

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“E” BENCH, MUMBAI**

**BEFORE SHRI AMIT SHUKLA, JM &  
SHRI M BALAGANESH,AM**

आयकरअपीलसं./ I.T.A. No.1435/Mum/2022  
(निर्धारणवर्ष /Assessment Year: 2014-15)

<b>Deputy Commissioner of Income Tax, Centre- Circle-6(4)</b> Room No. 1925, 19 <sup>th</sup> Floor, Air India Building, Nariman Point, Mumbai- 400 021	<b>बनाम/ Vs.</b>	<b>Shri. Saurabh Mittal</b> A-19, House No.A-01, A-32, Westend, New Delhi-110 021
स्थायीलेखासं ./जीआइआरसं ./PAN No <b>ANAPM2488D</b>		
(अपीलार्थी/ <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )

आयकरअपीलसं./ I.T.A. No.334 & 333/Mum/2022  
(निर्धारणवर्ष /Assessment Year: 2014-15 & 2015-16)

<b>Shri. Saurabh Kumar Mittal</b> Room No.543, 5 <sup>TH</sup> Floor, Ayankar Bhavan, M.K.Road, Mumbai-400 020.	<b>बनाम/ Vs.</b>	<b>Deputy Commissioner of Income Tax, Centre-Circle- 6(4)</b> Room No. 1925, 19 <sup>th</sup> Floor, Air India Building, Nariman Point, Mumbai-400 021
स्थायीलेखासं ./जीआइआरसं ./PAN No <b>ANAPM2488D</b>		
(अपीलार्थी/ <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )

अपीलार्थीकीओरसे/ <b>Appellant by</b>	:	Shri Jitendra Joshi, Ld. AR
प्रत्यर्थीकीओरसे/ <b>Respondent by</b>	:	Shri. A. B. Koli, Ld. DR
सुनवाईकीतारीख/ <b>Date of Hearing</b>	:	25.08.2022
घोषणाकीतारीख / <b>Date of Pronouncement</b>	:	31.10.2022

आदेश / O R D E R

**Per Amit Shukla, Judicial Member:**

The aforesaid appeal for AY 2014-15 has been filed by the revenue as well as assessee against order dated 23.12.2021, passed by Ld. CIT (A)-54 Mumbai for the quantum of assessment passed u/s 153C r.w.s. 143(3); and appeal for AY 2015-16 has been filed by the assessee against the order of even date 23.12.2021 for the quantum of assessment passed u/s 153C r.w.s. 143(3) of the Act.

2. Since the issues involved in all the appeals are common arising out of identical set of facts, therefore the same were heard together and is being disposed of by way of this consolidated order.

3. The revenue has raised the following grounds of appeal:-

1. *“On the Facts and in the circumstances of the case, whether the learned CIT(A) erred in deleting the addition on account of Unexplained money u/s 69A of Rs. 17,47,66,250/-, the details of which were maintained in the Cash Transaction Record maintained in an excel sheet by Shri Ashok Sharma, which was found and seized during the search in the case of the Indiabulls Group.”*
2. *“On the facts and in the circumstances of the case, whether the learned CIT(A) was justified in relying upon the decision of the Hon;ble Income Tax Settlement Commission under section*

245D(4) of the Income Tax Act, 1961, dated 30.04.2019, in the case of 16 other Indiabulls Group entities which has been challenged before the Hon;ble High Court by the revenue, in Writ Petition No. 330 of 2020, as these 16 entities of the Indiabulls Group had not made true and full disclosure before the Hon'ble Commission.”

3. “On the facts and circumstances of the case, whether the learned CIT(A) erred in holding that all the entries of the Cash Transaction Record has been offered by the 16 entities of the Indiabulls Group, which had filed applications before the Hon'ble Income Tax Settlement Commission, without quantifying and identifying, which of the 16 entities, who were before the Hon'ble Income Tax Settlement Commission offered the income relevant to the entries found in the name of the assessee.”

