

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर  
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES, "A" JAIPUR.

श्री संदीप गोसाई, न्यायिक सदस्य एवं श्री राठौड़ कमलेश जयंतभाई, लेखा सदस्य के समक्ष  
BEFORE: SHRI SANDEEP GOSAIN, JM & SHRI RATHOD KAMLESH JAYANTBHAI, AM

आयकर अपील सं./ITA No. 449/JP/2017  
निर्धारण वर्ष/Assessment Year : 2007-08.

Shri Madan Mohan Gupta, A-30, Saraswati Colony, Sanganer, Jaipur.	बनाम Vs.	The Assistant Commissioner of Income-tax, Central Circle-1, Jaipur.
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No. ABIPG 0786 C		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

आयकर अपील सं./ITA Nos. 513, 514, 515 & 516/JP/2017  
निर्धारण वर्ष/Assessment Years : 2007-08, 08-09, 09-10 & 10-11

The Assistant Commissioner of Income-tax, Central Circle-1, Jaipur.	बनाम Vs.	Shri Madan Mohan Gupta, A-30, Saraswati Colony, Sanganer, Jaipur.
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No. ABIPG 0786 C		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by : Shri S.L. Poddar (Advocate)  
राजस्व की ओर से / Revenue by : Shri S. Najmi (CIT)

सुनवाई की तारीख / Date of Hearing : 07/12/2022.  
उदघोषणा की तारीख / Date of Pronouncement: 06/03/2023.

आदेश / ORDER

PER BENCH :

The appeal filed by the assessee is directed against order of the Id. CIT(A)-4, Jaipur dated 31.03.2017 for the assessment year 2007-08 whereas the revenue has filed the appeals against the orders of Id. CIT (A)-4, Jaipur dated 18.05.2017 &

31.03.2017 for the assessment years 2007-08, 08-09, 09-10 and 2010-11 respectively. All these appeals were clubbed together for hearing and for the sake of convenience are being disposed off by this composite order. First, we will take up assessee's appeal for the assessment year 2007-08. The assessee has raised the following grounds in ITA No. 449/JP/2017 :-

**ITA NO. 449/JP/2017 (ASSESSEE)**

1. That the Commissioner of Income Tax Appeals-4 has grossly erred in upholding the validity & sanctity of the Initiation of re-assessment proceedings u/s 147 / 148 & consequential assessment order.
2. That the Commissioner of Income Tax Appeals-4 has grossly erred in sustaining the addition of Rs. 1,35,96,751/- on merely protective basis by application of section 292C.
3. That the Commissioner of Income Tax Appeals-4 has failed to appreciate the fact of appellant having explained all the entries as per seized papers which have been made the basis of addition in impugned assessment order.
4. The appellant craves leave of this tribunal to add to, alter, delete and or amend all or any of the grounds of appeal.

**ITA NO. 513/JP/2017 (REVENUE)**

1. Whether on the facts and in the circumstances of the case the CIT (A) was right in deleting the addition of Rs. 1,15,00,000/- on account of unaccounted investment made by the AO on the basis of Pg 40 of Annex A, Exhibit-1 found and seized during the course of search & seizure action, merely on the basis that addition of the same amount has been made in the case of Sh. Rajendra Kumar Jain on substantive basis and without independently considering the merits of the addition, and in ignoring the fact that the documents forming the basis of addition were found from the premises of the assessee.
2. Whether on the facts and in the circumstances of the case the CIT (A) was right in deleting the addition of Rs. 1,92,00,000/- on account of undisclosed investment in purchase of land made by the AO on the basis

of documents found and seized during the course of search & seizure action, merely on the basis that addition of the same amount has been made in the case of other persons on substantive basis and without independently considering the merits of the addition and in ignoring the fact that the documents forming the basis of additions were found from the premises of the assessee.

“The appellant craves, leave or reserves the right to amend, modify, alter, add or forego any ground(s) of appeal at any time before or during the hearing of this appeal.”

### **ITA NO. 514/JP/2017 (REVENUE)**

1. Whether on the facts and in the circumstances of the case the CIT (A) was right in deleting the addition of Rs. 50,00,000/- on account of unaccounted investment made by the AO on the basis of Pg 40 of Annex A, Exhibit-1 found and seized during the course of search & seizure action, merely on the basis that addition of the same amount has been made in the case of Sh. Rajendra Kumar Jain on substantive basis and without independently considering the merits of the addition, and in ignoring the fact that the documents forming the basis of addition were found from the premises of the assessee.
2. Whether on the facts and in the circumstances of the case the CIT (A) was right in deleting the addition of Rs. 3,87,00,000/- on account of undisclosed investment in purchase of land made by the AO on the basis of documents found and seized during the course of search & seizure action, merely on the basis that addition of the same amount has been made in the case of other persons on substantive basis and without independently considering the merits of the addition and in ignoring the fact that the documents forming the basis of additions were found from the premises of the assessee.
3. Whether on the facts and in the circumstances of the case the CIT (A) was right in deleting the protective addition of Rs. 85,00,000/- on account of undisclosed investment in purchase of land made by the AO on the basis of documents found and seized during the course of search & seizure action, merely on the basis that addition of the same amount has been made in the case of Sh. Navrattan Kothari on substantive basis and without independently considering the merits of the addition, and in ignoring the fact that the documents forming the basis of addition were found from the premises of the assessee.

The appellant craves, leave or reserves the right to amend modify, alter, add or forego any ground(s) of appeal at any time before or during the hearing of this appeal.”

**ITA NO. 515/JP/2017 (REVENUE)**

1. Whether on the facts and in the circumstances of the case the CIT (A) was right in deleting the addition of Rs. 50,00,000/- on account of unaccounted investment made by the AO on the basis of Pg 40 of Annex A, Exhibit-1 found and seized during the course of search & seizure action, merely on the basis that addition of the same amount has been made in the case of Sh. Rajendra Kumar Jain on substantive basis and without independently considering the merits of the addition, and in ignoring the fact that the documents forming the basis of addition were found from the premises of the assessee.
2. Whether on the facts and in the circumstances of the case the CIT (A) was right in deleting the addition of Rs. 5,55,84,000/- on account of undisclosed investment in purchase of land made by the AO on the basis of documents found and seized during the course of search & seizure action, merely on the basis that addition of the same amount has been made in the case of other persons on substantive basis and without independently considering the merits of the addition and in ignoring the fact that the documents forming the basis of additions were found from the premises of the assessee.
3. Whether on the facts and in the circumstances of the case the CIT (A) was right in deleting the protective addition of Rs. 22,89,854/- on account of undisclosed investment in purchase of land made by the AO on the basis of documents found and seized during the course of search & seizure action, merely on the basis that addition of the same amount has been made in the case of Sh. Navrattan Kothari on substantive basis and without independently considering the merits of the addition, and in ignoring the fact that the documents forming the basis of addition were found from the premises of the assessee.
4. Whether on the facts and in the circumstances of the case the CIT (A) was right in deleting the protective addition of Rs. 6,52,028/- on account of development charges debited in P & L account.

The appellant craves, leave or reserves the right to amend, modify, alter, add or forego any ground(s) of appeal at any time before or during the hearing of this appeal."

**ITA NO. 516/JP/2017 (REVENUE)**

1. Whether on the facts and in the circumstances of the case the CIT (A) was right in deleting the addition of Rs. 1,01,99,728/- on account of unaccounted investment made by the AO on the basis of Pg 57 of Annex A, Exhibit-1 found and seized during the course of search & seizure action, merely on the basis that addition of the same amount has been made in the case of Sh. Rajendra Kumar Jain on substantive basis and without independently considering the merits of the addition, and in ignoring the fact that the documents forming the basis of addition were found from the premises of the assessee.
2. Whether on the facts and in the circumstances of the case the CIT (A) was right in deleting the addition of Rs. 9,00,000/- on account of undisclosed investment in purchase of land made by the AO on the basis of documents found and seized during the course of search & seizure action, merely on the basis that addition of the same amount has been made in the case of other persons on substantive basis and without independently considering the merits of the addition and in ignoring the fact that the documents forming the basis of additions were found from the premises of the assessee.
3. Whether on the facts and in the circumstances of the case the CIT (A) was right in deleting the addition of Rs. 1,17,16,000/- on account of disallowance of set-off of income against the unaccounted surrendered income.

The appellant craves, leave or reserves the right to amend, modify, alter, add or forego any ground(s) of appeal at any time before or during the hearing of this appeal."

2. The brief facts of the case are that the assessee filed his return of income for the assessment year 2007-08 on 20.03.2008 declaring total income of Rs. 6,08,810/- under section 139(1) of the Income Tax Act, 1961. Subsequently, a search and

seizure operation under section 132 of the Income Tax Act, 1961 was conducted on assessee with reference to the case of Navratan Kothari, Shri Vimal Chand Surana HUF and Shri Kushal Chand Surana and Shri Rajendra Kumar Jain, all these persons are colonizers and builders, on 23.05.2013 by the Investigation Wing of the Income Tax Department, Jaipur. The assessee was working as Deed Writer for past several years for the above named persons.

2.1 During the course of search and seizure operation under section 132 of the IT Act, 1961 at the residential/business premises of assessee Shri Madan Mohan Gupta at A-30, Saraswati Colony, Sanganer, Jaipur along with other group members i.e. Shri Navratan Kothari, Shri Vimal Chand Surana and Shri Rajendra Kumar Jain, certain loose papers were found and seized. The assessee was examined u/s 132(4) with reference to the seized material and during the course of his statement he deposed that the land at near EP at village Chainpura was actually purchased by Shri Rajendra Kumar Jain. It is on the basis of seized documents notice u/s 153A was issued in the case of the assessee. After considering the entire material on record / statement of assessee, the Assessing Officer made various additions in the hands of the assessee on substantive and protective basis. The details of additions are as under—

<b>Para assessment order</b>	<b>Amount</b>	<b>Detail of addition</b>	<b>Appeal by</b>	<b>preferred</b>	<b>Type of addition</b>
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14	11500000	Cash transaction noted in page 40 of exhibit 1 of annexure —A	Departmental appeal	Substantive addition
29	50000000	Land transaction of cash payment on the basis of annexure —A exhibit 1, 2 and 5.	Addition deleted by CIT(A), no appeal has been preferred.	Protective addition
34	41532446	Cash payment against purchase of land by Shri Vimal Chand Surana	Addition deleted by CIT(A), no appeal has been preferred.	Protective addition
53	12499000	Transaction related to Entertainment Paradise	Addition deleted by CIT(A), no appeal has been preferred.	Protective addition
54.3	13596751	Transaction related to Shankar Lal Saini	Assessee's appeal. Learned CIT(A) sustained addition on protective basis.	Protective addition

The learned CIT(A) deleted the total protective addition of Rs. 50000000 + 41532446 + 12499000. But on the basis of remand report submitted by the AO during the appellate proceedings, the department has filed appeal for the addition of Rs. 1,92,00,000/- on protective basis for purchase of land behind EP at Chainpura as unexplained investment by assessee out of total addition of Rs. 50000000 + 41532446 + 12499000. The relevant portion of remand report is reproduced by the CIT(A) on page no. 23 of appellate order (paper book page no. 15 submitted on 14.06.2018) in point no. 6 where the AO has made reference for the

assesse Shri Madan Mohan Gupta for protective addition in various years including addition of Rs. 1,92,00,000/- for assessment year 2007-08, Rs. 3,87,00,000/- for assessment year 2008-09 and Rs. 5,55,84,000/- for assessment year 2009-10 total Rs. 11,34,84,000/-. (In other years the learned CIT(A) has also deleted the additions and the department is in appeal for the same).

