accounts, which are audited u/s 44AB of the act.
	Anand Agencies, Gondia	50,000/-	2. The balance is appearing in the balance sheet also.
		40,000/-	3. The money is advance received from M/s Anand Agencies who was acting as dealer of Indore region

	Parvinder Singh	5,000/-		Date	Amount	
		2,95,000/-		21.10.2004	50,000	
				01.11.2004	40,000	
2006-07	Anand Agencies, Indore	1,00,000/-	1. This amount is appearing in the list of sundry creditors and not security deposits. Refer PB 601. 2. There is no fresh addition to the balance, Rs.1,00,000 is appearing in both the schedules as on 31st March 2006 on PB 602 and the schedule as on march 2005 on PB 601.			

86. Per contra Ld. Departmental Representative vehemently argued supporting the orders of both the lower authorities.

87. We have heard rival contentions and perused the records placed before us. The common issue raised by the assessee named Shri Prem Chawla for Assessment Years 2000-01, 2001-02, 2005-06 and 2006-07 relates to addition of unexplained security deposits confirmed by Ld. CIT(A) at Rs. 8,74,400/, Rs. 4,00,000/-, Rs. 2,95,000/- and Rs. 1,00,000/- respectively. We observe that the assessee is into the business of paints and thinners and has been consistently filing Income Tax Returns supported with audited financial statements as and where applicable. Assessee in the due course of business appoints dealers in various parts of the country for the purpose of effecting sale.

88. For Assessment Year 2000-01 security deposit of Rs.8,74,400/- has been received from 17 parties who are customers /dealers and as claimed by the Ld. Counsel for the assessee that these security deposits are adjusted against the sales in succeeding years. These deposits are not unsecured loan but trading liability. The addition made by the Ld. A.O were subsequently confirmed by Ld. CIT(A) on the basis of general observation without placing any material on record to support the addition. We find that these security deposit of Rs.8,74,400/- received from 17 parties were duly reflected in the balance sheet before the conducting of search and in absence of any contrary material find no reason to confirm the addition for unexplained security deposit as in our view these were received as normal part of business. Thus the addition of Rs.8,74,400/- for Assessment Year 2000-01 for unexplained security deposit stands deleted. Ground No.5 for Assessment Year 2000-01 is allowed.

89. As regards security deposit of Rs. 2,00,000/- each received from Asha Devi, Udaypur and Krishna Agencies, Kota during Assessment Year 2001-02 we note that the security deposits were

received through account payee cheques. Security deposit of Asha Devi, Udaypur was settled against the good sold in her concern New Ramesh Paints, Udaypur during financial year 2001-02 and the same was the case of Krishna Agencies, Kota. Ledger accounts placed at page 188, 190, 192 supports these facts. Revenue has also not placed any contrary evidence against the assessee. We thus taking a consistent view as discussed in preceding paras find no reasons to doubt the genuineness of security deposits and relevant finding of Ld. CIT(A) is set aside and Ground No.5 for Assessment Year 2001-02 stands allowed.

90. As regards security deposit of Rs.2,95,000/- received during Assessment Year 2005-06 is concerned the same was received from following 3 parties :-

- | | | |
|-------|------------------------------|---------------|
| (i) | Deep Colour& Chemicals, Kota | Rs.2,00,000/- |
| (ii) | Anand Agencies, Gondia | Rs. 90,000/- |
| (iii) | Parvinder Singh | Rs. 5,000/- |

91. On perusal of the records we find that the assessee has achieved gross turnover during the year under appeal at Rs.3,14,20,001/-which has almost doubled as compared to

turnover of preceding year. Audit report u/s44AB of the Act stands duly submitted on due dates and the security deposits are appearing in the audited balance sheet. Payments have been received through banking channel and security deposits are received from the dealers and in case payment is not received or dealership is cancelled, the security deposit is adjusted against the sales. The above said transactions have been carried out in normal course of business and in absence of any documentary evidence to question the same making addition for unexplained security deposit at Rs. 2,95,000/- by the Ld. A.O and subsequently confirmed by Ld. CIT(A) giving general remarks is not justified. Thus the addition for unexplained security at Rs.2,95,000/- stands deleted. Ground No.5 for Assessment Year 2005-06 is allowed.

92. As regards unexplained security deposit of Rs.1,00,000/- in Assessment Year 2006-07 this was received from Anand Agencies, Indore. As appearing in paper book page 601 the alleged amount is appearing in the list of sundry creditor and not as security deposit. This amount is not a fresh addition during the year and is the brought forward balance from Assessment Year 2005-06. Therefore

no addition was called for this amount of Rs.1,00,000/- and the same deserves to be deleted. Ground No.6 for Assessment Year 2006-07 is allowed.

93. Now we take up next common issue relating to addition in capital account at Rs. 1,77,100/-, Rs.2,12,520/- and Rs.2,12,520/- for Assessment Year 2003-04, 2004-05 and 2005-06 respectively. Brief facts are that during the course of assessment proceedings Ld. A.O while examining capital accounts attached with the balance sheet of the partnership concern come across certain additions made in the capital account. Assessee made necessary submissions but the Ld. A.O in the second round again made the additions. In the appeal before Ld.CIT(A) assessee gave part relief. Now the assessee is in appeal before the Tribunal.