4. Whereas the assessee has raised the following grounds in I.T.A. No.334/Mum/2022 for AY 2014-15:-

1. “The Commissioner of Income Tax (Appeals)54, Mumbai [hereinafter referred as CIT(a)] erred in confirming the action of the Assessing Officer in issuing notice u/s 153 C as well as passing order u/s 143(3) r.w.s. 153C of the Income Tax Act, 1961 (Act) without appreciating that a search u/s 132 of the Act took place at the Appellants premises; hence, notice ought to have been issued u/s 153A of the Act.

2. *In the alternative and without prejudice to the grounds of appeal number 1, the CIT(A) erred in confirming the action of the Assessing Officer in issuing notice u/s 153C as well as passing order u/s 143(3) r.w.s. 153 C of the Act without bringing out any satisfaction that the alleged money found at the premises of the Indiabulls Group “belongs to” the Appellant or any books of accounts or documents found at the premises of Indiabulls Group “relates to” the Appellant.*
3. *The CIT(A) erred in confirming the action of the Assessing Officer in passing the assessment order and making the addition therein without providing the copy of statement recorded u/s 132(4) of the Act of (i) Shri Ashok Sharma (ii) Shri Ashish Mehta and (iii) Shri Om Singh at the premises of Indiabulls Group.”*
5. The facts in brief are that assessee is an individual and till 2014, he was in the board of directors in Indiabulls Group and thereafter he separated himself from Indiabulls and settled in Singapore. The original return of income was filed on 24.03.2015 declaring total income of Rs. 14,26,09,100/-. Later on, a search and seizure action u/s 132 of the Act was carried out in the case of Indiabulls group on 13.07.2016. Proceedings u/s 153C was initiated by recording the following satisfaction:-

**Recorded for initiating the proceedings u/s 153C of the IT Act in the case of Shri Saurabh Kumar Mittal (PAN: ANAPM2488D)**

*During the course of search proceedings u/s 132 of the IT Act in the case of M/s IIC Ltd, M/s IINFC Ltd and 16 other group companies as per Warrant No. 12047 dated 13.07.2016 at A-19 (A-1 to A-30), Westend, New Delhi, cash amounting to Rs. 1,90,210/- was found. The assessee in the statement recorded u/s 13(4) stated that the cash found is personal savings of her wife Kusum Mittal. Further. Jewellery worth Rs. 27,84,0058/- was also found at Residence. Also, it was found that a locker was jointly held by Shri Saurabh Kumar Mittal and Smt Kusum Mittal No. 250, State Bank of India and No. 217, State Bank of India. In locker No. jewellery worth Rs. 16,92,560/- was found and seized. In Locker No 217, Jewellery worth Rs. 40,22,414/- was found, out of which jewellery worth Rs. 7,77,755/- was seized. Shri Saurabh Mittal and Smt Kusum Mittal in statement u/s 132(4) stated that the jewellery belong to them and the same were gifts received on her marriage and various occasions. However no documentary evidence was produced by them.*

**Thus, I am satisfied that the seized cash/jewellery, have a bearing on the total income of Shri Saurabh Kumar Mittal (PAN: ANAPM2488D) and is a fit case for issue of notices u/s 153C of the IT Act for AY 2011-12 to AY 2016-17.**

Date : 12.10.17  
Place: Mumbai

Puneetinder S Walia  
DCIT, Central Circle, Range-6(4), Mumbai

6. Accordingly, notice u/s 153C was issued on 13.10.2017. In response, assessee filed e-return for AY 2014-15 on 30.11.2017 declaring the same income of Rs. 14,26,09,100/-.

7. From the bare perusal of the 'Satisfaction Note', it is seen that provision of 153C has been initiated on the basis of certain jewellery found and seized in locker jointly owned by Shri Saurabh Kumar Mittal and Smt. Kusum Mittal, which they have stated that the jewellery belongs to them and received as gift during the marriage and on various occasions. However, based on this satisfaction note, no addition or any adverse inference has been drawn. The entire premise of the AO in the assessment order was that during the course of search proceedings in the case of Indiabulls group, certain loose papers of the documents were found and seized which was marked as **Annexure A-28 and in page 13-14**, there are certain notes relating to Shri Saurabh Kumar Mittal. In response to the show cause notice, assessee submitted that;

**Firstly**, the said seized documents are not in the writing of assessee;

**Secondly**, there was simultaneous search and no such incriminating documents were found which suggesting any such alleged noting of the payment received by the assessee or disproportionate assets found;

**Thirdly**, Indiabulls group companies have filed application before the Settlement Commission wherein they have accepted /offered income including noting on various seized documents filed as A-28 and also the entries in page 13-14 of the said Annexure.