**The crux of the matter is that in the course of search at the premises of the assessee some incriminating documents were found which were related to the other persons. The assessee has explained that these documents belongs to other persons and the other evidences were also found which clearly indicates that the transactions are not related to the assessee. The submission of the assessee is that the learned CIT(A) has not adjudicated the legal issue regarding reopening of the assessment clearly shows that the issue was in favour of the assessee on merits. The individual grounds of appeal are as under -**

**Ground No. 2 relates to sustaining the addition of Rs. 1,35,96,751/- merely on protective basis by application of section 292C.**

3. The facts regarding Ground no. 2 are that at the time of survey, statement of Shri Madan Mohan Gupta was recorded on 23.05.2013 wherein he stated that the details recorded on Annexure AS exhibit-1 on pages no. 21 to 25 are related to Shri Shanker Lal Saini, Shri Kanhiya Lal Saini and Shri Madho Lal Saini, agriculturists, who have sold their land situated at Jaisinghpura and purchased lands at Chomu and

Amer Tehsil. The A.O. after post search enquiry again recorded the statement of the assessee on 26.07.2013 wherein the assessee reiterated his earlier statement. In the light of statement recorded of Shri Madan Mohan Gupta, statements of Shri Shanker Lal Saini were recorded on oath on 05.08.2013. Shri Shanker Lal Saini has admitted that he along with his brother Shri Kanhiya Lal Saini and his father Shri Madho Lal Saini have sold their land which was situated at Jaisinghpura in the year 2006 and the sale consideration received was invested by them for purchase of lands jointly at Chomu and Amer Tehsil and some office at Jaipur. It is pertinent to mention here that on being specifically asked about the details mentioned on pages no. 22 and 23, Shri Shanker Lal Saini in his statement admitted that details mentioned at sl. no. 2 to 6 are related to their land transactions mentioned on these pages, however, he did not agree with the complete details of these transactions mentioned on these pages. He further stated that they have paid total sale transactions with regard to lands purchased through cheques only and not paid any cash amount to the sellers of these properties and the details of such cheque payments have been mentioned in the registries also. On receiving information from the DDIT (Inv.)-III, Jaipur, the AO initiated proceedings under section 147 in the case of Shri Shanker Lal Saini for the assessment year 2007-08. As per details available in impounding pages 23 and 25, Shri Shanker Lal Saini has purchased property situated at Gram Boorthal, Tehsil Amer, Jaipur from Ladhu Ram for a total consideration of Rs. 1,96,96,751/- in the joint capacity with his brother Shri Kanhiya Lal. This transaction was got registered for a consideration of Rs. 61,00,000/- before the Sub Registrar, Sanganer on 15.03.2007. Out of total sale consideration of Rs. 196,96,751/-, the assessee and his brother paid Rs. 1,35,96,751/- in cash excluding

registry expenses of Rs. 4,21,750/- which is not disclosed by Shri Shanker Lal Saini in his return of income filed in response to notice u/s 148 of the Act for the year under consideration. On asking specifically about this, Shri Shanker Lal Saini vide letter dated 28.02.2015 has stated that noting on alleged papers seized from Shri Madan Mohan Gupta is not a valid/legal evidence and as such does not carry a legal evidentiary value in the eyes of law. However, the AO not convinced with the arguments advanced, because of the reasons that when the seller mentioned on this page is same, area is same, cheque amounts are same, registry expenses are also same as mentioned in the registry produced by Shri Shanker Lal Saini during the course of proceedings then how can the cash amount is not related to them. On this basis the AO made addition of Rs. 67,98,375/- (1/2 of Rs. 1,35,96,751/-) in the case of Shri Shanker Lal Saini on substantive basis on the above mentioned facts. However, to protect the interest of revenue, protective addition of an amount of Rs. 1,35,96,751/- has been made in the case of Shri Madan Mohan Gupta for the assessment year 2007-08. On further appeal before the first appellate authority, the Id. CIT (A) sustained the addition of Rs. 1,35,96,751/- on protective basis.

4. Before us, the Id. Counsel for the assessee submitted that the AO has given finding regarding this addition of Rs. 1,35,96,751/- on protective basis in para 54 from page no. 31 to 33 of the assessment order. As earlier mentioned, the assessee is a deed writer and engaged in the business of writing and executing and registering purchase deed and sale deeds on behalf of various buyers and sellers of immovable property. The assessee was maintaining records of sale price and purchase price on the instance

and instruction of buyers and sellers. Such details are recorded on annexure AS exhibit — 1 page no. 21 to 25. Copies of these papers are available on **paper book page no. 38 to 43**. These details were with reference to the land sold by Shri Shankar Lal Saini, Kanhiya Lal Saini and Shri Madho Lal Saini in the year 2006. The assessee was not the buyer nor the seller in this transaction. He has maintained only the details of transactions which is evident from the registered sale deeds.

4.1 The department has also made enquiries from the buyer and seller after search proceedings but Shri Kanhaiya Lal Saini and others have denied for the cash transaction and they accepted the only cheque transactions. In this transaction the sale transaction was admitted by Shri Shankar Lal Saini. Shri Shankar Lal Saini has also accepted that he has received the cheque amount mentioned in the sale deed as sales consideration. Shri Shankar Lal Saini has not accepted the cash amount received by him. However, the assessment was made of Shri Shankar Lal Saini and Shri Kanhaiya Lal Saini and the additions were also made in their hands. The issue related to the addition has already been decided by the learned CIT(A) in the case of Shri Shankar Lal Saini and Shri Kanhaiya Lal Saini and the additions were deleted. The department has submitted copy of assessment order as well as remand report submitted by the AO before the learned CIT(A) and the CIT(A) order. So it is clear that the assessee has not received any cash amount on this account and the addition made in the hands of the assessee on this account deserves to be deleted on protective

basis because the substantial addition has been made in the case of related persons and the same has been deleted by the learned CIT(A) without giving any adverse finding for the protective addition. The following case laws are quoted in support —

**(i) COMMISSIONER OF INCOME TAX VS S.C. SETHI HIGH COURT OF RAJASTHAN, Mar 10, 2006 295 ITR 351**

Income from undisclosed sources—Addition—Notings on loose papers—On the basis of some entries noted on loose papers seized from AK who is an executive in the assessee's employer company, addition was made in the income of the assessee as undisclosed emoluments—Corporate vice-president filed an affidavit stating that full particulars of payments of salary and perquisites appear in the salary certificate issued to the assessee and that no other sum of any nature whatsoever was paid by the company to the assessee—On appeal, CIT(A) set aside the assessment order on the ground that none of the entries relied on by the AO indicates that the amount was received by the assessee and no opportunity was offered to the assessee to cross-examine AK despite assessee's request, and directed the AO to complete assessment de novo—AO made the addition once again without seeking AK's attendance and the CIT(A), on appeal, deleted the addition reiterating that the finding of AO vis-a-vis undisclosed income is factually incorrect and that he has still not secured the attendance of AK—Same affirmed by Tribunal—Apparently, loose papers by themselves not indicate receipt of alleged undisclosed income by the assessee—Also, AO has not made any efforts to serve AK and secure his presence for providing opportunity to the assessee to cross-examine him—Further, the affidavit of the corporate vice-president about total emoluments remains uncontroverted—Therefore, findings recorded by the Tribunal are findings of fact and do not give rise to a question of law.

**Common Cause (A registered society) vs. Union of India (2017) 77 taxmann.com 245(SC)**

4.2 There has to be some relevant and admissible evidence and some cogent reason, which is reliable and that too, supported by some other circumstances pointing out that the particular third person against whom the allegations have been levelled was in fact involved in the matter or he has done some act during that period, which may have co-relations with the random entries.

Therefore, in the light of the above decisions, the protective addition so made deserves to be deleted.

5. On the other hand, the Id. D/R supported the orders of the Revenue authorities.

6. We have heard rival contentions, perused the material available on record and gone through the orders of the revenue authorities. We find that identical issue has been decided by the coordinate bench of the Tribunal in the case of Shri Rajendra Kumar Jain in ITA No. 293/JP/2017 and others dated 28.03.2018 for the assessment year 2007-08 by observing in Para 11 as under :-

" 11. At the outset, we note that the Id. CIT (A) has considered and decided this issue in para 3.2.3 at page 85 & 86 as under :-

" 3.2.3. I have duly considered assessee's submission and carefully gone through assessment order. I have also taken a note of factual matrix of the case as well as applicable case laws relied upon. On perusal of assessment order, it is seen that AO has made protective addition of Rs. 7,19,50,000/- on the basis of notings of following impugned seized documents pertaining to Chainpura land dealings and they were seized/impounded from the possession of Sh. Madan Mohan Gupta :

Details of incriminating documents: Land transaction of Chainpura behind EP Jaipur.

S.No.	Annexure and Exhibit No.	Pg No. of the seized document	Found/Seized from/impounded
1.	Annex-A Exhibit-1	15 to 24, 27, 28, 43, 44, 69 to 74	Residential premise
2.	Annex-A Exhibit-2	47 and back side of 48, 50 to 54	Residential premise
3.	Annex-A Exhibit-5	1 to 77	Residential premise
4.	Annex-AS Exhibit-1	1 to 3, 7, 9, 10	Impounded from Office premise during survey operation.

Further, it is pertinent to note that on the basis of notings recorded in the aforementioned seized documents, AO has made substantive addition of Rs. 7,19,50,000/- in the hands of Sh Madan Mohan Gupta.

