

**अपीलीय अधिकरण, इन्दौर न्यायपीठ, इन्दौर**

**IN THE INCOME TAX APPELLATE TRIBUNAL  
INDORE BENCH, INDORE**

**BEFORE SHRI MAHAVIR PRASAD, JUDICIAL MEMBER  
AND  
SHRI MANISH BORAD, ACCOUNTANT MEMBER  
(Virtual hearing)**

**IT(SS)A Nos.14 to 17/Ind/2017  
Assessment Years: 2009-10 to 2012-13**

ACIT, Central-2 Indore (Appellant)	<b><u>बनाम/</u></b> Vs.	M/s. Ajitnath Reality P. Ltd., Indore  (Respondent)
PA No. AAFCA 5071 M		

**C.O. No.15/Ind/2018  
(Arising out of IT(SS)A No.17/Ind/2017)  
Assessment Year: 2012-13**

M/s. Ajitnath Reality P. Ltd., Indore (Appellant)	<b><u>बनाम/</u></b> Vs.	ACIT, Central-2 Indore  (Respondent)
PA No. AAFCA 5071 M		

**IT(SS)A Nos.20 & 21/Ind/2017**  
**Assessment Years: 2011-12 & 2012-13**

ACIT, Central-2 Indore	<u>बनाम/</u>	M/s. Padamprabhu Infrastructure & Reality P. Ltd., Indore
(Appellant)	Vs.	(Respondent)
PA No. AAACP 3708 P		

**IT(SS)A Nos.127/Ind/2017 &**  
**IT(SS)A Nos.727/Ind/2018**  
**Assessment Years: 2012-13 & 2011-12**

ACIT, Central-2 Indore	<u>बनाम/</u>	M/s. Venus Enterprises, Indore
(Appellant)	Vs.	(Respondent)
PA No. AAHFV 5486 E		

Department by	Shri S.S. Mantri, CIT-DR
Assessee by	S/Shri C.P. Rawka & Venus Rawka, CAs

<b>Date of Hearing:</b>	<b>06.10.2021</b>
<b>Date of Pronouncement:</b>	<b>26.11.2021</b>

**आदेश / O R D E R**

**PER MANISH BORAD:**

The above captioned appeals filed by the Revenue and Cross-objection filed by the assessee are directed against the different orders of Ld. Commissioner of Income Tax(Appeals)-III,

[in short 'CIT(A)'], Indore dated 26.10.2016, 26.10.2016, 23.11.2016 & 07.6.2018 passed in different assessment orders relating to Section 153A/143(3) dated 31.3.2015, 31.3.2015, 31.3.2015 & 25.2.2016, respectively. Both the parties submitted that the lead case is Ajitnath Reality P. Ltd. and the decision taken for the assessment year 2009-10 will be applicable in the present group appeals as the same are also having identical facts and issue. Thus, we shall take up the case of Ajitnath Reality P. Ltd. for the assessment year 2009-10 to 2012-13 at first wherein, the Revenue has raised the grounds in the departmental appeals as under:

**Ajitnath Reality P. Ltd.**

**Grounds of appeal in IT(SS)A No.14/Ind/2017 (A.Y. 2009-10)**

- “1. On the facts and in the circumstances of the case the Ld. CIT(A) erred in deleting the addition of Rs.42,75,63,950/- made by the AO on account of undisclosed sales from Silicon City Project without appreciating the facts and evidences brought into light by the A.O. during assessment proceeding.
2. On the facts and in the circumstances of the case the Ld. CIT(A) erred in allowing the appeals of assessee by accepting the additional evidences of affidavits for retraction of statements of purchaser of plot in Silicon City Project.”