94. Ld. Counsel for the assessee at the outset submitted that Ld. CIT(A) erred in confirming the addition ignoring the fact that the impugned amounts was paid from the personal bank account of the assessee held with Punjab National Bank.

95. Per contra Ld. Departmental Representative vehemently argued supporting the orders of both the lower authorities.

96. We have heard rival contentions and perused the records placed before us. Assessee's common grievance through Ground No.5 for Assessment Year 2003-04, Ground No.5 for Assessment Year 2004-05 and Ground No.7 for Assessment Year 2006-07 relates to addition in capital account taken by Ld. CIT(A) at Rs. 1,77,100/-, Rs.2,12,250/- and Rs.2,12,250/- respectively. The common facts presented before us that all these three amounts were claimed as transfer by the assessee from his personal saving bank account held with Punjab National Bank to its sole proprietaryship concern M/s Anand Industries. Ld. CIT(A) denied the relief by making general observation that assessee could not placed any evidence. We however failed to support this observation of Ld. CIT(A) since details of bank accounts were very much available before the lower authorities. Transaction has taken place from one account to another. Assessee is into business since last many years and consistently offering income. Major amount of addition made by Ld. A.O stands already deleted by Ld. CIT(A). In these given facts and circumstances of the case we find no reason to doubt the creditworthiness of the assessee to transfer the alleged

amount from his personal bank account to the sole proprioryship concern M/s Anand Industries. We accordingly delete the addition of Rs.1,77,100/- for Assessment Year 2003-04, Rs.2,12,250/- for Assessment Year 2004-05 and Rs. 2,12,250/- for Assessment Year 2005-06 and allow ground No.5 for Assessment Years 2003-04 and 2004-05 and Ground No.7 for Assessment Year 2005-06.

97. Now we take up Ground No.6 for Assessment Year 2004-05 through which the assessee has challenged the addition of Rs.1,29,200/- thereby confirming the action of Ld. A.O for denying the benefit of agriculture income and taxing it as income from other source. Brief facts relating to this ground are that assessee has shown to have performed agriculture operation on the agriculture land taken on lease and have earned net profit of Rs.1,29,200/- against total sale consideration of Rs.2,96,875/-. Ld. A.O rejected this claim and taxed the income as income from other source. When the matter came up before Ld. CIT(A) he has also confirmed the action of Ld. A.O giving the finding that assessee has not shown any agriculture income in the past and subsequent year and looking to the fact that the assessee is running sole proprioryship

concern there remains hardly any time to do agriculture activity and thus claim was rejected. Now the assessee is in appeal before the Tribunal.

98. Ld. Counsel for the assessee again submitted the submissions made before the lower authorities and drew our attention to Batai agreement dated 05.01.2003 and sale bill of Krishi Upaj Mandi to support the contention that the assessee had earned genuine income from agriculture at Rs.1,29,200/-.

99.Per contra Ld. Departmental Representative vehemently argued supporting the orders of both the lower authorities.

100. We have heard rival contentions and perused the records placed before us. Through Ground No.6 for Assessment Year 2004-05 assessee namely Shri Prem Chawla challenged the finding of Ld. CIT(A) treating the agriculture income at Rs. 1,29,200/- as income from other source. We observe that Ld. CIT(A) has applied the probability theory in rejecting the claim by observing that since the assessee has not shown any agriculture income in the past and in the subsequent assessment years and the assessee hardly had any time to carry out the activity since he was running two

proprietaryship concerns therefore the assessee had made false claim. We however are not in agreement with this general probability theory applied by Ld. CIT(A) without examining the documentary evidence filed by the assessee in the form of Batai agreement between Shakuni Kumari and the assessee dated 01.05.2003 and the sale bills of Krishi upaj Mandi issued in the name of assessee. Both the lower authorities have not find any discrepancy in these documents filed by the assessee. Against the sale proceeds of Rs.2,96,864/- the income has shown at Rs. 1,29,200/- which is around 43% only.

101. In our considered view when the assessee made the claim with necessary supporting evidences it was not justified on the part of the Ld. A.O as well as Ld. CIT(A) to deny the claim without finding any discrepancy in the evidences placed before them. Therefore the general observation of Ld. CIT(A) that the assessee not earning any agriculture income in the past and subsequent year seems to be hollow and cannot be accepted. Therefore Ground No.6 for Assessment Year 2004-05 is allowed and the claim of the assessee of having earned agriculture income of Rs. 1,29,200/- is accepted.

102. Now we take up Ground No.6 of the assessee for Assessment Year 2005-06 wherein the findings of Ld. CIT(A) is challenged confirming the addition of Rs.99,000/- incurred on account of investment in immoveable property. Brief facts relating to this are that the assessee made investment in immoveable property during the year. Apart from the amounts transferred from bank accounts there was a claim of incurring cash of Rs.99,000/- which was withdrawn from the proprietaryship concern. Assessee failed to prove this withdrawal and the action of the Ld. A.O was confirmed by Ld. CIT(A) for this expenditure in cash for want of source. Now the assessee has challenged this addition before the Tribunal.

103. Ld. Counsel for the assessee referring to the written submission submitted that the assessee had made regular cash withdrawals from the proprietaryship concern M/S Anand Industries and source of cash withdrawal is from his capital account only. Reference was made to page 503 of paper book showing capital account of M/s Anand Industries.