In this group case, AO u/s 250(4) of the Act has been directed to carry out Inquiry/Investigation and AO submitted a detailed remand report on 20.03.2017. Pursuant to the receipt of remand report a detailed show cause letter dt. 21.03.2017 & enhancement notice u/s 251(2) of the Act vide letter dt. 22.03.2017 have been given to the assessee. In compliance assessee filed his detailed reply which have been duly considered. On perusal of assessment order it is seen that the said protective addition made by the AO, pertains to land dealings of chainpura behind EP. As per working given in para no. 2.1.8.5, following additions are required to be made in case of followings in AYs as under :

AY	Name	Addition required to be made	Under sec./nature of addition
2008-09	Navrattan Kothari	Rs. 15,87,19,309/-	Undisclosed investment made in cash u/s 68
2008-09	Vimal Chand Surana HUF	Rs. 2,64,66,445/-	Undisclosed investment made in cash u/s 68
2008-09	Kaushal Chand Surana*	Rs. 1,32,13,382/-	Undisclosed investment made in cash u/s 68
2008-09	Rajendra Kr Jain*	Rs. 3,20,00,000/-	Undisclosed investment made in cash u/s 68
2008-09	Rajendra Kr. Jain*	Rs. 8,32,55,232/-	Undisclosed business profit.
2007-08	Rajendra Kr Jain	Rs. 1,13,00,000/-	Undisclosed investment made in cash u/s 68

(Direction for AO u/s 150(1) of the Act to re-open u/s 147 of the of the case for Sh. Rajendra Kr. Jain and Sh Kaushal Chand Surana for AY 08-09)

In case of Chainpura land dealings, no addition either on substantive basis or protective basis has been proposed in the hands of Shri Madan Mohan Gupta & M/s. Shri Kalyan Buildmart Pvt. Ltd. Further, it is also pertinent to mention here that, no protective addition of Rs. 7,19,50,000/- has been proposed in the remand report. Further, as per detailed working given in para no. 2.1.8.5 for issue no. 1, 2, 3 & 4 where no separate addition of Rs. 7,19,50,000/- for the AY 2009-10 on protective basis in assessee hands has been proposed accordingly, the same is deleted. Assessee gets relief in Gr No. 2.

Thus it is clear that the Id. CIT (A) has given the finding that the AO has made protective addition of Rs. 7,19,50,000/- on the basis of notings in the diary pertaining to the Chainpura land dealing and the substantive addition of the said amount was made in the hands of Shri Madan Mohan Gupta. The Id. CIT (A) has since deleted the addition made on substantive basis in the hands of Shri Madan Mohan Gupta and M/s. Shri Kalyan Buildmart Pvt. Ltd., consequently the protective addition made in the hands of the assessee is deleted. However, the Id. CIT (A) has further proceeded to enhance the assessment on the basis of the remand report of the AO. It is pertinent to note that undisputedly the original assessment in the case of the assessee was completed under section 143(3) prior to the date of search and, therefore, the assessment was not pending as on the date of search. Hence no addition can be made in the proceedings under section 153A in the absence of any incriminating material found and seized during the search and seizure action under section 132. The addition proposed by the Id. CIT (A) as on the basis of the remand report in view of the fact that the Id. CIT (A) himself has not accepted the seized material which was the basis of the protective addition, the addition proposed by the Id. CIT (A) in the appellate proceedings is not permissible under the provisions of law. The Hon'ble Delhi High Court in the case of CIT vs. Kabul Chawla, 281 CTR 45 (Delhi) as well as the Hon'ble Jurisdictional High Court in the case of Jai Steel (India) vs. ACIT

259 CTR 281 (Raj.) has considered this issue of reassessment of income under section 153A in the absence of incriminating material. The Coordinate Bench of this Tribunal in the case of M/s. Gorbandh Marbles Pvt. Ltd. vs. DCIT in ITA No.605/JP/2017 vide order dated 27.12.2017 has considered and decided an identical issue in para 5 as under :-

" 5. We have considered the rival submissions as well as relevant material on record. The assessee filed its return of income for the year under consideration on 24.09.2010 and therefore, undisputedly the time limit for issuing the notice u/s 143(2) on the return of income filed u/s 139(1) expired on 30.09.2011. A search in the case of the assessee was conducted on 17.07.2013 and as on the date of search the assessment for the year under consideration was not pending. Thus, it is clear that the notice issued by the AO u/s 153A consequent to the search carried out u/s 132 is for reassessment of income of the assessee. We further note that in the course of assessment proceedings the Assessing Officer has accepted the income declared by the assessee in the original return of income except a disallowance of Rs. 26,183/- on account of employees contribution to ESI and PF. The entire assessment order is silent about any of the incriminating document found or seized during the course of search and seizure action and therefore, it is clear that the assessment framed by the Assessing Officer u/s 153A for the assessment year under consideration is not based on any document found or seized during the course of search or requisition made. This fact has not been disputed by the Revenue that the assessment for the year under consideration u/s 153A r.w.s. 143(3) is not based on any incriminating document found during the course of search. This issue has been considered in a series of decisions of the Hon'ble High Courts as relied upon by the assessee. In the latest decision in

case of Pr. CIT vs. Meeta Gutgutia (supra) the Hon'ble Delhi High Court has again considered and analyzed the relevant provisions of the Act as well all the decisions on this point in para 57 to 72 as under:-

*"57. The question whether unearthing of incriminating material relating to any one of the AYs could justify the re-opening of the assessment for all the earlier AYs was considered both in Anil Kumar Bhatia (supra) and Chetan Das Lachman Das (supra). Incidentally, both these decisions were discussed threadbare in the decision of this Court in Kabul Chawla (supra). As far as Anil Kumar Bhatia (supra) was concerned, the Court in paragraph 24 of that decision noted that "we are not concerned with a case where no incriminating material was found during the search conducted under Section 132 of the Act. We therefore express no opinion as to whether Section 153A can be invoked even under such situation". That question was, therefore, left open. As far as Chetan Das Lachman Das (supra) is concerned, in para 11 of the decision it was observed:*

*"11. Section 153A (1) (b) provides for the assessment or reassessment of the total income of the six assessment years immediately preceding the assessment year relevant to the previous year in which the search took place. To repeat, there is no condition in this Section that additions should be strictly made on the basis of evidence found in the course of the search or other post-search material or Information available with the Assessing Officer which can be related to the evidence found. This, however, does not mean that the assessment under Section 153A can be arbitrary or made without any relevance or nexus with the seized material. Obviously an assessment has to be made under this Section only on the basis of seized material."*

*58. In Kabul Chawla (supra), the Court discussed the decision in Filatex India Ltd. (supra) as well as the above two decisions and observed as under:*

*"31. What distinguishes the decisions both in CIT v. Chetan Das Lachman Das (supra), and Filatex India Ltd. v. CIT-IV (supra) in their application to the present case is that in both the said cases*

*there was some material unearthed during the search, whereas in the present case there admittedly was none. Secondly, it is plain from a careful reading of the said two . decisions that they do not hold that additions can be validly made to income forming the subject matter of completed assessments prior to the search even if no incriminating material whatsoever was unearthed during the search.*

*32. Recently by its order dated 6th July 2015 in ITA No. 369 of 2015 (Pr. Commissioner of Income Tax v. Kurele Paper Mills P. Ltd.), this Court declined to frame a question of law in a case where, in the absence of any incriminating material being found during the search under Section 132 of the Act, the Revenue sought to justify initiation of proceedings under Section 153A of the Act and make an addition under Section 68 of the Act on bogus share capital gain. The order of the CIT (A), affirmed by the ITAT, deleting the addition, was not interfered with."*

**59.** *In Kabul Chawla (supra), the Court referred to the decision of the Rajasthan High Court in Jai Steel (India) v. Asstt. CIT [\[2013\] 36 taxmann.com 523/219 Taxman 223](#). The said part of the decision in Kabul Chawla (supra) in paras 33 and 34 reads as under:*

*'33. The decision of the Rajasthan High Court in Jai Steel (India), Jodhpur v. ACIT (supra) involved a case where certain books of accounts and other documents that had not been produced in the course of original assessment were found in the course of search. It was held where undisclosed income or undisclosed property has been found as a consequence of the search, the same would also be taken into consideration while computing the total income under Section 153A of the Act. The Court then explained as under:*

*"22. In the firm opinion of this Court from a plain reading of the provision along with the purpose and purport of the said provision, which is intricately linked with search and requisition under Sections 132 and 132A of the Act, it is apparent that:*

- (a) *the assessments or reassessments, which stand abated in terms of II proviso to Section 153A of the Act, the AO acts under his original jurisdiction, for*

*which, assessments have to be made;*

- (b) regarding other cases, the addition to the income that has already been assessed, the assessment will be made on the basis of incriminating material; and*
- (c) in absence of any incriminating material, the completed assessment can be reiterated and the abated assessment or reassessment can be made."*

*34. The argument of the Revenue that the AO was free to disturb income de hors the incriminating material while making assessment under Section 153A of the Act was specifically rejected by the Court on the ground that it was "not borne out from the scheme of the said provision" which was in the context of search and/or requisition. The Court also explained the purport of the words "assess" and "reassess", which have been found at more than one place in Section 153A of the Act as under:*

*"26. The plea raised on behalf of the assessee that as the first proviso provides for assessment or reassessment of the total income in respect of each assessment year falling within the six assessment years, is merely reading the said provision in isolation and not in the context of the entire section. The words 'assess' or 'reassess'-have been used at more than one place in the Section and a harmonious construction of the entire provision would lead to an irresistible conclusion that the word assess has been used in the context of an abated proceedings and reassess has been used for completed assessment proceedings, which would not abate as they are not pending on the date of initiation of the search or making of requisition and which would also necessarily support the interpretation that for the completed assessments, the same can be tinkered only based on the incriminating material found during the course of search or requisition of documents."*

**60.** *In Kabul Chawla (supra), the Court also took note of the decision of the Bombay High Court in CIT v. Continental Warehousing Corpn (Nhava Sheva) Ltd. [\[2015\] 58 taxmann.com 78/232 Taxman 270/374 ITR 645 \(Bom.\)](#) which accepted the plea that if no incriminating material was found during the course of search in respect of an issue, then no additions in respect of any issue can be made to the assessment under Section 153A and 153C of the Act. The legal position was thereafter summarized in Kabul Chawla (supra) as under:*

*"37. On a conspectus of Section 153A(1) of the Act, read with the provisos thereto, and in the light of the law explained in the aforementioned decisions, the legal position that emerges is as under:*

- i. Once a search takes place under Section 132 of the Act, notice under Section 153 A (1) will have to be mandatorily issued to the person searched requiring him to file returns for six AYs immediately preceding the previous year relevant to the AY in which the search takes place.*
- ii. Assessments and reassessments pending on the date of the search shall abate. The total income for such AYs will have to be computed by the AOs as a fresh exercise.*
- iii. The AO will exercise normal assessment powers in respect of the six years previous to the relevant AY in which the search takes place. The AO has the power to assess and reassess the 'total income' of the. aforementioned six years in separate assessment orders for each of the six years. In other words there will be only one assessment order in respect of each of the six AYs "in which both the disclosed and the undisclosed income would be brought to tax".*
- iv. Although Section 153 A does not say that additions should be strictly made on the basis of evidence found in the course of the search, or other post-search material or information available with the AO which can be related to the evidence found, it does not mean that the assessment "can be arbitrary or made without any relevance or nexus with the seized material. Obviously an assessment has to be made under this Section only on the basis of seized material."*
- v. In absence of any incriminating material, the completed assessment can be reiterated and the abated assessment or reassessment can be made. The word 'assess' in Section 153 A is relatable to abated proceedings (i.e. those pending on the date of search) and the word 'reassess' to completed assessment proceedings.*
- vi. Insofar as pending assessments are concerned, the jurisdiction to make the original assessment and the assessment under Section 153A merges into one. Only one assessment shall be made separately for each AY on the basis of the findings of the search and any other material existing or brought on the record*