**Grounds of appeal in IT(SS)A No.15/Ind/2017 (A.Y. 2010-11)**

- “1. On the facts and in the circumstances of the case the Ld. CIT(A) erred in deleting the addition of Rs.86,76,80,515/- made by the AO on account of undisclosed sales from Silicon City Project without appreciating the facts and evidences brought into light by the A.O. during assessment proceeding.
2. On the facts and in the circumstances of the case the Ld. CIT(A) erred in allowing the appeals of assessee by accepting the additional

*evidences of affidavits for retraction of statements of purchaser of plot in Silicon City Project.”*

Grounds of appeal in IT(SS)A No.16/Ind/2017 (A.Y. 2011-12)

*“1. On the facts and in the circumstances of the case the Ld. CIT(A) erred in deleting the addition of Rs.14,06,73,816/- made by the AO on account of undisclosed sales from Silicon City Project without appreciating the facts and evidences brought into light by the A.O. during assessment proceeding.*

*2. On the facts and in the circumstances of the case the Ld. CIT(A) erred in allowing the appeals of assessee by accepting the additional evidences of affidavits for retraction of statements of purchaser of plot in Silicon City Project.”*

Grounds of appeal in IT(SS)A No.17/Ind/2017 (A.Y. 2012-13)

*“1. On the facts and in the circumstances of the case the Ld. CIT(A) erred in deleting the addition of Rs.11,80,86,176/- made by the AO on account of undisclosed sales from Silicon City Project without appreciating the facts and evidences brought into light by the A.O. during assessment proceeding.*

*2. On the facts and in the circumstances of the case the Ld. CIT(A) erred in allowing the appeals of assessee by accepting the additional evidences of affidavits for retraction of statements of purchaser of plot in Silicon City Project.”*

Grounds of appeal in CO No.15/Ind/2018 filed by the assessee for the A.Y. 2012-13

*“1. On the facts and in the circumstances of the case the Ld. CIT(A) erred in confirming the addition of Rs.15,26,400/- made by the Assessing Officer on account of undisclosed sales for the assessment year 2012-13.”*

2. The only issue involved in the departmental appeals in case of Ajitnath Reality P. Ltd. relates to deletion of the additions made by the Assessing Officer on account of undisclosed sales from Silicon City Project. Briefly stated facts as culled

out from the records are that the assessee filed return of income for the above assessment years declaring total income as under:

Assessment Year	Date of filing of return u/s 139(1)	Returned Income
2009-10	12/09/2009	Rs.21,71,160/-
2010-11	14/08/2010	Rs.2,33,26,660/-
2011-12	07/09/2011	Rs.2,63,64,810/-
2012-13	31/08/2012	Rs.1,50,77,910/-

Search and Seizure operations u/s 132 were carried out on the business as well as residential premises of the Jhaveri Group, Indore including the assessee along with other concerns/business associates on 21/09/2012. Notices u/s 153A were issued to the assessee and in compliance, the assessee filed returns of income declaring the same total income as filed in the original return. Notice u/s 143(2) was issued along with questionnaire u/s 142(1) and in response, the assessee from time to time furnished written submissions along with supporting documents. Subsequently, the assessment order was passed by Assessing Officer on 31/03/2015 by making following additions:

Assessment Year	Returned Income	Total Additions to Income
2009-10	Rs.21,71,160/-	Rs.42,75,63,950/-
2010-11	Rs.2,33,26,660/-	Rs.86,76,80,515/-

2011-12	Rs.2,63,64,810/-	Rs.14,06,73,816/-
2012-13	Rs.1,50,77,910/-	Rs.11,96,12,576/-

The Assessing Officer made the above additions on the basis of some letters received from four people namely Shri Dinesh Purohit, Smt. Manisha Patel, Shri Ankit Jain and Smt. Vijaya Pawar where they have stated that they paid on money over and above the amount for which the Registries have been done.

3. Being aggrieved, the assessee filed appeal before the ld. CIT(A) and also raised additional grounds stating that the provisions of Section 153A are not applicable in the absence of any incriminating material found and seized during the course of the search. However, the ld. CIT(A) having gone through the assessment order and the appellant's contentions, was of the opinion that no incriminating evidence pertaining to the project Silicon City has been found and seized during the course of the search. Thus, the appeal was partly allowed by the ld. CIT(A) deleting the additions completely in assessment year 2009-10, 2010-11 and 2011-12. Whereas for the assessment year 2012-13, addition of Rs.15,26,400/- was confirmed and balance amount of Rs. 11,80,86,176/- was deleted.