104. Per contra Ld. Departmental Representative vehemently argued supporting the orders of both the lower authorities.

105. We have heard rival contentions and perused the records placed before us. Through Ground No.6 assessee has challenged the addition for unexplained cash withdrawal of Rs.99,000/- for Assessment Year 2005-06. We observe that the assessee purchased property at E-3/91, Arera Colony, Bhopal jointly with Smt. Sudesh Chawla on 30.11.2004. Assessee invested a sum of Rs.30 lakhs. Out of this purchase consideration Rs.99,000/- was claimed by the assessee to have been withdrawn in cash from M/s Anand Industries is in dispute. We have gone through the paper book page 503 of the assessee's capital account in the books of M/s Anand Industries. On perusal of the capital account we find that after the cash withdrawal totaling to Rs.25,000/- during April, 2004 assessee deposited Rs.90,000/-. Thereafter from May 2004 to till 6th July 2004 total cash withdrawal is Rs.57,000/-. If we fairly estimate the drawings at Rs. 17000/- for household purposes assessee would have left over with Rs.40,000/- only. To this extend the claim of the assessee can be accepted. We accordingly partly allow Ground No.6 of the assessee's appeal and confirm the addition of Rs.59,000/- only.

106. Now we take up Ground No.5 for Assessment Year 2006-07 during which the assessee has challenged the finding of Ld. CIT(A) confirming the addition of Rs.7,80,000/- made on account of unexplained unsecured loan/sundry creditors. Brief facts relating to this ground are that during the course of assessment proceedings Ld. A.O asked the assessee to explain the unsecured loan/sundry creditors totaling to Rs.7,80,000/-. Assessee's contention is that these are the credits in the regular course of business towards advance for goods/security deposit and other current account transactions. Ld. A.O was not satisfied he made addition for Rs.7,80,000/-. Assessee filed appeal before Ld. CIT(A) but failed to succeed. Now the assessee is in appeal before the Tribunal.

107. Ld. Counsel for the assessee referred to the written submissions and submitted that details of each transactions are duly appearing in audited balance sheet. Payments were received through account payee cheques. Most of the alleged cash creditors are in the form of security deposit and sundry creditors and assessee is having regular transactions with these concerns.

Therefore the addition for unexplained cash credit of Rs.7,80,000/- was not justified.

108. Per contra Ld. Departmental Representative vehemently argued supporting the orders of both the lower authorities.

109. We have heard rival contentions and perused the records placed before us. Through Ground No.5 for Assessment Year 2006-07 finding of Ld. CIT(A) confirmed the addition towards unexplained cash credit is in dispute. Before us Ld. Counsel for the assessee giving details of each of the alleged cash creditors in the following particular form:-

Name of dealer	Amount	Date	Chq. number	Submissions
Ganpati Traders	30,000 60,000 50,000 2,00,000	05,01,06 07.01.06 23,01,06 30.01.06	740903 740906 740913 185506	1. The assessee is maintaining regular books of accounts, which are also audited u/s 44AB of the Act. 2. The amount is received from the regular dealer, who is regularly purchasing from assessee. 3. The sales to Ganpati Traders amounting to Rs.11,67,344 were made in A.Y 2006-07 4. The payment

				received against sale were Rs.11,42,000 and the balance Rs.25,344/- appearing in list of Debtors on PB 564. 5. The total security deposit amounting to Rs.3,40,000 is shown separately under Annexure-C – Deposits on PB 561. 6. The ledger account of the party showing the receipt of security deposit, as per customary policy through cheque are on PB 603.
S,M Enterprises, Faridabad	2,50,000	26.04.05	209352	1. The assessee is maintaining regular books of accounts, which are also audited u/s 44AB of the Act. 2. The amount is received from the regular dealer, who is regularly purchasing from assessee. 3. The sales to S.M. Enterprises amounting to Rs.5,55,839 were made in A.Y 2006-07 4. The payment received against sale were Rs.5,55,839 5. The total security

				deposit amounting to Rs.2,50,000 is shown separately under Annexure C Deposits on PB 561 6. The ledger account of the party showing the receipt of security deposit, as per customary policy through cheque are on PB 603.
Shakti Traders, Bhopal	50,000 50,000	18.05.05 18.05.05	900228 900229	1. The total security deposit amounting to Rs.1,00,000 is shown separately under Annexure C. Deposits on PB 561. 2. The ledger account of the party showing the receipt of security deposit, as per customary policy through cheque are on PB.605
Pari Traders, Lucknow	25,000 25,000	06.04.05' 06.04.05	111146 111141	1. The total security deposit amounting to Rs.50,000 is shown separately under Annexure C. Deposits on PB 561. 2. The ledger account of the party showing the receipt of security deposit, as per customary policy through cheque are on

				PB.605
Krishna enterprises, Haridwar	40,000	16.07.05	149600	1. The assessee is maintaining regular books of accounts, which are also audited u/s 44AB of the Act. 2. The amount is received from the regular dealer, who is regularly purchasing from assessee. 3. The sales to Krishna. Enterprises amounting to Rs.79,145 were made in A.Y 2006-07 4. The payment received against sale were Rs.75,000 5. The total security deposit amounting to Rs.40,000 is shown separately under Annexure C Deposits on PB 561 6. The ledger account of the party showing the receipt of security deposit, as per customary policy through cheque is on PB 607.