*of the AO.*

- vii. *Completed assessments can be interfered with by the AO while making the assessment under Section 153 A only on the basis of some incriminating material unearthed during the course of search or requisition of documents or undisclosed income or property discovered in the course of search which were not produced or not already disclosed or made known in the course of original assessment."*

**61.** *It appears that a number of High Courts have concurred with the decision of this Court in Kabul Chawla (supra) beginning with the Gujarat High Court in Saumya Construction (P.) Ltd. (supra). There, a search and seizure operation was carried out on 7th October, 2009 and an assessment came to be framed under Section 143(3) read with Section 153A(1)(b) in determining the total income of the Assessee of Rs. 14.5 crores against declared income of Rs. 3.44 crores. The ITAT deleted the additions on the ground that it was not based on any incriminating material found during the course of the search in respect of AYs under consideration i.e., AY 2006-07. The Gujarat High Court referred to the decision in Kabul Chawla(supra), of the Rajasthan High Court in Jai Steel (India) (supra) and one earlier decision of the Gujarat High Court itself. It explained in para 15 and 16 as under:*

*'15. On a plain reading of section 153A of the Act, it is evident that the trigger point for exercise of powers thereunder is a search under section 132 or a requisition under section 132A of the Act. Once a search or requisition is made, a mandate is cast upon the Assessing Officer to issue notice under section 153A of the Act to the person, requiring him to furnish the return of income in respect of each assessment year falling within six assessment years immediately preceding the assessment year relevant to the previous year in which such search is conducted or requisition is made and assess or reassess the same. Since the assessment under section 153A of the Act is linked with search and requisition under sections 132 and 132A of the Act, it is evident that the object of the section is to bring to tax the undisclosed income which is found during the course of or pursuant to the search or requisition. However, instead of the earlier regime of block assessment whereby, it was only the undisclosed income of the block period that was assessed, section 153A of the Act seeks to assess the total income for the assessment year, which is clear from the first proviso thereto which provides that the Assessing Officer shall assess or reassess the total income in respect of each assessment year falling within such six assessment years. The second proviso makes the intention of the*

*Legislature clear as the same provides that assessment or reassessment, if any, relating to the six assessment years referred to in the sub-section pending on the date of initiation of search under section 132 or requisition under section 132A, as the case may be, shall abate. Sub-section (2) of section 153A of the Act provides that if any proceeding or any order of assessment or reassessment made under sub-section (1) is annulled in appeal or any other legal provision, then the assessment or reassessment relating to any assessment year which had abated under the second proviso would stand revived. The proviso thereto says that such revival shall cease to have effect if such order of annulment is set aside. Thus, any proceeding of assessment or reassessment falling within the six assessment years prior to the search or requisition stands abated and the total income of the assessee is required to be determined under section 153A of the Act. Similarly, sub-section (2) provides for revival of any assessment or reassessment which stood abated, if any proceeding or any order of assessment or reassessment made under section 153A of the Act is annulled in appeal or any other proceeding.*

*16. Section 153A bears the heading "Assessment in case of search or requisition". It is "well settled as held by the Supreme Court in a catena of decisions that the heading or the Section can be regarded as a key to the interpretation of the operative portion of the section and if there is no ambiguity in the language or if it is plain and clear, then the heading used in the section strengthens that meaning. From the heading of section 153. the intention of the Legislature is clear, viz., to provide for assessment in case of search and requisition. When the very purpose of the provision is to make assessment In case of search or requisition, it goes without saying that the assessment has to have relation to the search or requisition, in other words, the assessment should connected With something round during the search or requisition viz., incriminating material which reveals undisclosed income. Thus, while in view of the mandate of sub-section (1) of section 153A of the Act, in every case where there is a search or requisition, the Assessing Officer is obliged to issue notice to such person to furnish returns of income for the six years preceding the assessment year relevant to the previous year in which the search is conducted or requisition is made, any addition' or disallowance can be made only on the basis of material collected during the search or requisition, in case no incriminating material is found, as held by the Rajasthan High Court in the case of Jai Steel (India) v. Asst. CIT (supra), the earlier assessment would have to be reiterated, in case where pending assessments have abated, the Assessing Officer can pass assessment orders for each of the six years*

*determining the total income of the assessee which would include income declared in the returns, if any, furnished by the assessee as well as undisclosed income, if any, unearthed during the search or requisition. In case where a pending reassessment under section 147 of the Act has abated, needless to state that the scope and ambit of the assessment would include any order which the Assessing Officer could have passed under section 147 of the Act as well as under section 153A of the Act.*

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*19. On behalf of the appellant, it has been contended that if any incriminating material is found, notwithstanding that in relation to the year under consideration, no incriminating material is found, it would be permissible to make additions and disallowance in respect of an the six assessment years. In the opinion of this court, the said contention does not merit acceptance, inasmuch as. the assessment in respect of each of the six assessment years is a separate and distinct assessment. Under section 153A of the Act, assessment has to be made in relation to the search or requisition, namely, in relation to material disclosed during the search or requisition. If in relation to any assessment year, no incriminating material is found, no addition or disallowance can be made in relation to that assessment year in exercise of powers under section 153A of the Act and the earlier assessment shall have to be reiterated. In this regard, this court is in complete agreement with the view adopted by the Rajasthan High Court in the case of Jai Steel (India) v. Asst. CIT (supra). Besides, as rightly pointed out by the learned counsel for the respondent, the controversy involved in the present case stands concluded by the decision of this court In the case of CIT v. Jayaben Ratilal Sorathia (supra) wherein it has been held that while it cannot be disputed that considering section 153A of the Act, the Assessing Officer can reopen and/or assess the return with respect to six preceding years ; however, there must be some incriminating material available with the Assessing Officer with respect to the sale transactions in the particular assessment year.'*

**62.** *Subsequently, in Devangi alias Rupa (supra), another Bench of the Gujarat High Court reiterated the above legal position following its earlier decision in Saumya Construction (P.) Ltd. (supra) and of this Court in Kabul Chawla (supra). As far as Karnataka High Court is concerned, it has in IBC Knowledge Park (P.) Ltd. (supra) followed the decision of this Court in Kabul Chawla (supra) and held that there had to be incriminating material qua each of the AYs in which additions were sought to be made pursuant to search and*

*seizure operation. The Calcutta High Court in Salasar Stock Broking Ltd. (supra), too, followed the decision of this Court in Kabul Chawla (supra). In Gurinder Singh Bawa (supra), the Bombay High Court held that:*

*"6. . . . . once an assessment has attained finality for a particular year, i.e., it is not pending then the same cannot be subject to tax in proceedings under section 153A of the Act. This of course would not apply if incriminating materials are gathered in the course of search or during proceedings under section 153A of the Act which are contrary to and/or not disclosed during the regular assessment proceedings."*

**63.** *Even this Court has in Mahesh Kumar Gupta (supra) and Ram Avtar Verma (supra) followed the decision in Kabul Chawla (supra). The decision of this Court in Kurele Paper Mills (P.) Ltd. (supra) which was referred to in Kabul Chawla (supra) has been affirmed by the Supreme Court by the dismissal of the Revenue's SLP on 7th December, 2015.*

*The decision in Dayawanti Gupta*

**64.** *That brings us to the decision in Smt. Dayawanti Gupta (supra). As rightly pointed out by Mr. Kaushik, learned counsel appearing for the Respondent, that there are several distinguishing features in that case which makes its ratio inapplicable to the facts of the present case. In the first place, the Assessee there were engaged in the business of Pan Masala and Gutkha etc. The answers given to questions posed to the Assessee in the course of search and survey proceedings in that case bring out the points of distinction. In the first place, it was stated that the statement recorded was under Section 132(4) and not under Section 133A. It was a statement by the Assessee himself. In response to question no. 7 whether all the purchases made by the family firms, were entered in the regular books of account, the answer was:*

*"We and our family firms namely M/s. Assam Supari Traders and M/s. Balaji Perfumes generally try to record the transactions made in respect of purchase, manufacturing and sales in our regular books of accounts but it is also fact that some time due to some factors like inability of accountant, our busy schedule and some family problems, various purchases and sales of Supari, Gutka and other items dealt by our firms is not entered and shown in the regular books of accounts maintained by our firms."*

**65.** *Therefore, there was a clear admission by the Assessee in Smt. Dayawanti Gupta (supra) there that they were not maintaining regular books of accounts and the transactions were not recorded therein.*

**66.** Further, in answer to Question No. 11, the Assessee in Smt. Dayawanti Gupta (supra) was confronted with certain documents seized during the search. The answer was categorical and reads thus:

*"Ans:- I hereby admit that these papers also contend details of various transactions include purchase/sales/manufacturing trading of Gutkha, Supari made in cash outside Books of accounts and these are actually unaccounted transactions made by our two firms namely M/s. Asom Trading and M/s. Balaji Perfumes."*

**67.** By contrast, there is no such statement in the present case which can be said to constitute an admission by the Assessee of a failure to record any transaction in the accounts of the Assessee for the AYs in question. On the contrary, the Assessee herein stated that, he is regularly maintaining the books of accounts. The disclosure made in the sum of Rs. 1.10 crores was only for the year of search and not for the earlier years. As already noticed, the books of accounts maintained by the Assessee in the present case have been accepted by the AO. In response to question No. 16 posed to Mr. Pawan Gadia, he stated that there was no possibility of manipulation of the accounts. In Smt. Dayawanti Gupta (supra), by contrast, there was a chart prepared confirming that there had been a year-wise non-recording of transactions. In Smt. Dayawanti Gupta (supra), on the basis of material recovered during search, the additions which were made for all the years whereas additions in the present case were made by the AO only for AY 2004-05 and not any of the other years. Even the additions made for AYs 2004-05 were subsequently deleted by the CIT (A), which order was affirmed by the ITAT. Even the Revenue has challenged only two of such deletions in ITA No. 306/2017.