4. Being aggrieved, the Revenue is in appeals before this Tribunal whereas the assessee has filed cross-objection for the assessment year 2012-13.

5. The ld. CIT-DR relied upon the order of the Assessing Officer. Per contra, the ld. counsel for the assessee referred and relied on the findings of Ld. CIT(A) to the extent of deletion of additions and submitted that no single incriminating document pertaining to assessee was found/seized from the assessee's premises relevant to the project Silicon City. But, the Assessing Officer presumed on the basis of some letters received from four persons that the assessee accepted large portion of Sale Consideration on sale of land in cash and the same was not accounted for by them which was not justified as the additions were made by the Assessing Officer without appreciating the fact that neither any cash was found or seized nor any document relating to cash receipts was found or seized during the search proceedings. Thus, learned Counsel for the assessee contended that the confirmation of the addition of Rs.15,26,400/- by the ld. CIT(A) was not justified as ld. CIT(A) deleted the additions holding

that no incriminating evidence material was found during the course of search operation.

6. We have heard the rival contentions and carefully perused the records placed before us. We find that the Ld. CIT-DR, except placing his reliance on the findings of the Assessing Officer, could not bring any corroborative material on record to justify the additions made by the Assessing Officer. We find that the ld. CIT(A) having gone through the material available on record, submissions and relevant judicial pronouncements deleted the additions by observing as under:

*“The assessing officer has relied on the statements of four persons to reach the conclusion that M/s Ajitnath Reality Pvt. Ltd., M/s Padamprabhu Infrastructure and Reality Pvt. Ltd. And M/s Venus Enterprises have accepted larger portion of the sale considerations in cash and the same was not accounted for by them. However, nothing has been brought on record whether the correctness or genuineness of the statements was investigated. The source of alleged on money paid to the appellant company has not been examined by the assessing officer. The 4 customers who had given statements accepting the payment of on money have not been subjected to any query on the source of the investment regarding payment of the on money. This point becomes significant as it was brought up by the appellant in its submissions before the assessing officer.  
.....*

*To sum up, the assessing officer has primarily made the addition on the basis of testimonies of 4 persons out of*

*which the testimony of 2 persons is discredited after the filing of the Affidavits by the appellant in the appeal proceedings. Further, there is a violation of the principles of natural justice as the appellant was not permitted to cross examine the person on whose statement the assessing officer relied, it would amount to deficiency, amounting to a denial of opportunity and therefore, violation of principles of natural justice. The assessing officer also did not verify whether such persons declared the aforesaid higher price paid for the purchase of property than shown in sale deed in their individual Income Tax returns. In the absence of any evidence linking the payments stated to have been paid by 4 purchasers of the plots, merely based on their statements it could not be stated that the appellant has received additional consideration. The assessing officer cannot base a decision on assumption of probabilities and it has to be proved beyond doubt supported by evidence that the appellant has received additional consideration for the sale of plots over and above shown in its books of accounts.”*

7. We find that having made observations as above, the Id. CIT(A) elaborately discussed each and every aspect which were formed the basis by Assessing Officer for making additions. The findings were supported by detailed reasoning and explanations which were based on the facts and after considering the same in the light of the relevant judicial pronouncements cited in the impugned order, the Id. CIT(A) deleted the additions and recorded the observations. Further, we find that out of four persons whose

statements were relied upon by the Assessing Officer, two have discredited the statement and retracted from the same via affidavits as submitted by the assessee during first appellate proceedings. It is worthy to mention that the said affidavits cannot be said to be additional evidences but the same are supporting documents in respect of the assessee's contention as the affidavits submitted were not like any old document which existed during the assessment/search proceedings but was produced later before the appellate authorities because those were actually acquired by the assessee later from those people looking to the requirement of the matter. An additional evidence will be something that was already in existence previously but was submitted later, and this was not so in the present matter. Therefore, it cannot be termed as an additional evidence but as a supporting document. Further, we find that during the course of assessment proceedings, the assessee was not provided with the opportunity of cross-examination with the concerned persons on whose statements reliance was placed by the Assessing Officer. Thus, the Assessing Officer ignored the same leading to violations of principles of Natural Justice which is unjustified in view of the

ratio laid down in the case of *Andaman Timber Industries Vs CCE 281 CTR 241 (SC)*, wherein it was held as under:-