110. We have gone through the above details and also gone with the relevant paper book page mentioned here under. Assessee has

turnover for Assessment Year 2006-07 is 3,28,36,548/-. Financial statement of both the proprietorship concerns M/s Anand Paints and M/s Anand Industries are duly audited. Necessary information are provided in Form 3CD and its annexures attached to the report u/s 44AB of the Act. As discussed in the preceding paras and facts remains similar we find that the alleged cash credits are mainly towards security deposit received from the dealers through banking channel as per the policy of the assessee's business. Regular sales have been effected through these dealers. In case of non receipt of sale consideration or discontinuing of the dealership the amount is adjusted against the sales. Almost in all the parties referred in the list are having regular business transactions of sale/purchase of goods with the assessee. No further enquiry have been initiated during both the rounds of proceedings. In these given facts and circumstances it is not justified to doubt the genuineness of the cash credits/security deposits/sundry creditors. We therefore direct the revenue authorities to delete the addition of Rs.7,80,000/-. Ground No.5 raised by the assessee for Assessment Year 2005-06 is allowed.

111. Now we will take up last effective ground No.7 of Shri Prem Chawla through which the assessee challenged the finding of Ld. CIT(A) confirming the addition of Rs.3,34,500/- on account of cash found during the course of search. Brief facts relating to this ground are that cash of Rs.3,34,500/- was found in the locker in the name of Smt. Sarita Chawla. In the statement given during the course of search Smt. Sarita Chawla accepted that she is the owner of the locker and she also gave bifurcation of source of cash found in the locker. However during the course of assessment proceedings Ld. A.O on the basis of statement of the assessee given on behalf of his wife Smt. Sarita Chawla, surrendered Rs.3,50,000/- towards income not disclosed in the return of income, Ld. A.O made the addition in the hands of the assessee. Assessee failed to get any relief from Ld. CIT(A). Now the assessee is in appeal before the Tribunal.

112. Ld. Counsel for the assessee submitted that the locker was in the name of Smt. Sarita Chawla. Her statement were taken on 21.12.2005 and in reply to specific question she had stated that cash lying in bank locker represent Rs.2 lakhs received from

Aandpur Sahib Trust and Rs.51,000/- from her personal savings.

She could not reply for the remaining amount of Rs.83,500/-. Ld.

Counsel for the assessee also submitted that the impugned addition cannot be made in the hands of the husband when the locker was in the name of wife who has assessed to tax and has also subjected to assessment proceedings u/s 153A of the Act.

113. Per contra Ld. Departmental Representative vehemently argued supporting the orders of both the lower authorities.

114. We have heard rival contentions and perused the records placed before us. Addition for Rs.3,34,500/- on account of cash found during the course of search is in dispute before us raised by the assessee through Ground No.7 challenging the finding of Ld. CIT(A). It is an undisputed fact that the impugned cash amount of Rs.3,34,500/- was found in the locker in the name of Smt. Sarita Chawla. In the primary statement given by her before the search team on 21.05.2005 in question No.19 she was specifically asked about the source of cash of Rs.3,34,500/- found in the locker No.27 owned by her held with State Bank of India, Mahaveer Nagar, Bhopal. In reply to this question she stated that Rs.2.50 lakhs was

towards the amount collected for the construction of Ashram from various persons on behalf of Anandpur Sahib Trust, Rs.51,000/- is on account of her past savings and for the remaining amount of Rs.33,500/- she could not explain. The above statement clearly shows that Smt. Sarita Chawla were very well aware about the cash found in her locker. She has not stated that the impugned amount relates to her husband. She is also a regular tax payer earning professional income and business income. Revenue authorities have made the impugned addition merely on the basis of statement given by Shri Prem Chawla. We note that Shri Prem Chawla who was looking after the business affairs of group concern along with the family members and company represented and gave statements towards surrender of certain amount in the name of various assessee(s).But merely making surrender in the name of other persons cannot give free hand to revenue authorities to make the addition in the hands of the persons who has surrendered on behalf of other persons. When the documentary evidences were available which in this case are primary statement of Smt. Sarita Chawla about the source of cash found in her locker, the action of the Ld.

A.O to make the addition in the hands of the assessee Shri Prem Chawla was duly unjustified and thus deserves to be deleted. We therefore set aside the finding of Ld. CIT(A) and allow Ground No.7 of assessee's appeal for Assessment Year 2006-07.

102. All the remaining grounds of assessee for Assessment Year 2000-01 to 2006-07 are consequential, premature and general in nature which needs no adjudication.

115. In the result all the appeals of the assessee Shri Prem Chawla in Appeal SS(A) No.172 to 175/Ind/2015 and ITA No.143/Ind/2015 are partly allowed as per the terms indicated above.

116. Now we take up the remaining grounds raised in appeal Nos. IT(SS) 164 to 169/Ind/2015 in the case of Smt. Sarita Chawla.

117. Through similar Ground No.2 raised in Assessment Years 2000-01 to 2003-04 the finding of Ld. CIT(A) is challenged for confirming the addition of Rs. 34,800/-, 36,600/-, Rs.44,300/- and Rs.34,650/- towards computer programming activity income. Brief facts relating to this issue are that the assessee disclosed income from computer programming in the return of income filed for Assessment Years 2000-01 to 2003-04. As the assessee could not

provide documentary evidences to explain the source of this income. Ld. A.O estimated it on a higher amount and made the aforesaid additions. In the second round of assessment on the direction of this Tribunal these additions were again made and the same were subsequently confirmed by Ld. CIT(A) against which the assessee is in appeal before us.