**68.** In para 23 of the decision in Smt. Dayawanti Gupta (supra), it was observed as under:

*"23. This court is of opinion that the ITAT's findings do not reveal any fundamental error, calling for correction. The inferences drawn in respect of undeclared income were premised on the materials found as well as the statements recorded by the assessees. These additions therefore were not baseless. Given that the assessing authorities in such cases have to draw inferences, because of the nature of the materials - since they could be scanty (as one habitually concealing income or indulging in clandestine operations can hardly be expected to maintain meticulous books or records for long and in all probability be anxious to do away with such evidence at the shortest possibility) the element of guess work is to have some*

*reasonable nexus with the statements recorded and documents seized. In tills case, the differences of opinion between the CIT (A) on the one hand and the AO and ITAT on the other cannot be the sole basis for disagreeing with what is essentially a factual surmise that is logical and plausible. These findings do not call for interference. The second question of law is answered again in favour of the revenue and against the assessee."*

**69.** *What weighed with the Court in the above decision was the "habitual concealing of income and indulging in clandestine operations" and that a person indulging in such activities "can hardly be accepted to maintain meticulous books or records for long." These factors are absent in the present case. There was no justification at all for the AO to proceed on surmises and estimates without there being any incriminating material qua the AY for which he sought to make additions of franchisee commission.*

**70.** *The above distinguishing factors in Smt. Dayawanti Gupta (supra), therefore, do not detract from the settled legal position in Kabul Chawla(supra) which has been followed not only by this Court in its subsequent decisions but also by several other High Courts.*

**71.** *For all of the aforementioned reasons, the Court is of the view that the ITAT was justified in holding that the invocation of Section 153A by the Revenue for the AYs 2000-01 to 2003-04 was without any legal basis as there was no incriminating material qua each of those AYs.*

*Conclusion*

**72.** *To conclude:*

- (i) Question (i) is answered in the negative i.e., in favour of the Assessee and against the Revenue. It is held that in the facts and circumstances, the Revenue was not justified in invoking Section 153A of the Act against the Assessee in relation to AYs 2000-01 to AYs 2003-04?*
- (ii) Question (ii) is answered in the affirmative i.e., in favour of the Assessee and against the Revenue. It is held that with reference to AY 2004-05, the ITAT was correct in confirming the orders of the CIT (A) to the extent it deleted the additions made by the AO to the taxable income of the Assessee of franchise commission in the sum of Rs. 88 lakhs and rent payment for the sum of Rs. 13.79 lakhs?"*

Accordingly, in view of the facts and circumstances of the case that the assessment in question was framed u/s 153A is not based on any incriminating material found or seized and therefore, the addition made by the AO of Rs. 26,183/- on account of employees Contribution to ESI and PF is not justified and the same is deleted by following decisions of Delhi High Court in case Pr. CIT vs. Meeta Gutgutia (supra)."

Therefore, when the addition is not based on the seized material then the Id. CIT (A) has no jurisdiction even having concurrence power of the AO to make any addition in the assessment framed under section 153A. Accordingly, the addition made by the Id. CIT (A) of Rs. 50,00,000/- is not sustainable and according deleted."

We, therefore, following the Coordinate Bench decision hereinabove, delete the Protective addition sustained by the Id. CIT (A) thereby allowing the ground of the assessee.

7. Ground Nos. 1 & 3 of the assessee have not been pressed. Therefore, the same are dismissed as not pressed.

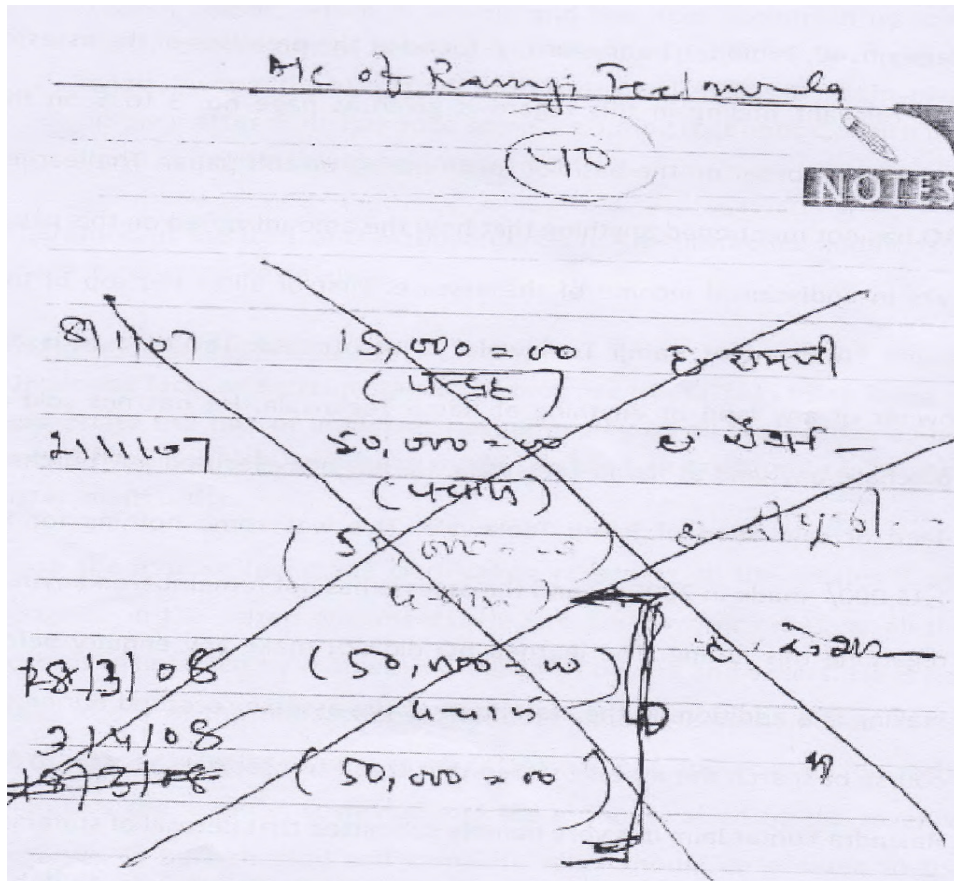
**ITA NO. 513/JP/2017 ( REVENUE )**

**Ground No. 1 relates to deletion of addition of Rs. 1,15,00,000/- made by the AO on account of unaccounted investment.**

8. Before us, the Id. Counsel for the assessee submitted as under :-

" The leaned AO has made this addition on the basis of papers found as per Page no. 40, Exhibit - 1 annexure-A found at the premises of the assessee. The relevant finding in this regard is given at page no. 3 to 5 on the assessment order on the basis of rough noting on this paper. The learned AO has not mentioned anything that how the amount noted on this paper was in undisclosed income of the assessee. First of all at the top of this paper "Account of Ramji Teelawala" is mentioned. The assessee is not owner of any land or anything at Ramji Teelawala. He has not sold or purchase any land at Ramji Teelawala. He has not executed any purchase deed or

sale deed of Ramji Teelawala. This was some nothing for Rs. 1,15,000/- made in 2006-07 and the assessee has not remembered anything regarding this noting. The learned AO did not make any enquiry before making this addition. In the statement of the assessee recorded during the course of search the assessee stated that these transactions pertain to Shri Rajendra Kumar Jain. It is very humbly submitted that perusal of statement of the assessee recorded during the course of search u/s 132(4) on 23.05.2013/24.05.2013 running into 15 pages containing 32 question-answers has been closely perused and it nowhere discloses examination of Shri Rajendra Kumar Jain. Copy of statements are available on paper book page no. 1 to 22. A copy of document page no. 40 of annexure -A, exhibit -1 is reproduced as under -



The figure of Rs. 1,15,00,000/- has been arrived at the Learned Assessing Officer by totaling first three figures of 15000 dated 08/01/07, 50000 each on 21/01/07. This paper is deaf and dump paper, no particular or details of transaction is mentioned on this documents. No specific statement of the assessee or any person was recorded.

No any enquiry was made before reaching on the conclusion that this amount was mentioned by suppressing two zeros and this was unaccounted income of the assessee. Therefore this addition was made only on assumption and presumption and nothing has been brought on the record that this is undisclosed income of the assessee. Therefore, this addition was deleted by the learned CIT(A) by giving categorically finding in para 3.3.2 of the appellate order as under:

*"3.3.2 I have duly considered assessee's submission and carefully gone through assessment order. I have also taken a note of factual matrix of the case as well as applicable case laws relied upon.*

*It is pertinent to mention here that the impugned seized documents found from the possession of the assessee, actually pertain to Shri Navrattan Kothari, Sh. Vimal Chand Surana HUF, Sh Kushal Chand Surana & Sh. Rajendra Kr Jain, accordingly, following additions on the basis of documentary evidences gathered during the remand proceeding have been proposed and for the AY 2007-08 no addition has been proposed in the hands of the assessee."*

Therefore the learned CIT(A) has rightly allowed the appeal on this ground which deserves to be sustained."

9. On the other hand, the Id. D/R supported the order of the Assessing Officer.
10. We have heard the rival contentions, perused the material available on record and gone through the orders of the revenue authorities. The AO has made the addition on the basis of loose papers page no. 40 Exhibit-1 Annexure-A found from the possession of the assessee during the course of search and seizure action under section 132 of the IT Act, 1961 holding that the assessee has made unaccounted investment in purchase of land. During the course of search proceedings, statement of the assessee was recorded under section 132(4) of the Act. In the statement recorded by the search team the assessee stated that the loose paper page 40 found and seized relates to purchase of land near EP at village Chainpura by Shri Rajendra Kumar Jain for whom he was working as deed writer for last several years

and also executing and registering purchase deed and sale deeds on behalf of various buyers and sellers of immovable property. The assessee was maintaining records of sale price and purchase price on the instance and instruction of buyers and sellers. The AO in the assessment order no finding has been given or brought on record any evidence to establish that the amount noted in the seized paper was undisclosed income of the assessee. No enquiry was conducted in respect of the rough notings in the loose paper seized or made cross examination of Shri Rajendra Kumar Jain to controvert the statement of the assessee that the amount mentioned in the seized paper actually pertains to Shri Rajendra Kumar Jain in whose hand addition is made on substantive basis. The Id. CIT (A) while dealing with the matter, discussed the issue at great details and made a categorical finding in para 3.3.2 of his order by deleting the addition as under :-

*“3.3.2 I have duly considered assessee’s submission and carefully gone through assessment order. I have also taken a note of factual matrix of the case as well as applicable case laws relied upon.*

*It is pertinent to mention here that the impugned seized documents found from the possession of the assessee, actually pertain to Shri Navrattan Kothari, Sh. Vimal Chand Surana HUF, Sh Kushal Chand Surana & Sh. Rajendra Kr Jain, accordingly, following additions on the basis of documentary evidences gathered during the remand proceeding have been proposed and for the AY 2007-08 no addition has been proposed in the hands of the assessee.”*

Having considered the matter, we find no infirmity in the order of the Id. CIT (A), the same is upheld. Ground of the revenue is dismissed.

**Ground No. 2 relates to deletion of addition of Rs. 1,92,00,000/- made by the AO on account of undisclosed investment in purchase of land.**

**11.** Before us, the Id. Counsel for the assessee submitted that the learned CIT (A) deleted the total protective addition of Rs. 50000000 + 41532446+12499000. But on the basis of remand report submitted by the learned AO during the appellate proceedings has filed appeal for the addition of Rs. 1,92,00,000/- on protective basis for purchase of land behind EP at Chainpura as unexplained investment by assessee. The relevant portion of remand report is reproduced by the CIT(A) on page no. 23 of appellate order (paper book page no. 15 submitted on 14.06.2018) in point no. 6 where the learned AO has made reference for the assessee Shri Madan Mohan Gupta for protective addition in various year including addition of Rs. 1,92,00,000/- for assessment year 2007-08, Rs. 3,87,00,000/- for assessment year 2008-09 and Rs. 5,55,84,000/- for assessment year 2009-10 total Rs. 11,34,84,000/-. (In other years the learned CIT(A) has also deleted the additions and the department is in appeal for the same). When once the CIT(A) has given very specific and categorical findings in this regard that the transaction in the seized record or impounded material does not belongs to the assessee personally and it is mainly related to Shri Navrattan Sh. Vimal Chand Surana HUF, Sh Kushal Chand Surana & Sh. Rajendra Kr Jain. The above transactions were also related to the above persons. The assessee was only name lender for very short period of six months. All the money were routed through the accounts of above names persons and they are the actual owner of the property. Therefore, the learned CIT(A) has rightly deleted these additions. The Id. A/R submitted that the order of the learned CIT(A) deserves to be sustained.