**Fourthly**, Indiabulls have surrendered and accepting the noting of seized documents belonging to the group companies.

**Lastly**, since the noting on seized A-28 including the alleged noting has been accepted and considered by the Indiabulls group in settlement petition as they have business expenditure incurred for the various ongoing projects.

8. The noting in the said documents was as under:-

2/7/2013	500	S.M/S.J/Om Singhji	S.M.
8/7/2013	2	S.M/Ketan S.M	S.M.
16/07/2013	5	Ketan/S.M	S.M.

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**I.T.A. No. 1435/Mum/2022 and Others**  
**Shri Saurabh Mittal**

19/07/2013	500	S.M/S.J/Om Singhji	S.M.
22/07/2013	27.12	S.M/S.J	S.M.
23/07/2013	1	S.M/S.J/Ketan	S.M.
6/8/2013	100	S.M/S.J	S.M.
2/9/2013	12.07	S.M/S.J	S.M.
4/9/2013	105	S.M/S.J/Ketan	S.M.
4/9/2013	15	S.M/S.J/Ketan/Home	S.M.
7/9/2013	5	S.M/S.J/Ketan	S.M.
12/9/2013	50	S.M/S.J/Kapadiya	S.M.
17/09/2013	13	S.M/S.J/Ketan	S.M.
24/09/2013	5	S.M/Ketan	S.M.
26/09/2013	50	S.M/S.J/Kapadiya	S.M.
30/09/2013	6.335	Ketan/S.M/currency/ S.J	S.M.
4/10/2013	3.475	S.M/S.J	S.M.
9/10/2013	2.8	S.M/S.J	S.M.
10/10/2013	34.5	Ketan/S.M/S.J	S.M.
22/10/2013	6	S.M/Ketan/S.J	S.M.
25/10/2013	8	S.M/S.J/Ketan	S.M.
28/10/2013	50	S.M/S.J/Delhi	S.M.
30/10/2013	0.25	S.M/Ketan/S.J/Delhi	S.M.

7/11/2013	1	Ketan/S.M	S.M.
7/11/2013	11.28	S.M/currency/Delhi/ Om singhji	S.M.
8/11/2013	1.134	Ketan/S.M/currency	S.M.
18/11/2013	10	S.M/Ketan/S.J	S.M.
22/11/2013	5	S.M/Ketan/S.J	S.M.
25/11/2013	3.155	S.M/Ketan/S.J	S.M.
27/11/2013	50	S.M/Ketan/Noida/Deli vered by omsinghji	S.M.
28/11/2013	7	S.M/Ketan/S.J	S.M.
5/11/2013	7	S.M/Ketan	S.M.
10/12/2013	7 i	S.M/Ketan	S.M.
13/12/2013	13 !	S.M/Ketan	S.M.
13/12/2013	0.25	Ketan/S.M/Car	S.M.
16/12/2013	3.05	S.M/Ketan	S.M.
16/12/2013	5	S.M/Ketan	S.M.
18/12/2013	1.374	S.M/Ketan	S.M.
23/12/2013	6.45	Ketan/S.M	S.M.
2/1/2014	7	Ketan/S.M	S.M.
2/1/2014	6.32	Ketan/S.M	S.M.
6/1/2014	5 <sup>1</sup>	Ketan/S.M	S.M.