118. Ld. Counsel for the assessee submitted that the assessee hold Diploma in computer programming from NIT and provided services to computer programmers. As the assessee's income was less than the limit prescribed u/s 44A of the Act she is not required to maintain regular books of accounts. The addition made by Ld. A.O is entirely based on estimation and guess work. No incriminating material was found during the course of search.

119. Per contra Ld. Departmental Representative vehemently argued supporting the orders of both the lower authorities.

120. We have heard rival contentions and perused the records placed before us. Through similar Ground No.2 for Assessment Years 2000-01 to 2003-04 assessee challenged the addition of Rs.34,800/-, Rs.36,600/-, Rs.44,300/- and Rs. 34,650/-

respectively. These additions was made by Ld. A.O estimating the income from computer programming work on a higher amount than the amount disclosed by the assessee in her Income Tax Return. Ld. CIT(A) also confirmed the addition after giving a general finding.

121. We note that the assessee is holding Diploma in computer programming from National Institute of Information Technology. She is well versed with computer programming work. She has been disclosing this income in the return filed u/s 139 of the Act for Assessment Years 2000-01 to 2003-04. No incriminating material was found during the course of search. The addition made by the Ld. A.O is purely on estimation and guess work. The assessments are framed u/s 153C r.w.s. 143(3) of the Act. No reference has been made to any incriminating material which could show that the assessee has not disclosed correct income from computer programming work. In these given facts and circumstances of the case the addition made on estimated basis without considering the fact that the assessee is a qualified Diploma holder and possessed professional expertise to earn such income, is not justified and thus deserves to be deleted. We accordingly allow Ground No.2 in the

case of Smt. Sarita Chawla in IT(SS) A No.164 to 167 and delete the addition of Rs.34,800/-, Rs.36,600/-, Rs.44,300/- and Rs. 34,650/- for Assessment Years 2000-01 to 2003-04 respectively.

122. Through Ground No.3 for Assessment Year 2000-01 addition of Rs.82,350/- is in challenge which was confirmed by Ld. CIT(A). Ld. A.O made this addition on being not satisfied with the unexplained opening capital shown in the balance sheet. Ld. CIT(A) confirmed the addition. Now the assessee is in appeal before tribunal.

123. Ld. Counsel for the assessee submitted that income of Rs.4300/- was earned on the sundry advances of Rs.82,000/-. This advance was given out of the opening balance as per regular returns filed by the assessee prior to search.

124. Per contra Ld. Departmental Representative vehemently argued supporting the orders of both the lower authorities.

125. We have heard rival contentions and perused the records placed before us. Through Ground No.3 for Assessment Year 2000-01 assessee has challenged the action of Ld. CIT(A) confirming the addition of Rs.82,350/- being opening balance of capital account.

We observe that on account of search the assessee was also subjected to scrutiny from Assessment Year 2001-02 to 2006-07. There is a opening capital balance as on 1.4.2000 which the assessee has shown in the Income Tax Return filed. Such opening balance are claimed to be part of accumulated savings from past. As the assessee could not justify the basis of opening capital she was subjected to addition. We however are of the considered view that looking to the fact the assessee being married should have received gifts from family members and is filing Income Tax Returns regularly, the accumulation of past saving to the extent of Rs.82,350/- should not have been doubted. The assessee being a professional Diploma holder, savings from petty income earned from profession and other gifts in cash received on ceremonial occasions seems to have been applied to fetch the income by way of giving sundry advances for earning interest income. We therefore delete the addition of Rs.82,350/- and allow Ground No.3 raised for Assessment Year 2000-01.

126. Now we take up Ground No.3 for Assessment Year 2003-04 through which the assessee has challenged the finding of Ld.CIT(A)

confirming the addition of unexplained investment in the firm M/s. Atul Solvo Chem at Rs. 1,99,900/-. During the first round of assessment proceedings assessee was asked to explain the investment in M/s Atul Solvo Chem at Rs.1,99,900/-. Assessee failed to satisfy the Ld. A.O. Ld. A.O made addition of Rs.1,99,900/-. In the second round also the submissions of the assessee were not found satisfactory by the Ld. A.O and again the addition was made. Assessee could not get any relief from Ld. CIT(A). Now the assessee is in appeal before the Tribunal.

127. Ld. Counsel for the assessee submitted that the investments made in M/s Atul Solvo Chem is genuine. M/s. Atul Solvo Chem is a partnership firm in which the assessee's husband and mother in law are partners. Certain payments were made to the suppliers of M/s Atul Solvo Chem by the assessee. All these transactions were during the pre search period and have been shown in the balance sheet of M/s AtulSolvoChem, thus no addition was called for.