12. On the other hand, the Id. D/R supported the order of the assessing officer.

13. We have heard the rival contentions, perused the material available on record and gone through the orders of the revenue authorities. On the identical issue raised in Ground No. 1 of the revenue's appeal hereinabove, we have upheld the order of the Id. CIT (A). On the same reasoning as discussed in ground no. 1 above, we find no reason to take a different view of the matter. Hence the order of Id. CIT (A) is upheld. The ground no. 2 is dismissed.

**ITA NO. 514/JP/2017 (REVENUE)**

**Ground No. 1 relates to deletion of addition of Rs. 50,00,000/- on account of unaccounted investment made by the AO on the basis of Annexure-A found and seized during the course of search.**

**14.** Before us, the Id. Counsel for the assessee submitted as under :-

“ The learned AO has given finding regarding this addition on page no. 10 to 12 in para 8 of the assessment order. This addition was based on page no. 14 of annexure 'A' exhibit-1 which is reproduced as under: -

MC of Rampi Tealwala

(40)

NOTES

<del>8/1/07</del>	<del>15,000 = 00 (4556)</del>	<del>श्री रामजी</del>
<del>2/1/07</del>	<del>50,000 = 00 (4556) (50,000 = 00 4-515)</del>	<del>श्री रंजन</del>
<del>18/3/08</del>	<del>(50,000 = 00 4-515)</del>	<del>श्री श्री श्री</del>
<del>3/4/08</del>	<del>(50,000 = 00)</del>	<del>श्री रंजन</del>
<del>18/3/08</del>	<del>(50,000 = 00)</del>	<del>श्री</del>

The figure of Rs. 50,00,000/- has been arrived by the Learned Assessing Officer by considering forth figure of 50000 dated 18/03/08. This paper is deaf and dump paper, no particular or details of transaction is mentioned on this documents. No specific statement of the assessee or any person was recorded. No any enquiry was made before reaching on the conclusion that this amount was mentioned by suppressing two zeros and this was unaccounted income of the assessee.

The Learned Assessing Officer made the addition of Rs. 50,00,000/- without bringing any material on record. The findings given by the learned AO is not backed by any evidence. The Learned CIT(A) has deleted this addition of Rs. 50,00,000/- by mentioning that the seized documents are pertaining to various other persons including Shri Navratan Kothari, Shri Vimal Chand Surana HUF and Shri Kushal

Chand Surana and Shri Rajendra Kumar Jain and not related to the assessee. Hence, no addition is to be made in the hands of the assessee.

The department has not substantiated anywhere in the assessment order or in the remand report submitted before the learned CIT(A) that this document annexure- A, exhibit-A, page no. 40 is how related to the assessee and how the amount mentioned are undisclosed income of the assessee. The addition is only on the basis of assumption and presumption. The only thing is that this paper was found from the possession of the assessee. Since the assessee is a deed writer, therefore it is possible that these notings were made on behalf of others and the assessee could not remember the relevance of notings, because a considerable time has been passed and assessee is also running in old age. There is nothing on record on the basis of which the addition can be sustained in the hands of the assessee, therefore the learned CIT(A) has rightly deleted this addition and his order on this account deserves to be sustained."

15. On the other hand, the Id. D/R supported the order of the Assessing Officer.

16. We have heard the rival contentions, perused the material available on record and gone through the orders of the revenue authorities. The Id. CIT (A) after discussing the matter in respect of the ground under consideration, in para 2.1.8.5, at issue no. 6, assessment year 2008-09 has made the addition in the hands of the Shri Rajendra Kumar Jain and deleted the addition in the hands of the assessee for the assessment year 2008-09 at sl. no. 2 page 66 of the Id. CIT(A)'s order. We have adjudicated similar ground in revenue's appeal in ITA No. 513/JP/2017 in ground no. 1 hereinabove. Accordingly, we find no infirmity in the order of the Id. CIT (A) which is hereby upheld. The ground of the revenue is dismissed.

**Ground No. 2 relates to deletion of addition of Rs. 3,87,00,000/- on account of undisclosed investment in purchase of land made by the AO on the basis of documents found and seized during the course of search.**

17. Before us, the Id. Counsel for the assessee submitted as under :-

“The learned AO has made the addition of Rs.14,24,12,650/- and Rs. 4,84,00,000/- after discussing the issue in para no. 9 and 10 of the assessment order on page no. 12 to 31. The addition was made on account of land transaction between Shri Navratan Kothari and M/s Shri Kalyan Buildmart Pvt Ltd for EP (Chainpura Land) for a sale consideration of Rs. 12,30,84,000/- which is recorded on page no. 15 to 18 of exhibit -1 of annexure-A. This addition was made in the hands of the assessee as substantive and protective in the hands of Shri Navratan Kothari. Likewise Rs. 4,84,00,000/- was added in the hands of Vimal Chand Surana for the same transaction on protective basis and substantive addition was made in the hands of the assessee.

During the appellate proceedings the learned CIT(A) has called for remand report. In the remand report the learned AO has discussed all the material facts and evidences and also considered the statement of the assessee in detail in 27 pages (remand report dated 20.03.2017) and finally observed as under:-

“

The above reply is self-explanatory and establishes beyond doubt that the company M/s Shree Kalyan Buildmart Pvt. Ltd. was formed only to execute the deal for purchase of land from farmers by Shri Rajendra Kumar Jain and its subsequent transfer to Shri Vimal Chand Surana and Shri Navrattan Kothari, without any gain accruing to Shri Madan Mohan Gupta. He and his wife were used just as dummy directors of the company M/s Shree Kalyan Buildmart Pvt. Ltd., so that Shri Rajendra Kumar Jain, Shri Vimal Chand Surana and Shri Navrattan Kothari could invest their unaccounted funds in purchase of land and thereby evade the tax due on the transactions between them. Shri Madan Mohan Gupta and his wife gained only ₹ 8 lacs as profit on sale of shares and ₹ 2 lacs which he received back as share capital. Both of them have already paid due taxes on such profit in the respective AYS.

6. Based on the above discussion, it has been established that Shri Madan Mohan Gupta has acted only as a namelender to the deal and a dummy Director of M/s Shree Kalyan Buildmart Pvt. Ltd. There is no tax implication of the purchase and sale of the lands at EP, behind Chainpura, in the hands of Shri Madan Mohan Gupta, except as stated below. However, on the basis of evidence discussed in this report above, the following amounts are required to be brought to tax as income of the respective persons as mentioned below:

- i. **Shri Rajendra Kumar Jain – Substantive addition**
  - a. Unexplained investment in purchase of land behind EP, at Chainpura in AY 2007-08 = ₹ 1,92,00,000/-
  - b. Unexplained investment in purchase of land behind EP, at Chainpura in AY 2008-09 = ₹ 3,87,00,000/-.

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- c. Unexplained investment in purchase of land behind EP, at Chainpura in AY 2009-10 = ₹ 5,55,84,000/- (This yearwise demarcation of the investment has been done on the basis of Page Nos.15,16 and 18 of the Annexure-A Exhibit-1, the copies of which have been attached with this report for reference).
- d. Undisclosed business income (since Shri Rajendra Kumar Jain is engaged in the business of sale and purchase of properties) on the sale of the land behind EP at Chainpura to Shri Vimal Chand Surana and Shri Navrattan Kothari in AY 2007-08 = ₹ 8,32,55,232/-.
- ii. **Shri Navrattan Kothari - Substantive addition**
- a. Shri Navrattan Kothari purchased 80% shares of M/s Shree Kalyan Buildmart Pvt. Ltd. Since he was the 80% shareholder in the deal for purchase of the land behind EP owned by Shri Rajendra Kumar Jain, therefore, 80% of the purchase consideration of ₹ 20,83,39,230/-, i.e. ₹ 16,66,71,384/- should be taxed in his hands on substantive basis in AY 2008-09 as his unexplained and undisclosed investment (Since the shares were acquired by Shri Navrattan Kothari on 05-04-07).
- iii. **Vimal Chand Surana HUF - Substantive addition**
- a. Vimal Chand Surana HUF purchased 13.5% shares of M/s Shree Kalyan Buildmart Pvt. Ltd. Since the HUF was the 13.5% shareholder in the deal for purchase of the land behind EP owned by Shri Rajendra Kumar Jain, therefore, 13.5% of the purchase consideration of ₹ 20,83,39,230/-, i.e. ₹ 2,81,25,796/- is required to be taxed as undisclosed income of Vimal Chand Surana HUF on substantive basis in

AY 2008-09(Since the shares were acquired by Vimal Chand Surana HUF on 05-04-07).

- iv. No addition should be made in the hands of Shri Vimal Chand Surana in his capacity as individual.
- v. **M/s Shree Kalyan Buildmart Pvt. Ltd.- Protective addition**
- (a) Unexplained investment in purchase of land behind EP, at Chainpura in AY 2007-08 = ₹ 1,92,00,000/-
- (b) Unexplained investment in purchase of land behind EP, at Chainpura in AY 2008-09 = ₹ 3,87,00,000/-.
- (c) Unexplained investment in purchase of land behind EP, at Chainpura in AY 2009-10 = ₹ 5,55,84,000/-(This yearwise demarcation of the investment has been done on the basis of Page Nos.15,16 and 18 of the Annexure-A Exhibit-1, the copies of which have been attached with this report for reference).
- vi. **Shri Madan Mohan Gupta - Protective addition**
- (a) Unexplained investment in purchase of land behind EP, at Chainpura in AY 2007-08 = ₹ 1,92,00,000/-
- (b) Unexplained investment in purchase of land behind EP, at Chainpura in AY 2008-09 = ₹ 3,87,00,000/-.
- (c) Unexplained investment in purchase of land behind EP, at Chainpura in AY 2009-10 = ₹ 5,55,84,000/-(This yearwise demarcation of the investment has been done on the basis of Page Nos.15,16 and 18 of the Annexure-A Exhibit-1, the copies of which have been attached with this report for reference).

Thereafter relying on the above remand report the learned CIT(A) has deleted all the addition made for this entertainment paradise (Chainpura) lands in the hands of the assessee by observing as under –

*"3.1.3 I have duly considered assessee's submission and carefully gone through assessment order. I have also taken a note of factual matrix of the case as well as applicable case laws relied upon.*

*The impugned seized documents found from the possession of the assessee, actually pertain to Shri Navrattan Kothari, Sh. Vimal Chand Surana HUF, Sh Kushal Chand Surana & Sh. Rajendra Kr Jain, accordingly, following additions on the basis of documentary evidences gathered during the remand proceeding have been proposed and for the AY 2008-09 no addition has been proposed in the hands of the assessee."*

Therefore, after considering such a categorical finding the learned CIT(A) has rightly deleted this addition and the appeal filed by the revenue on the basis of remand report dated 20.03.2017 has no leg to stand. Therefore, the ground of the revenue deserves to be dismissed. "

18. On the other hand, the Id. D/R relied on the order of the Assessing Officer.

19. We have heard the rival contentions, perused the material available on record and gone through the orders of the revenue authorities. On the identical issue raised in Ground No. 1 of the revenue's appeal in ITA No. 513/JP/2017 hereinabove, we have upheld the order of the Id. CIT (A). On the same reasoning as discussed in ground no. 1 above, we find no reason to take a different view of the matter. Hence the order of Id. CIT (A) is upheld. The ground is dismissed.