7/1/2014	2.552	Ketan/S.M	S.M.
9/1/2014	5	Ketan/SM/Travel agent	
23//1/2014	7.2625 i	S.M/Ketan/currency	S.M.
24/01/2014	2.025	S.M/Ketan	S.M.
27/1/2014	5	Ketan/S.M	S.M.
31/1/2014	3	Ketan/S.M	S.M.
14/02/2014	5	Ketan/S.M/Home	S.M.
14/02/2014	6.67	Ketan/S.M/ Krish travels	S.M.
21/02/2014	5.06	S.M/Ketan/currency	S.M.
28/02/2014	5	Ketan/S.M	S.M.
03/03/2014	4	S.M/Ketan/home	S.M.
06/03/2014	2	S.M/Ketan	S.M.
07/03/2014	8.8	S.M/Ketan/Currency	S.M.
11/03/2014	8.7	S.M/Ketan	S.M.
11/03/2014	4	S.M/S.J	S.M.
14/03/2014	18.93	S.M/Ketan	S.M.
18/03/2014	0.1	Ketan/S.M	S.M.
24/03/2014	3	S.M/Ketan/home	S.M.
	1747.6625		

9. However, the Ld. AO observed that during the course of search in the case of Indiabulls, its CFO Shri Ashok Sharma confirmed that he was using his e-mail ID to store unaccounted cash and receipts of expenditure incurred by Indiabulls group. These documents were recovered from the Laptop of Shri Ashok Sharma

and the printouts of the excel file named '**Book Status 310312**' which was found in the attachment of the e-mail dated 15.06.2016 and marked as **A-1 to A-13**. On analyzing the said MS excel filed named 'Book Status 310312', there was reference of 'SM' at many places which clearly mentioned that amount has been paid to Shri Saurabh Mittal, one of the promoters of the Indiabulls group. Based on this, he has drawn the adverse inference. On the issue that Indiabulls group has filed petition before the settlement commission offering the entire income in respect of the same very transactions recorded therein, he held that as on date of passing the assessment order, the petition is pending for disposal and there is no order of the Settlement Commission. The relevant observations of the AO are as under:-

*3.11 With respect to the averments of the assessee regarding Indiabulls group having filed an application before the Settlement Commission and offering income in respect of the transactions recorded and found from the possession of Shri Ashish Mehta, it is not in dispute that Indiabulls Group has filed application before the Settlement Commission. However, as on the date of passing this order, the Settlement Application filed by Indiabulls Group is pending for final disposal and thus, it cannot be accepted that Indiabulls group has accepted all these cash transactions as their*

*own money. Further, the Indiabulls group have taken the payments made as expenditure of the group companies, hence assessee's contention that the group has offered the transactions as their income before the Hon'ble ITSC cannot be accepted as a ground not to tax the amount in assessee's hands.*

*3.12 Hence, in light of the above, it is clear that cash totaling to Rs. 17,47,66,250/- has been paid to Sh Saurabh Mittal Personal account by Indiabulls group, which is not recorded in the regular book; or accounts. During the course of search proceedings, it is established that the cash transactions of the Indiabulls Group are not accounted by the group. During the course of assessment proceedings also the assessee has failed to establish that the cash received by him from Indiabulls groups has been accounted by the assessee. Therefore, the cash transactions of Rs. 17,47,66,250/- are treated as unaccounted income in the hands of the assessee.*

*3.13 In view if the above stated facts and in absences of any satisfactory explanation and evidences from the assessee's side with regard to the nature and sources of the cash transactions found during the course of search conducted u/s 132 of the Act, it is concluded that the cash transactions are unexplained and such cash is covered u/s 69A of the Act.*

*3.14 As per provisions of section 69 A of the act where in any financial year the assessee is found to be the owner of any money, bullion, jewellery or other valuable article and such money, bullion, jewellery or valuable article is not recorded in the books of account,*

*if any, maintained by him for any source of income, and the assessee offers no explanation about the nature and source of acquisition of the money, bullion, jewellery or other valuable article, or the explanations offered by him is not, in the opinion of the Assessing Officer, satisfactory, the money and the value of the bullion, jewellery or other valuable article may be deemed to be the income of the assessee for such financial year.*