128. Per contra Ld. Departmental Representative vehemently argued supporting the orders of both the lower authorities.

129. We have heard rival contentions and perused the records placed before us. Through Ground No.3 raised for addition of Rs.1,99,900/- for unexplained investment by the assessee in the firm M/s Atul Solvo Chem is in challenge. It is an undisputed fact that M/s Atul Solvo Chem is a partnership firm which is run by the family members of the assessee namely her husband, Shri Prem Chawla and mother in law Late Smt. Sudesh Chawla. M/s Atul Solvo Chem is regularly assessed to tax. The assessee made payments through account payee cheques to the two suppliers of M/s. Atul Solvo Chem namely M/s Mahindra Trading Co and M/s Neptune, Indore. Ledger account of Smt. Sarita Chawla in the books of M/s Atul Solvo Chem placed at page 188 of paper book shows the relevant transactions. The evidence placed before us is sufficient to explain the investment made in M/s AtulSolvo Chem. We thus find no justification in the addition of Rs.1,99,900/- made by the Ld. A.O which deserves to be deleted. We accordingly order so and set aside the finding of Ld. CIT(A) confirming the addition of Rs.1,99,900/- and allow Ground No.3 raised for Assessment Year 2003-04.

130. Now we take up Ground No.2 for Assessment Year 2004-05 relating to disallowance of retail trade expenses. Ld. A.O made addition by way of estimating income at Rs. 1,75,000/- as against Rs.1,26,360/- shown by the assessee. Addition of Rs.50,640/- was made by the Ld. A.O in the first round, this addition was deleted by Ld. CIT(A). In the set aside proceedings Ld. A.O added the same suspecting it to be undisclosed income of Shri Prem Chawla (assessee's husband). Ld. CIT(A) again gave relief of Rs.2000/- on account of arithmetic error and confirmed the addition for Rs.48,640/-. Now the assessee is in appeal before the Tribunal.

131. Ld. Counsel for the assessee submitted that the assessee had filed her return of income u/s 44AF of the Act and has shown as income at 20% of net sales which is more than the minimum standards prescribed by the Act. Assessee is not required to maintain regular books of accounts. No incriminating material against the assessee was found during the course of search.

132. Ld. Departmental Representative vehemently argued supporting the orders of both the lower authorities.

133. We have heard rival contentions and perused the records placed before us. Addition of Rs.48,640/- has been challenged by the assessee through Ground No.2 for Assessment Year 2004-05 for alleged estimation of retail trade expenses at Rs.1,26,360/-. The Ld. A.O estimated income at Rs.1,75,000/-, addition of Rs.50,640/- was made and Ld. CIT(A) sustained it to Rs.48,640/-.

134. We note that no incriminating material towards unaccounted transaction of sales by the assessee were found. Income has been offered u/s 44AF of the Act by the assessee showing 20% of net profit which is higher than the percentage required to be shown u/s 44AF of the Act. Under these given facts estimating the income at higher amount will tantamount to addition without any basis which in our view deserves to be deleted. Thus the finding of Ld. CIT(A) is set aside and the addition for retail trade expenses at Rs.48,640/- is deleted. Ground No.2 for Assessment Year 2004-05 is allowed.

135. Now we take up Ground No.3 for Assessment Year 2004-05 through which the assessee has challenged the finding of Ld. CIT(A) confirming the addition for unexplained loans and sundry creditors at Rs.1,87,500/-. There were certain petty loans of Rs.60,000/-

from 4 persons at Rs.15000/- each and sundry creditors of Rs.1,27,500/- shown in the balance sheet filed for Assessment Year 2004-05. Ld. A.O made the addition on being not satisfied with the explanation given by the assessee being alleged loan and sundry creditors. Assessee could not find any favour from Ld. CIT(A). Now the assessee is in appeal before the Tribunal.

136. Ld. Counsel for the assessee referred to the written submissions placed at paper book at page 9 & 10 contending that the unsecured loans were taken in the personal capacity and were returned in subsequent years. Sundry creditors at Rs.1,27,500/- includes the outstanding expense of Rs.42,500/- and outstanding purchase of Rs.85,000/-. Assessee has shown the income u/s 44AF of the Act and was not required to maintain books of accounts.

137. Ld. Departmental Representative vehemently argued supporting the orders of both the lower authorities.

138. We have heard rival contentions and perused the records placed before us. Assessee has challenged the addition of Rs.1,87,500/- confirmed by Ld. CIT(A) which was made by Ld. A.O

towards unexplained loans of sundry creditors. The impugned amount of Rs.1,75,800/- is towards unsecured loan of Rs.60,000/- and sundry creditors of Rs.1,27,500/- for which Ld. Counsel for the assessee has given following submissions;

Name	Amount	Remarks
Shobha Mohabe	15,000	1. The loans are taken by the assessee in her personal capacity is not a business loan. 2. These loans were returned in the subsequent years. 3. In the Balance Sheet of the assessee (PAPER BOOK-127), these amounts are duly reflected.
Madhu Mohabe	15,000	
Prabha Mohabe	15,000	
Sangeeta Mohabe	15,000	
	60,000/-	
Creditors	1,27,500	1. In the Balance sheet of the assessee (Annexed at PAPER BOOK-127), this amount is shown as Sundry Creditors. 2. This amount comprises of Rs.42,500/- on account of unpaid purchases. 3. That the assessee is not required to maintain books of accounts u/s 44AA
Total	1,87,500	