**Ground No. 3 relates to deletion of addition of Rs 8500000 made by the AO on account of undisclosed investment in purchase of land on the basis of documents found and seized during the course of search and seizure action.**

20. Before us the Id. Counsel for the assessee submitted as under :-

“ This addition was based on the basis of seized documents annexure A-1 exhibit-1 page no. 36 and 38 where the details of land transaction between K.G. Kothari HUF and Laxmi Narayan is mentioned the total transactions for Bhankrota Land for Rs. 85,00,000/- in assessment year 2008-09 and Rs. 22,89,854/- for assessment year 2009-10. Since the assessee was only a deed writer and he was not party to the transaction. Therefore, the learned CIT(A) in para 3.3.2 of appellate order has deleted the addition. There is nothing on record nor any evidence was found that the assessee is beneficiary of this transaction. Therefore, this addition was deleted.”

21. On the other hand, the Id. D/R relied on the order of the Assessing Officer.

22. We have heard the rival contentions, perused the material available on record and gone through the orders of the revenue authorities. The Id. CIT (A) has dealt with the issue in para 3.3.2 of his order and resultantly deleted the addition in the hands of the assessee, by observing as under :-

“ 3.3.2 I have duly considered assessee’s submission and carefully gone through assessment order. I have also taken a note of factual matrix of the case as well as applicable case laws relied upon.

The addition on the basis of seized document (A-1 Exhibit Pg 36 & 38) actually pertains to KGK Kothari HUF and Laxmi Narayan at village Bhankrota, Tehsil Sanganer. Further, AO has also made reference of impugned seized document pg 36, 38 & 78 in the assessment order of Sh Madan Mohan Gupta & Sh Navrattan Kothari in AY 2008-09 – rs. 85,00,000/- and AY 2009-10 Rs. 22,89,854/- which pertain to land transaction by KG Kothari HUF at ‘Bhankrota’, Ajmer road, Tehsil Sanganer. This relates to registry sale deed between KG Kothari HUF and Laxmi Narayan & Devi Narayan. The impugned seized document Pg 36 contains the name of Sh Laxmi Narayan and Pg 38 – Devi Narayan, who are real brothers. In fact, this pertains to two registry done on behalf of KG Kothari HUF and the impugned seized documents contain both cheque and cash entries. Cheque entries are

easily verifiable from registry documents / Registered Sale Deed. Sh Madan Mohan Gupta has received charges for deed writing only. Therefore, additions to be sustained in the hands of Sh Navrattan Kothari in AY 2008-09 (Rs. 85,00,000/-) AY 2009-10 (rs. 22,89,854/-) on substantive basis. In this regard, AO has already been directed to reopen u/s 147 of the Act of the case of Sh Navrattan Kothari for the AY 2009-10.

In view of facts & circumstances of the case, no addition on protective basis is required to be made in the hands of assessee, accordingly, addition made of Rs. 85,00,000/- for AY 2008-09 is hereby deleted."

After taking into consideration the details furnished by the assessee, we find no infirmity in the order of the Id. CIT (A) in deleting the addition in the hands of the assessee, which is hereby upheld. The ground of the revenue is dismissed.

### **ITA NO. 515/JP/2017 (REVENUE)**

**Ground No. 1 relates to deletion of addition of Rs. 50,00,000/- made by the AO on account of unaccounted investment on the basis of Annexure-A Exhibit-1 Page no. 40 found and seized during the course of search.**

**23.** Before us, the Id. Counsel for the assessee submitted as under :-

" The learned AO has given finding regarding this addition on page no. 10 to 12 in para 8 of the assessment order. This addition was based on page no. 40 of annexure 'A' exhibit-1 which is reproduced as under: -

MC of Rampi Tealwala

(40)

NOTES

<del>8/11/07</del>	<del>15,000 = 00 (4556)</del>	<del>श. रामजी</del>
<del>21/11/07</del>	<del>50,000 = 00 (4556) (50,000 = 00 4-11-07)</del>	<del>श. रंजन - श. श्री 61 -</del>
<del>28/3/08</del>	<del>(50,000 = 00 4-11-07)</del>	<del>श. रंजन</del>
<del>3/4/08</del>	<del>(50,000 = 00)</del>	<del>श.</del>
<del>18/3/08</del>	<del>(50,000 = 00)</del>	

The figure of Rs. 50,00,000/- has been arrived by the Learned Assessing Officer by considering forth figure of 50000 dated 03/04/08. This paper is deaf and dump paper, no particular or details of transaction is mentioned on this documents. No specific statement of the assessee or any person was recorded. No any enquiry was made before reaching on the conclusion that this amount was mentioned by suppressing two zeros and this was unaccounted income of the assessee.

The Learned Assessing Officer made the addition of Rs. 50,00,000/- without bringing any material on record. The findings given by the learned AO is not backed by any evidence. The Learned CIT(A) has deleted this addition of Rs. 50,00,000/- by mentioning that the seized documents are pertaining to various other persons including Shri Navratan Kothari, Shri Vimal Chand Surana HUF and Shri Kushal

Chand Surana and Shri Rajendra Kumar Jain and not related to the assessee. Hence, no addition is to be made in the hands of the assessee.

The department has not substantiated anywhere in the assessment order or in the remand report submitted before the learned CIT(A) that this document annexure- A, exhibit-A, page no. 40 is how related to the assessee and how the amount mentioned are undisclosed income of the assessee. The addition is only on the basis of assumption and presumption. The only thing is that this paper was found from the possession of the assessee. Since the assessee is a deed writer, therefore it is possible that these notings were made on behalf of others and the assessee could not remember the relevance of notings, because a considerable time has been passed and assessee is also running in old age. There is nothing on record on the basis of which the addition can be sustained in the hands of the assessee, therefore the learned CIT(A) has rightly deleted this addition and his order on this account deserves to be sustained.

24. On the other hand, the Id. D/R supported the order of the Assessing Officer.

25. We have heard the rival contentions, perused the material available on record and gone through the orders of the revenue authorities. The Id. CIT (A) after discussing the matter in respect of the ground under consideration, in para 2.1.8.5, at issue no. 6, assessment year 2009-10 has made the addition in the hands of the Shri Rajendra Kumar Jain and deleted the addition in the hands of the assessee by giving relief for the assessment year 2009-10 at sl. no. 3 page 66 of the Id. CIT(A)'s order. We have adjudicated similar ground in revenue's appeal in ITA No. 513/JP/2017 in ground no. 1 hereinabove. Accordingly, we find no infirmity in the order of the Id. CIT (A) which is hereby upheld. The ground of the revenue is dismissed.

**Ground No. 2 relates to deletion of addition of Rs. 5,55,84,000/- made by the AO on account of undisclosed investment in purchase of land on the basis of documents found and seized during the course of search.**

26. Before us, the Id. Counsel for the assessee as under :-

"The learned AO has made the addition of Rs. 7,19,50,000/- after discussing the issue in para no. 8 of the assessment order on page no. 10 to 17. The addition was made on account of land transaction between Shri Navratan Kothari and M/s Shri Kalyan Buildmart Pvt Ltd for EP (Chainpura Land) and other land transactions. The total of Rs. 11,05,85,000/- was divided in two financial year as under :-

Financial year 2008-09 Rs. 7,19,50,000/-

Financial year 2009-10 Rs. 3,86,35,000/-

The details of which are noted on page no. 21 to 25. Of annexure – A, exhibit-1. This addition was made in the hands of the assessee as substantive and protective in the hands of Shri Navratan Kothari, Shri Vimal Chand Surana and Shri Rajendra Kumar Jain has been made. Rs. 1,24,99,000/- was made in the hands of Shri Rajendra Kumar Jain out of total additions.

During the appellate proceedings the learned CIT(A) has called for remand report. In the remand report the learned AO has discussed all the material facts and evidences and also consider the statement of the assessee in detail in 27 pages. (remand report dated 20.03.2017) and finally observed as under:-

The above reply is self-explanatory and establishes beyond doubt that the company M/s Shree Kalyan Buildmart Pvt. Ltd. was formed only to execute the deal for purchase of land from farmers by Shri Rajendra Kumar Jain and its subsequent transfer to Shri Vimal Chand Surana and Shri Navrattan Kothari, without any gain accruing to Shri Madan Mohan Gupta. He and his wife were used just as dummy directors of the company M/s Shree Kalyan Buildmart Pvt. Ltd., so that Shri Rajendra Kumar Jain, Shri Vimal Chand Surana and Shri Navrattan Kothari could invest their unaccounted funds in purchase of land and thereby evade the tax due on the transactions between them. Shri Madan Mohan Gupta and his wife gained only ₹ 8 lacs as profit on sale of shares and ₹ 2 lacs which he received back as share capital. Both of them have already paid due taxes on such profit in the respective AYs.

6. Based on the above discussion, it has been established that Shri Madan Mohan Gupta has acted only as a namelender to the deal and a dummy Director of M/s Shree Kalyan Buildmart Pvt. Ltd. There is no tax implication of the purchase and sale of the lands at EP, behind Chainpura, in the hands of Shri Madan Mohan Gupta, except as stated below. However, on the basis of evidence discussed in this report above, the following amounts are required to be brought to tax as income of the respective persons as mentioned below:

- i. **Shri Rajendra Kumar Jain - Substantive addition**
  - a. Unexplained investment in purchase of land behind EP, at Chainpura in AY 2007-08 = ₹ 1,92,00,000/-
  - b. Unexplained investment in purchase of land behind EP, at Chainpura in AY 2008-09 = ₹ 3,87,00,000/-.

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- c. Unexplained investment in purchase of land behind EP, at Chainpura in AY 2009-10 = ₹ 5,55,84,000/- (This yearwise demarcation of the investment has been done on the basis of Page Nos.15,16 and 18 of the Annexure-A Exhibit-1, the copies of which have been attached with this report for reference).
- d. Undisclosed business income (since Shri Rajendra Kumar Jain is engaged in the business of sale and purchase of properties) on the sale of the land behind EP at Chainpura to Shri Vimal Chand Surana and Shri Navrattan Kothari in AY 2007-08 = ₹ 8,32,55,232/-.
- ii. **Shri Navrattan Kothari - Substantive addition**
- a. Shri Navrattan Kothari purchased 80% shares of M/s Shree Kalyan Buildmart Pvt. Ltd. Since he was the 80% shareholder in the deal for purchase of the land behind EP owned by Shri Rajendra Kumar Jain, therefore, 80% of the purchase consideration of ₹ 20,83,39,230/-, i.e. ₹ 16,66,71,384/- should be taxed in his hands on substantive basis in AY 2008-09 as his unexplained and undisclosed investment (Since the shares were acquired by Shri Navrattan Kothari on 05-04-07).
- iii. **Vimal Chand Surana HUF - Substantive addition**
- a. Vimal Chand Surana HUF purchased 13.5% shares of M/s Shree Kalyan Buildmart Pvt. Ltd. Since the HUF was the 13.5% shareholder in the deal for purchase of the land behind EP owned by Shri Rajendra Kumar Jain, therefore, 13.5% of the purchase consideration of ₹ 20,83,39,230/-, i.e. ₹ 2,81,25,796/- is required to be taxed as undisclosed income of Vimal Chand Surana HUF on substantive basis in

AY 2008-09(Since the shares were acquired by Vimal Chand Surana HUF on 05-04-07).