*3.15 As regards the evidentiary value of aforementioned seized document, it is pertinent to mention here that special provisions as to evidence relating to electronic record have been inserted in the Indian Evidence Act, 1872 in the form of section 65A & 65B, after section 65. These provisions are very important. They govern the integrity of the electronic record as evidence, as well as, the process for creating electronic record. Importantly, they impart faithful output of computer the same evidentiary value as original without further proof or production of original. Accordingly, while handling any digital evidence, the procedure has to be in consonance of these provisions. The department has followed due procedure in consonance with the provision of section 65A &. 65B and therefore these documents are admissible evidence.*

*3.16 Accordingly the cash involved the above sated transactions totaling to Rs.17,47,66,2507- for A.Y 2014-15 is treated as unexplained money u/s.69A of the Act and taxed as assessee's income for the year under consideration. This income will be taxed u/s.115BBE of the Act. Penalty proceedings u/s.271(1)(c) of the Act are separately initiated for concealment of taxable income.*

10. Ld. CIT(A) in so far as validity of initiation of proceedings u/s 153C, decided this issue against the assessee after observing as under:-

*6.3.3 On perusal of the satisfaction note it is seen the AO has recorded a satisfaction that seized jewellery belonged to the appellant and there was no satisfactory explanation about the source of such jewellery. Thereafter, the AO has initiated assessment proceeding by issuing notice u/s 153C of the Act. The precondition for issuing notice u/s 153C is existence of satisfaction note. The AO has recorded the satisfaction note about unexplained jewellery. In the assessment order u/s 153C AO has not made any addition in respect of undisclosed/unaccounted jewellery as referred in the satisfaction note. However, the AO was in possession of incriminating documents about cash receipts from Indiabulls group by the appellant. The AO has made addition in respect of cash payment of Rs. 17.48 Crores made by Indiabulls Group to the Appellant as recorded in the excel file found in the laptop of one Shri Ashok Sharma, group CFO of Indiabulls Group.*

*The AO has issued notice u/s 153C of the Act after recording satisfaction note. In the order u/s 153C the AO has made addition in respect of cash payment of Rs. 17.48 Crores made by Indiabulls Group to the Appellant as recorded in the excel file found in the laptop of one Shri Ashok Sharma, group CFO of Indiabulls Group. The addition has been made on the basis of incriminating material seized from Indiabulls group, which belonged to the appellant.*

*Therefore, notice issued u/s 153C in the case of appellant is a valid notice and subsequent assessment order passed u/s 153C is legally valid order.*

11. On important fact is that, at the stage of Ld. CIT(A), the order of Settlement Commission was already passed wherein the alleged transaction of cash as in the seized documents noted above has already been considered in the case of Indiabulls group vide order dated 30.04.2019. After discussing the issue in detail, Ld. CIT(A) has observed as under:-

*The Appellant has submitted that he was on the Board of Directors in Indiabulls group till 2014 when he separated himself from Indiabulls and settled in Singapore. After his separation from the Indiabulls group, a search took place at the premises of Indiabulls Group on 13.07.2016 and a simultaneous search also took place at the premises of the Appellant also. But separation of the appellant from the Indiabull group would not alter his position and association with the Indiabulls group till 2014.*

*The appellant has also submitted that Indiabulls group entities have filed an application before the Hon'ble Settlement Commission, Mumbai in which the group has admitted the notings, in respect of which the addition has been made, as belonging to the Indiabulls Group and the income accruing from such notings have been included in the Settlement Application. Thus, the source of receipt of Rs. 17,47,66,250/- from Indiabulls Group is from funds*

*included by the Indiabulls Group in the Settlement Application. The Hon'ble Settlement Commission in the order u/s.245(D)(4) of the Income-tax Act, 1961 accepted all the transactions and notings as admitted by the Indiabulls Group in the Settlement Application. Further, the order of the Hon'ble Settlement Commission is final and binding on the applicant and on the department. As per section 245I, every order of settlement passed u/s.245D(4) shall be as conclusive as to the matters stated therein. As the income from notings mentioned in the seized documents have been taxed in the hands of Indiabulls Group, therefore, taxing the same in the hands of the appellant is illegal and invalid.*