139. We note that the assessee opted to file the return of income by showing net profit as per the provisions of Section 44AF of the Act applicable to retail trade business. Assessee has shown higher amount of net profit as per Section 44AF of the Act and since the assessee is falling under this provisions she was not required to

maintain regular books of accounts. This claim of the assessee has not been challenged by the revenue authorities. No incriminating material was found during the course of search. Assessee made this claim u/s 44AF of the Act in the return filed prior to the conduct of search. When the sales effected by the assessee are not in challenge nor any incriminating material has been found during the course of search additions made in the proceedings u/s 153C r.w.s. 143(3) of the Act are uncalled for. Even otherwise unsecured loans are received by the assessee in personal capacity and is claimed to have been returned in the subsequent years. The alleged sundry creditors at Rs.1,27,500/- comprises of outstanding expenses of Rs.42,500/- and unpaid purchases of Rs.85,000/- which seems to be genuine as part of business to carry out retail trade. We thus direct the revenue authorities to delete the addition of Rs.1,87,500/- and allow ground raised by the assessee for Assessment Year 2004-05.

140. Now we take up Ground No.4 for Assessment Year 2004-05 through which the assessee has challenged the finding of Ld. CIT(A) confirming the action of Ld. A.O of treating the agriculture income

as income from other source. We observe that similar issue came up before us in the case of assessee's husband Shri Prem Chawla and the facts and issues remain the same. The action of the Ld. A.O confirmed by Ld. CIT(A). Ld. Counsel for the assessee made similar submission that there was a batai agreement with Shri Ajay Kumar Sahu dated 1.5.2003 and the sales are evidenced by sale bill of Krishi Upaj Mandi.

141. Ld. Departmental Representative vehemently argued supporting the orders of both the lower authorities.

142. We have heard rival contentions and perused the records placed before us. Through Ground No.4 assessee has challenged the action of Ld. CIT(A) confirming the addition for Rs. 1,51,775/- treating the claim of agriculture income as income from undisclosed sources. We observe that the assessee had not shown any agriculture income prior to Assessment Year 2004-05 and subsequent to Assessment Year 2005-06 which creates suspicion about the genuineness of agriculture income shown for Assessment Year 2004-05. But the evidence placed by the assessee before the lower authorities and before us clearly spells out that the assessee

had earned income from agriculture. The batai agreement with Shri Ajay Kumar Sahu dated 1.5.2003 and sales bills of Krishi Upaj Mandi, Bairagarh placed at paper book page 131 to 135 supports the claim by the assessee. In both the rounds of assessment proceedings no efforts were made by the lower authorities to make enquiry about the genuineness of the claim of agriculture income made by the assessee. In these given facts and circumstances where the claim of the assessee is rejected without conducting proper enquiry to hold the documents as bogus, the action of the Ld. A.O of treating the agriculture income as income from other source is not justified. We thus set aside the finding of Ld. CIT(A) and allow Ground No.4 raised by the assessee holding that the assessee had earned income from agriculture at Rs.1,51,775/- during Assessment Year 2004-05.

143. Now we take up Ground No.2 of the assessee for Assessment Year 2005-06 through which the addition of Rs.94,426/- has been challenged by the assessee. This addition made by the Ld. A.O on account of income from computer programming. Ld. CIT(A) has confirmed this addition stating that since this ground was not

raised in the first round of appeal assessee cannot claim it in the second round. Now the assessee is in appeal before the Tribunal.

144. Ld. Counsel for the assessee referred and relied by the written submissions.

145. Ld. Departmental Representative vehemently argued supporting the order of both the lower authorities.

146. We have heard rival contentions and perused the records placed before us. Assessee has challenged the addition of Rs.92,426/- made by Ld. A.O and confirmed by Ld. CIT(A). On perusal of the written submissions and on going through the computation of income filed by the assessee along with Income Tax Return we observe that there was an apparent error made by the Ld. A.O in understanding the computation of income. We find that in Profit & Loss account of the business shown by the assessee, assessee has also shown salary income of Rs.64,000/- and interest and bank interest of Rs. 28,426/-. While preparing computation of income assessee has reduced these two incomes from net profit shown in the Profit & Loss account to arrive at the profit from business. Salary income of Rs.64,000/- and interest income of

Rs.28,426/- stands duly offered to tax under the head income from salary and income from other sources in the computation of income. The copy of the same is fled at page 148 of paper book. We therefore in the given facts and circumstances of the case find that the alleged amount of Rs.92,426/- disallowed by the Ld. A.O treating it as expenses of M/s Sarita Consultancy not allowable is uncalled for as the alleged amount of Rs.92,426/- comprises of income from salary and bank interest which are already offered to tax. Thus we direct the revenue authorities to delete the addition of Rs.92,426/- and allow Ground No.2 raised by the assessee.

147. Now we take up Ground No.3 of assessee's appeal for Assessment Year 2005-06 through which the assessee has challenged the finding of Ld. CIT(A) confirming the action of Ld. A.O of making addition for unexplained capital account addition at Rs. 8,73,364/-. During the assessment proceedings assessee was directed to explain the source of the capital addition. Assessee made submissions which are not found satisfactory. No relief was given by Ld. CIT(A) and now the assessee is in appeal before the Tribunal.

148. Ld. Counsel for the assessee vehemently argued supporting the written submissions placed at page 14 & 15 of paper book contending that all the amounts are duly explained which includes the amount utilized through limits given by State Bank of India, payments made from M/s Anand Organics (Proprietary concern of assessee's husband) and withdrawal from personal account and depositing through account payee cheque in M/s Anand Coatings.