*“Not allowing assessee to cross-examine witness by Adjudication Authority through state men soft house witness were made abases impugned order amounted in serious flaw which making impugned order nullity a sit amounted to violation of principles of natural justice.”*

The identical ratio was laid down in the following judicial pronouncements:

- I. Commissioner of Income-tax, Central, Jaipur v. Smt. Sunita Dhadda [2018] 100 taxmann.com 525 (Rajasthan)
- II. Smt. Manorama Singhal Indore V/s ITO-3(2), Indore [ITA NO. 130/IND/2020] [ INDORE ITAT BENCH]

8. We also find that during the search proceedings no incriminating material was found from the assessee's premises relevant to the project Silicon City, therefore, the Assessing Officer wrongly presumed on the basis of some letters received from four persons that the assessee accepted large portion of Sale Consideration on sale of land in cash and the same was not accounted for by them. Thus, the additions were made by the Assessing Officer without appreciating the fact that neither any cash was found or seized nor any document relating to cash

receipts was found or seized during the search proceedings. Ld. CIT(A) also noted the same and rightly deleted the additions discussing the facts, submissions in the light of the relevant judicial pronouncements. However, we are of the view that when ld. CIT(A) had made detailed discussion on facts and recorded the finding that no incriminating evidence material was found during the course of search operation and also the contention of the learned Counsel for the assessee that letters relied upon by Assessing Officer were not made available to assessee during the course of assessment proceedings and to the CIT(A) during the course of appeal hearings as such on that basis, ld. CIT(A) should have also deleted the addition of Rs.15,26,400/- for the assessment year 2012-13 because in view of the above facts and relevant judicial pronouncements, no addition was called for the assessment year 2012-13 too. Therefore, we direct to delete the same. Thus, we confirm the findings of the ld. CIT(A) in respect of deletion of additions and reverse the order of the ld. CIT(A) in respect of confirmation of addition of Rs.15,26,400/-. Accordingly, departmental appeals for the assessment year 2009-10 to 2012-13 are dismissed whereas the cross-objection filed by the assessee is allowed.

**Padamprabhu Infrastructure & Reality P. Ltd.**

9. Now, we shall take up the departmental appeals in case of Padamprabhu Infrastructure & Reality P. Ltd. wherein the Revenue has raised the following grounds in departmental appeals: -

**Grounds of appeal in IT(SS)A No.20/Ind/2017 (A.Y. 2011-12)**

*“1. On the facts and in the circumstances of the case the Ld. CIT(A) erred in deleting the addition of Rs.1,00,30,044/- made by the AO on account of undisclosed sales from Silicon City Project without appreciating the facts and evidences brought into light by the A.O. during assessment proceeding.*

*2. On the facts and in the circumstances of the case the Ld. CIT(A) erred in allowing the appeals of assessee by accepting the additional evidences of affidavits for retraction of statements of purchaser of plot in Silicon City Project.*

*3. On the facts and in the circumstances of the case the Ld. CIT(A) erred in deleting the addition of Rs. 58,50,000/- made by AO on account of deemed dividend u/s2(22)(e) of the Act without appreciating the facts and evidences brought into light by the A.O. during assessment proceedings.”*

**Grounds of appeal in IT(SS)A No.21/Ind/2017 (A.Y. 2012-13)**

*“1. On the facts and in the circumstances of the case the Ld. CIT(A) erred in deleting the addition of Rs.76,06,744/- made by the AO on account of undisclosed sales from Silicon City Project without appreciating the facts and evidences brought into light by the A.O. during assessment proceeding.*

*2. On the facts and in the circumstances of the case the Ld. CIT(A) erred in allowing the appeals of assessee by accepting the additional evidences of affidavits for retraction of statements of purchaser of plot in Silicon City Project.*