**8.3.1** *The Hon'ble Settlement Commission passed an order u/s 245D(4)) of the Income-tax Act on 30.04.2019 in the case of 16 entities of the Indiabulls group. The 16 entities of the Indiabulls Group in their Settlement Application has included the unaccounted income arising from all the transactions found mentioned in the digital data seized from laptop in the possession of Ashok Sharma CFO of Indiabulls group in their settlement application. All the 16 entities have admitted the transactions in the nature of giving and taking loan/amount as belonging to their own money/transactions. The Hon'ble Settlement Commission has passed final order u/s. 245D(4) on 30.04.2019 in the case of 16 entities of the Indiabulls Group. The Settlement Commission has determined the additional income after the discussing and deciding all the issues, including the issues of On-money, Bogus Billing and Cash loans given and taken.*

*In respect of unaccounted cash loan, the Hon'ble Settlement Commission has accepted the peak loan of Rs.236.05 Crore, which was arrived at after considering all unaccounted loans given to and taken from various persons by 'Indiabulls' Group.*

*8.3.2 The appellant was a part of the Indiabulls group till 2014. All the entries of cash receipts & cash expenses and transaction in the nature of loan contained in the CTR, in respect of which the AO has made addition, have been offered as income by the Indiabull group in the case of 16 entities of the group. The Hon'ble Settlement Commission has also taken note of all the entries recorded in the CTR. The Settlement Commission has determined the income of 16 Applicants after discussing all the issues, including cash receipts and cash expenditure and transaction in the nature of loan.*

*The AO has made addition only on the ground that the abbreviated name of the appellant was mentioned against some cash expenditure/loan entries in the CTR and these entries were not recorded in the regular books of account of the appellant company.*

*It is also a fact that when the assessment order u/s 153C was passed by AO, the settlement proceedings were going on. Now, the Settlement Commission has passed final order u/s 245D(4) of the Act on 30.04.2019. The settlement commission has determined the income of the 16 entities considering seized material, including the CTR. The addition made by the AO in respect of the unaccounted cash receipts is based on the entries in CTR. Once all the cash entries, including loan entries in CTR have been considered while offering the additional income by the 16 entities of the Group and*

*the Settlement Commission has also determined the income considering the entire CTR, further addition by AO in the case of the appellant will result into double addition of the same transaction and the same amount.*

12. Thereafter referring to various decisions, he held that the source of cash receipts has been explained to be part of income offered in the case of 16 entities of the Indiabulls group and accordingly, addition of Rs. 17,47,66,250/- made in the hands of the assessee was deleted on the ground that it would lead to a case of double addition.

13. Before us, Ld. DR submitted that though the AO has recorded the 'satisfaction note' based on certain jewellerys found and seized in the locker. However, once the jurisdiction has been assumed u/s 153C, he has taken into consideration the documents which has been seized from the search of Indiabulls group in the form of excel sheet which contained the information of the assessee. This information clearly pertains to the assessee as assessee's name was mentioned as 'SM' which was then part of the Indiabull group. Accordingly, the conditions for assuming jurisdictions u/s 153C are satisfied. However, on merits, he submitted that though the cash under jurisdiction as found in the excel sheet Annexure A and the

cash transaction pertaining to assessee has been offered and taxed in the hands of the Indiabulls group. But this has to be seen as a separate transaction in the case of the assessee because this cash as mentioned in the assessee. He strongly relied on the order of AO.

14. On the other hand, Ld. Counsel for the assessee drew our attention to the decision of Settlement Commission of 30.06.2019, wherein all the specific points specifically unaccounted cash transaction has been discussed and it has been held very categorically that the same belongs and pertains to 16 entities and income has been offered in the case of 16 entities and considered share. Thus, there is no reason to sustain addition in the hands of the assessee.

15. In so far as other ground, assessee has challenged the initiation of proceedings u/s 153C as well as validity of the assessment order. However, the main crux of his argument was that here in this case proceedings have been initiated u/s 153C based on satisfaction note (as incorporated above) when there is no whisper or mention about the excel sheet found at the premises of Indiabulls. Further the cash and jewellery discussed in the satisfaction note belongs to Shri Saurabh Mittal but the same has

been considered in the hands of the other assessee's and not in the hands of the assessee. Once the entire premise on which proceedings u/s 153C have been initiated has no basis nor is the basis for assessment, then the entire proceedings u/s 153C is not based on any incriminating documents or satisfaction note. Admittedly, assessment for AY 2014-15 stood completed and was not pending at the time of assessment. Therefore, without any reference of incriminating material on the basis of which addition has been made cannot be held to be based on any incriminating material. Accordingly, the entire addition deserves to be quashed.