149. Ld. Departmental Representative vehemently argued supporting the orders of both the lower authorities.

150. We have heard rival contentions and perused the records placed before us and carefully gone through the records. Through Ground No.3 addition of Rs.8,73,364/- is in challenge for Assessment Year 2005-06. Ld. CIT(A) confirmed the addition made by Ld. A.O on account of unexplained addition to capital account during the year. We observe that the assessee runs sole proprietaryship concern M/s Anand Coatings, this concern was stated during the year. To run the business assessee transferred funds towards capital. The alleged amount of Rs.8,73,364/- majorly includes 3 items totaling to Rs.8,72,000/- for which the Ld.

Counsel for the assessee has again given the particulars in the chart which is reproduced below:-

A.Y		Addition	CIT(A) remarks	Submission	PB ref
2005-06	1,80,000	Limit utilized from SBI	The appellant has taken overdraft, which should appear in the liability side of the balance sheet instead of capital account	M/s Anand Coatings is a separate accounting entity from the proprietor. The overdraft was taken in personal capacity of the assessee and introduced as a capital.	-
	2,72,000	Paid from Anand Organics, a proprietary concern of her husband.	The appellant failed to furnish any cogent evidence in this regard.	There is a debit balance in the name of assessee in the books of Anand Orgnics.	Assessee's ledger account in the books of M/s Anand Organics is annexed at PAPER BOOK-160. The receipt was through banking channel.
	4,21,000	Withdrawal from Sarita Chawla's personal account and deposited in Anand Coatings.	The source of such funds in the personal account of the assessee is unexplained .	The amount was introduced by way of account payee cheques from the assessee's personal account which is evident from the Capital of M/s Anand	Capital Account of M/s Anand Coatings for relevant assessment year annexed at PAPER BOOK-158-

				Coatings.	159.
2006-07	5,31,356	Income from sale of shares introduced in Anand Coatings	Accepted the submission and deleted the addition	The assessee received this amount on account of sale of her shares, and then introduced as capital. The long term capital gains arising of such sale is also reflected in the return filed by the assessee.	Return filed u/s 139 annexed at PB187. Computation of income showing capital gains is annexed at PB-188.

151. We have gone through above details. Rs.18,000/- is from limits utilized from State Bank of India, Rs.2,72,000/- has been received from M/s Anand Organics (Prop. Prem Chawla who is the husband of the assessee) and Rs.4,21,000/- through account payee cheque on various dates from assessee's own saving bank account held with Bank of India. We observe that all the above stated transactions are appearing in the capital account of Smt. Sarita Chawla which is part of audited profit & loss account. Balance sheet of M/s Anand Coatings is duly audited u/s 44AB of the Act. The alleged addition of Rs.8,72,000/- are of those transactions which are entered through banking channel. All these details are

available before the revenue authorities. No efforts were made to verify the genuineness of the claim made by the assessee. The addition has been made by the Ld. A.O on summary basis even when the assessee passed through the assessment proceedings twice. Even Ld. CIT(A) has not made any efforts to examine the transactions. In these given facts and circumstances of the case we find no reason to disbelieve the claim made by the assessee which are through banking channel, through her own saving bank account and some transactions through her husband's proprietary concern which is also a part of appeal before us. We thus direct the revenue authorities to delete the addition of Rs.8,73,364/-. Thus the finding of Ld. CIT(A) is set aside and Ground No.3 of the assessee for Assessment Year 2005-06 is allowed.

152. All the remaining grounds raised by the assessee are either consequential, premature and general in nature which needs no adjudication.

153. In the result appeal of the assessee for Assessment Years 2000-01 to 2004-05 is allowed and for Assessment Years 2005-06 and 2006-07 is partly allowed.

154. In the result appeals filed by the assessee Late Smt. Sudesh Chawla (Through Legal Heir Shri Prem Chand Chawla) through IT(SS)A No.158 to 163/Ind/2015 for Assessment Year 2000-01 to 2005-2006 & ITANo.441/Ind/2015 for Assessment Year 2006-07 and that of Revenue's Appeal for Assessment Year 2006-07 in ITA, No.405/Ind/2015 are partly allowed. In the case of Shri Prem Chawla for all the appeals for Assessment Years 2000-01 to 2005-06 in IT(SS)A No.170 to 175/Ind/2015 and for Assessment Year 2006-2007 & ITA. No.443/Ind/2015 are partly allowed & for Smt. Sarita Chawla in IT(SS)A No.164 & 168/Ind/2015 for Assessment Year 2000-01 & 2004-05 are allowed and IT(SS)A No. 169/Ind/2015 for A.Y. 2005-2006 & ITA. No.442/Ind/2015 for A.Y.2006-07 are partly allowed.

Order was pronounced in the open court on 26 .11.2020.

Sd/-
(KUL BHARAT)
JUDICIAL MEMBER

Sd/-
(MANISH BORAD)
ACCOUNTANT MEMBER

Indore; दिनांक Dated : 26th November, 2020
/Dev

IT(SS)ANos.158 to 175/Ind/2015 && others
Chawla Group

Copy to: Assessee/AO/Pr. CIT/ CIT (A)/ITAT (DR)/Guard file.

By order
Assistant Registrar, Indore