*3. On the facts and in the circumstances of the case the Ld. CIT(A) erred in deleting the addition of Rs.91,00,000/- made by AO on account of deemed dividend u/s2(22)(e) of the Act without appreciating the facts*

*and evidences brought into light by the A.O. during assessment proceedings.”*

10. Facts, in brief, are that the assessee has filed return of income for the above assessment years declaring total income as under:

Assessment Year	Date of filing of return u/s139(1)	Returned Income
2011-12	12/09/2011	Rs. 28,53,670/-
2012-13	03/09/2012	Rs. 11,20,860/-

Search and Seizure operations u/s 132 were carried out on the business as well as residential premises of the Jhaveri Group, Indore including the assessee along with other concerns/business associates on 21/09/2012. Notices u/s 153A were issued to the assessee in compliance to which the assessee filed returns of income declaring the same total income as filed in the original return. Notice u/s 143(2) was issued along with questionnaire u/s 142(1), in response to which the assessee from time to time furnished written submissions along with supporting documents. Subsequently, the assessment order was passed by Assessing Officer on 31/03/2015 by making following additions:

Particulars	Assessment Year	
	2011-12	2012-13
Returned Income	Rs. 28,53,670/-	Rs. 11,20,860/-
Add: Addition on account of undisclosed receipts	Rs. 1,00,30,044/-	Rs. 76,06,744/-
:Addition on account of Deemed Dividend u/s 2(22)(e)	Rs. 58,50,000/-	Rs. 91,00,000/-
<b>Total Assessed Income</b>	<b>Rs.1,87,33,710/-</b>	<b>Rs.1,78,27,600/-</b>

The Assessing Officer made the above additions on the basis of some letters received from four people namely Shri Dinesh Purohit, Smt. Manisha Patel, Shri Ankit Jain and Smt. Vijaya Pawar where they have stated that they paid on money over and above the amount for which the Registries have been done.

### **Ground Nos.1 & 2**

11. From above, it is clear that facts and ground nos.1 & 2 of the case of Padamprabhu Infrastructure and Reality P Ltd. are identical to the case of M/s Ajitnath Reality Pvt. Ltd. as also submitted by both the parties. Ld. CIT(A) while deleting the additions relied upon the decision in the case of M/s. Ajitnath Reality Pvt. Ltd. wherein absolutely same issue was dealt with and it was held by the ld. CIT(A) that no incriminating evidence pertaining to the project Silicon City was found and seized during the course of the search. Therefore, our above decision given in

the case of M/s Ajitnath Reality Pvt. Ltd. shall prevail in the case of the Padamprabhu Infrastructure and Reality P Ltd. Following the same decision above, we do not find any infirmity in the order of the ld. CIT(A) on ground nos.1 & 2. Accordingly, ground nos.1 & 2 of the departmental appeals in case of Padamprabhu Infrastructure and Reality P Ltd. for both the assessment years i.e. 2011-12 & 2012-13 are dismissed.

**GroundNo.3:**

12. So far as ground no.3 with regard to deletion of addition made by AO on account of deemed dividend u/s2(22)(e) of the Act is concerned, the facts as culled out from the record are that the assessee co. had received unsecured loan from M/s Ajitnath Reality Pvt. Ltd. in the assessment years 2011-12 & 2012-13. Mr. Mukesh Jhaveri and Mr. Abhishek Jhaveri hold 50% shares each of the assessee co. and more than 20% shares in M/s Ajitnath Reality Pvt. Ltd. The Assessing Officer did not agree with the contention of the assessee that the amounts received from M/s Ajitnath Reality Pvt. Ltd. were in the nature of business receipts and only classified as unsecured loan in the balance-sheet and accordingly, the Assessing Officer invoked the provisions of Section 2(22)(e) of the I.T. Act.

13. Being aggrieved, the assessee went in appeals for both the present assessment years before the ld. CIT(A) who deleted the additions in the light of the decision of ITAT, Indore in the case of *Makhija Construction Co. vs. ACIT (2011) 16 taxmann.com 230* and other relevant decisions as the assessee co. is not a registered holder of shares of M/s Ajitnath Reality Pvt. Ltd.