16. We have heard the rival submissions and also perused the relevant findings given in the impugned order as well as material placed of record before us. The main issue with regard to merits of the addition of Rs. 17,51,74,463/- is that during the course of search proceedings in the case of Indiabulls group and in that search a Laptop of Shri Ashok Sharma, CFO of Indiabulls group was found and seized wherein there was a cash transaction report in excel sheet named as 'Book Status 310312' which contains certain cash transaction and is reference of 'SM' at many places. We have already incorporated the details of such transaction in the

foregoing paragraph. Before the AO, it was clearly submitted that firstly this transaction does not pertain to the assessee and secondly, already this transaction has been owned and offered by the Indiabulls group entities in the settlement petition and this pertains to certain cash expenditure to be incurred for various projects. Ld. AO held that since the settlement application filed by the Indiabulls group is still pending for final disposal, therefore it cannot be held that same has been accepted by the Indiabulls group. Only for this reason, he has made addition. Admittedly, the Settlement Commission has passed the final order wherein these transactions have been not only owned by the entities of Indiabulls group, but also has been offered to tax and the matter has been settled by the order of Settlement Commission. Once the addition has been settled and owned by Indiabulls group as per the order of Settlement Commission, then there is no reason as to why addition should be sustained in the case of the assessee. Ld. CIT(A) has clearly noted this fact as incorporated above.

17. Moreover, we have also perused the independently the order of the Settlement Commission wherein this issue has been discussed in detail and finally considered in the hands of 16 entities of

Indiabulls group. From the perusal of the documents, it is seen that all these transactions pertain to Indiabulls group only, which suggests certain cash transaction in the name of assessee has mentioned because assessee was part of the Indiabulls group and nowhere it suggest that this cash transaction is of the assessee in his individual capacity. Thus, when this addition and the entire transaction stands considered and concluded in the hands of the Indiabulls group and taxed there, then there is no reason that, this addition is to be taxed in the hands of the assessee once again. Accordingly, we confirm the order of Ld. CIT(A).

18. In so far as the validity of proceedings u/s 153C, though there is some substance in the argument of the Ld. Counsel that the addition which has been made in the assessment order has no correlation with satisfaction note recorded u/s 153C. However, once it has been found that the addition itself does not pertain to the assessee, therefore this issue becomes infructuous.

19. Accordingly, the revenue appeal is dismissed and assessee's appeal for AY 2014-15 is dismissed as infructuous because the addition itself has been found to be not pertaining to the assessee at all.

20. In AY 2015-16, the addition was only of Rs. 63,06,250 on similar transaction which has been settled by the Settlement Commission in the hands of Indiabulls group. However, revenue is not in appeal on this ground. The only issue is validity of proceedings u/s 153C which we have already held that this is purely academic and hence dismissed as infructuous.

21. In the result, the appeal filed by the revenue is dismissed and both the appeals filed by the assessee are dismissed as infructuous.

*Orders pronounced in the open court on 31<sup>st</sup> October, 2022.*

*Sd/-*  
(SHRI M BALAGANESH)  
Accountant Member

*Sd/-*  
(AMIT SHUKLA)  
Judicial Member

मुंबई Mumbai; दिनांक Dated : 31.10.2022

*Sr.PS. Dhananjay*

**आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकरआयुक्त(अपील) / The CIT(A)
4. आयकरआयुक्त/ CIT- concerned
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, मुंबई/ DR, ITAT, Mumbai
6. गार्डफाईल / Guard File

**आदेशानुसार/ BY ORDER,**

**उप/सहायकपंजीकार (Dy./Asstt.Registrar)**  
**आयकरअपीलीयअधिकरण, मुंबई/ ITAT, Mumbai**