14. Now, the Revenue is in appeals for both the present assessment years.

15. The ld. CIT-DR relied upon the order of the Assessing Officer. Per contra, the ld. counsel for the assessee referred and relied on the findings of Ld. CIT(A) and submitted that the assessee co. is not a registered holder of shares of M/s Ajitnath Reality Pvt. Ltd., therefore, ld. CIT(A) rightly deleted the additions for both the assessment years.

16. We have heard the rival contentions and carefully perused the records placed before us. We find that the ld. CIT(A) having gone through the material available on record, submissions and relevant judicial pronouncements deleted the additions by observing as under:

*“There are several judicial decisions where in it has been held that the assessee must be both registered as well as beneficial shareholder of the company from whom the loan is received for applicability of section 2(22)(e). To attract the provisions of Section 2(22)(e), the payment must be to a person who is registered holder of shares. The appellant company is not a registered holder of shares of M/s Ajitnath Reality Pvt. Ltd. and therefore, the provisions of Section 2(22)(e) would not be applicable.”*

17. Before us, the Ld. CIT-DR, except placing his reliance on the findings of the Assessing Officer, could not bring any corroborative material on record to justify the additions made by the Assessing Officer. We find that the additions on account of deemed dividend u/s 2(22)(e) were not valid as the provisions of Section 2(22)(e) did not apply in the assessee's case as specifically recorded by the ld. CIT(A) in the appellate order in the light of the decision of the ITAT, Indore in case of *Makhija Construction Co. vs. ACIT* (supra) wherein relying upon several decisions of Hon'ble Supreme Court and Special Bench, it was held that if the assessee co. is not a registered holder of shares, the provisions of Section 2(22)(w) would not be applicable. In the instant case, since the assessee co. is not a registered holder of shares of M/s Ajitnath Reality Pvt. Ltd., we are of the view that ld. CIT(A) has rightly deleted the additions following the relevant judicial pronouncement. Therefore, we confirm the findings of the ld.

CIT(A) on this issue. Accordingly, ground no.3 raised in the departmental appeals of Padamprabhu Infrastructure and Reality P Ltd. are dismissed for both the present assessment years. Thus, both the appeals filed by the department in the case of Padamprabhu Infrastructure and Reality P Ltd. are dismissed.

### **M/s. Venus Enterprises**

18. Now, we shall take up the departmental appeals in case of M/s. Venus Enterprises wherein the Revenue has raised the following grounds in departmental appeals: -

#### **Grounds of appeal in ITA No.127/Ind/2017 (A.Y. 2012-13)**

*“1. On the facts and in the circumstances of the case the Ld. CIT(A) erred in deleting the addition of Rs.9,24,40,503/- made by the AO on account of undisclosed sales from Silicon City Project without appreciating the facts and evidences brought into light by the A.O. during assessment proceeding.*

*2. On the facts and in the circumstances of the case the Ld. CIT(A) erred in allowing the appeals of assessee by accepting the additional evidences of affidavits for retraction of statements of purchaser of plot in Silicon City Project.*

#### **Grounds of appeal in ITA No.727/Ind/2018 (A.Y. 2011-12)**

*“1. On the facts and in the circumstances of the case the Ld. CIT(A) erred in deleting the addition of Rs.4,36,48,275/- made by the AO on account of undisclosed sales from Silicon City Project without appreciating the facts and evidences brought into light by the A.O. during assessment proceeding.*

*2. On the facts and in the circumstances of the case the Ld. CIT(A) erred in not appreciating the facts that the assessee did not make any request neither during the search/post search operation nor during the assessment proceeding to cross examine the statements*

*recorded on oath of the purchasers/customers of the assessee which served as the basis for framing the above mentioned addition by the Assessing Officer.*

*3. On the facts and in the circumstances of the case the Ld. CIT(A) erred in not appreciating the fact that all statements of the purchasers/customers of the assessee were recorded on oath and that retraction of such duly signed statement is merely an afterthought and is not acceptable in coherence to the principle of law laid down in the case of Deepchand & Co. ACIT reported at 51 TTJ 421 (Bom.)”*

19. Facts as culled out from the record are that the assessee had filed return of income for the above assessment years declaring total income as follows:

<b>Assessment Year</b>	<b>Date of filing of return u/s 139(1)</b>	<b>Returned Income</b>
2011-12	07/09/2011	Rs. 29,97,040/-
2012-13	15/09/2012	Rs. 54,26,570/-

The case was selected for scrutiny through CASS and notice u/s 143(2) was issued and detailed questionnaire along with notice u/s 142(1) was served upon the assessee. In response, the assessee from time to time furnished written submissions along with supporting documents. Thereafter, search and seizure operations u/s 132 were carried out on the business as well as residential premises of the Jhaveri Group, Indore including the assessee firm along with other concerns/business associates on 21.09.2012. During post search enquiries, it was found that few

purchasers of plots stated that the plots were sold at higher rates than shown in registered sale deed. Thus, on the basis of those statements, the Assessing Officer formed reasons to believe that the assessee firm has escaped assessment within the meaning of section 147 of the Income Tax Act, 1961. Accordingly, notice u/s 148 was issued and duly served to the assessee firm. In response to the notice, the assessee vide letter dated 11.03.2015 stated that the return filed u/s 139(1) may be treated as return filed u/s 148 of the Act. Subsequently, the Assessing Officer u/s 143(3) r.w.s. 147 of the Income Tax Act, 1961 passed assessment order dated 25.02.2016 for AY 2011-12 and for AY 2012-13 passed assessment order u/s 143(3) on 31.03.2015 making additions to the returned income on account of undisclosed receipts and assessed the total income as follows:

<b>Assessment Year</b>	<b>Returned Income</b>	<b>Total Additions to Income</b>	<b>Assessed Income</b>
2011-12	Rs. 29,97,040/-	Rs. 4,36,48,275/-	Rs. 4,66,45,320/-
2012-13	Rs. 54,26,570/-	Rs. 9,24,40,503/-	Rs. 9,78,67,070/-

The Assessing Officer made the above additions on the basis of some letters received from four people namely Shri Dinesh Purohit, Smt. Manisha Patel, Shri Ankit Jain and Smt. Vijaya

Pawar where they have stated that they paid on money over and above the amount for which the Registries have been done.

**Ground Nos.1 to 3**

20. From above, it is clear that facts and grounds of the case of M/s. Venus Enterprises are identical to the case of M/s Ajitnath Reality Pvt. Ltd. as also submitted by both the parties. Id. CIT(A) while deleting the additions relied upon the decision in the case of M/s. Ajitnath Reality Pvt. Ltd. wherein the same issue was dealt with and it was held by the Id. CIT(A) that no incriminating evidence pertaining to the project Silicon City was found and seized during the course of the search. Therefore, our above decision given in the case of M/s Ajitnath Reality Pvt. Ltd. shall prevail in the case of the M/s. Venus Enterprises. Following the same decision above, we do not find any infirmity in the order of the Id. CIT(A) on ground nos.1 to 3. Accordingly, ground nos.1 to 3 of the departmental appeals in case of M/s. Venus Enterprises for both the assessment years i.e. 2012-13 & 2011-12 are dismissed.

21. Finally, all departmental appeals i.e. IT(SS)A Nos.14 to 17/Ind/2017 filed in case of M/s. Ajitnath Reality P. Ltd., IT(SS)A

Nos.20 & 21/Ind/2017 filed in case of Padamprabhu Infrastructure & Reality P. Ltd. and ITA No.127/Ind/2017 & ITA No.727/Ind/2018 filed in case of Venus Enterprises are dismissed whereas the only Cross-objection No.15/Ind/2018 filed in case of M/s. Ajitnath Reality P. Ltd. is allowed.

Order was pronounced as per Rule 34 of I.T.A.T., Rules 1963 on 26.11.2021.

Sd/-

(MAHAVIR PRASAD)  
JUDICIAL MEMBER

Sd/-

(MANISH BORAD)  
ACCOUNTANT MEMBER

Indore; दिनांक Dated : 26.11.2021

*!vyas!*

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

By order

**Assistant Registrar, Indore**