- iv. No addition should be made in the hands of Shri Vimal Chand Surana in his capacity as individual.
- v. **M/s Shree Kalyan Buildmart Pvt. Ltd.- Protective addition**
- (a) Unexplained investment in purchase of land behind EP, at Chainpura in AY 2007-08 = ₹ 1,92,00,000/-
- (b) Unexplained investment in purchase of land behind EP, at Chainpura in AY 2008-09 = ₹ 3,87,00,000/-.
- (c) Unexplained investment in purchase of land behind EP, at Chainpura in AY 2009-10 = ₹ 5,55,84,000/-(This yearwise demarcation of the investment has been done on the basis of Page Nos.15,16 and 18 of the Annexure-A Exhibit-1, the copies of which have been attached with this report for reference).
- vi. **Shri Madan Mohan Gupta - Protective addition**
- (a) Unexplained investment in purchase of land behind EP, at Chainpura in AY 2007-08 = ₹ 1,92,00,000/-
- (b) Unexplained investment in purchase of land behind EP, at Chainpura in AY 2008-09 = ₹ 3,87,00,000/-.
- (c) Unexplained investment in purchase of land behind EP, at Chainpura in AY 2009-10 = ₹ 5,55,84,000/-(This yearwise demarcation of the investment has been done on the basis of Page Nos.15,16 and 18 of the Annexure-A Exhibit-1, the copies of which have been attached with this report for reference).

Thereafter relying on the above remand report the learned CIT(A) has deleted all the addition made for this entertainment paradise (chainpura) lands in the hands of the assessee by observing in para 3.2.2 of his order.”

27. On the other hand, the Id. D/R supported the order of the Assessing Officer.

28. We have heard the rival contentions, perused the material available on record and gone through the orders of the revenue authorities. We find that the Id. CIT (A) vide his order dated 31.03.2017 for the assessment year 2009-10, after discussing the matter in respect of the ground under consideration, has allowed relief to the assessee vide para 2.1.8.5, at page 66 sl. no. 3 of his order. The Id. CIT (A) further directed in para 3.2.2 page 75 of his order that no separate addition of Rs. 7,19,50,000/- is required to be made in the hands of the assessee by allowing the appeal of the assessee by observing as under :-

**3.2.2** I have duly considered assessee's submission and carefully gone through assessment order. I have also taken a note of factual matrix of the case as well as applicable case laws relied upon. The addition pertains to notings as per the following impugned seized documents:

Sr.	Annexure No. & Exhibit No.	Page No.	Found/ Seized from
1	Annexure A Exhibit-1	15 to 24, 27,28,43,44 and 69 to 74	Residential Premises
2	Annexure A Exhibit-2	47 and back side of 48,50 to 54	Residential Premises
3	Annexure A Exhibit-5	1 to 77	Residential Premises
4	Annexure- AS Exhibit-1	1 to 3, 7,9,10	Office Premises

The issue has already been decided in para no. **2.1.8.5 issue no. 1, 2, 3 & 4** and on the basis findings given the above, following additions are required to be made in the hands of Sh Navrattan Kothari, Sh Vimal Chand Surana HUF, Sh Kushal Chand Surana & Sh Rajendra Kr Jain, details of which are as under:

ISSUE NO	AY	NAME OF ASSESSEE	ADDITION REQUIRED TO BE MADE	NATURE OF ADDITION U/S
(1),(2),(3)(4)	2008-09	Navrattan Kothari	Rs. 15,87,19,309/=	Undisclosed investment made in cash u/s 68
(1),(2),(3)(4)	2008-09	Vimal Chand Surana HUF §	Rs. 2,64,66,445/=	Undisclosed investment made in cash u/s 68
(1),(2),(3)(4)	2008-09	Kushal Chand Surana*	Rs. 1,32,13,382/=	Undisclosed investment made in cash u/s 68
(1),(2),(3)(4)	2008-09	Rajendra Kumar Jain*	Rs. 3,20,00,000/=	Undisclosed investment made in cash u/s 68
(1),(2),(3)(4)	2007-08	Rajendra Kr Jain	Rs. 1,13,00,000/=	Undisclosed investment made in cash u/s 68
(1),(2),(3)(4)	2008-09	Rajendra Kr Jain	Rs. 8,32,55,237/=	Undisclosed business profit

**Note \*** AO is hereby directed u/s 150(1) of the Act to re-open cases of Sh Rajendra Kr Jain and Sh Kushal Chand Surana in AY 2008-09.

**\*\* AO is hereby directed u/s 150(1) of the Act to re-open the case of Sh Navrattan Kothari for the AY 2009-10**

**§ Id CIT(A)-1 Jaipur is being informed accordingly in case of Sh Vimal Chand Surana HUF where case for AY 2008-09 is pending**

Therefore, no separate additions of Rs. 7,19,50,000/= is required to be made on substantive basis in the hands of assessee. Assessee's appeal stands allowed in Gr No. 2.

We have adjudicated similar ground in revenue's appeal in ITA No. 513/JP/2017 in ground no. 1 hereinabove. Accordingly, we find no infirmity in the order of the Id. CIT (A) which is hereby upheld. The ground of the revenue is dismissed.

**Ground No. 3 relates to deletion of addition of Rs. 22,89,854/- made by the AO on account of undisclosed investment in purchase of land on the basis of documents found and seized during the course of search & seizure action.**

29. Before us, the Id. Counsel for the assessee has submitted as under :-

" This addition was based on the basis of seized documents annexure A-1 exhibit-1 page no. 36 and 38 where the details of land transaction between K.G. Kothari HUF and Laxmi Narayan is mentioned the total transactions for Bhankrota Land for Rs. 85,00,000/- in assessment year 2008-09 and Rs. 22,89,854/- for assessment year 2009-10. Since the assessee was only a deed writer and he was not party to the transaction. Therefore, the learned CIT(A) in para 3.3.2 of appellate order has deleted the addition. There is nothing on record nor any evidence was found that the assessee is beneficiary of this transaction. Therefore, this addition was deleted.

30. On the other hand, the Id. D/R supported the order of the Assessing Officer.

31. We have heard the rival contentions, perused the material available on record and gone through the orders of the Revenue authorities. We find that the Id. CIT (A) has taken note of the various seized documents /annexure and the case laws relied on by both the sides and dealt with the issue at page 76 in para 3.3.2 of his order and deleted the addition by observing as under :-

*"3.3.2 I have considered assessee's submission and carefully gone through assessment order. I have also taken a note of factual matrix of the case as well as applicable case laws relied upon.*

*AO has made impugned addition on the basis of sized document (A-1 Exhibit pg 36 & 38) – which actually pertains to KGG Kothari HUF and Laxmi Narayan at village Bhankrota, Tehsil Sanganer. In fact AO has made*

*reference of impugned seized document pg 36, 38 & 78 in the assessment order of Sh. Madan Mohan Gupta & Sh Navrattan Kothari in AY 2008-09 – Rs. 85,00,000/- and AY 2009-10 Rs. 22,89,854/- which pertain to land transaction by KG Kothari HUF at 'Bhankrota', Ajmer Road, Tehsil Sanganer. This relates to registry sale deed between KG Kothari HUF and Laxmi Narayan & Devi Narayan. The impugned seized document page 36 contains the name of Sh Laxmi Narayan and Pg 38 – Devi Narayan, who are real brothers.*

*This pertains to two registry done on behalf of KG Kothari HUF and the impugned seized documents contain both cheque and cash entries. Cheque entries are easily verifiable from registry documents/registered sale deed. Sh Madan Mohan Gupta has received charges for deed writing only. Therefore additions to be sustained in the hands of Sh Navrattan Kothari in AY 2008-09 (Rs. 85,00,000/-) AY 2009-10 (Rs. 22,89,854/-) on substantive basis. Further in view of these findings AO is being directed to re-open u/s 147 of the Act of the case of Sh Navratan Kothari for the AY 2009-10 for taking remedial measures as given in issue no. 5 of para 2.1.8.5.*

*In view of facts and circumstances of the case as discussed above protective addition of Rs. 22,89,854/- in the hands of the assessee is hereby deleted."*

Therefore, after considering such a categorical finding of the learned CIT(A), we find no infirmity in the order of the Id. CIT (A) who has rightly deleted this addition. Thus the ground of the revenue is dismissed.

**Ground No. 4 relates to deletion of addition of Rs. 6,52,028/- on account of development charges debited in P&L account.**

32. Before us, the Id. Counsel for the assessee submitted that during the year under consideration the assessee has claimed expenses of Rs. 26,08,110/- on land

development which includes land leveling charges, demarcation charges, measurement charges and marking of each plot with site plan incurred for the development of the scheme. These expenses are incidental expenses which have to be incurred for sale of the plots in the scheme. Without incurring these expenditures it was not possible to sale the plots. The books of accounts of the assessee are audited. The audit report was filed along with the income tax return prior to the date of search. In the search, no incriminating document was found or seized suggesting that the expenses claimed by the assessee are not real or genuine. Therefore the 1/4<sup>th</sup> disallowance of expenses made by learned AO was on assumption and presumption and beyond the scope of search assessments. The learned CIT(A) has given finding in para no. 3.4.2 at pages 81 & 82 of the his order that AO has not pointed out any defect in the audited books of accounts for disallowance of these expenses, therefore making reliance on various decisions of ITAT and High Courts mentioned in the appellate order, the Id. CIT (A) has rightly deleted the addition. The Id. A/R therefore submitted that the order of the learned CIT(A) deserves to be sustained.

33. On the other hand, the Id. D/R relied on the order of the Assessing Officer.

34. We have heard the rival contentions, perused the material available on record and gone through the orders of the Revenue authorities. We find that the Id. CIT (A) has taken note of the various seized documents /annexure and the case laws relied on by both the sides and dealt with the issue at pages 81 & 82 in para 3.4.2 of his order and deleted the addition by observing as under :-

*"3.4.2 I have duly considered assessee's submission and carefully gone through assessment order. I have also taken a note of factual matrix of the case as well as applicable case laws relied upon. AO has disallowed Rs. 6,52,028/- being 1/4<sup>th</sup> of the total claim of Rs. 26,08,110/- incurred of development charges on residential scheme named "Revenue Residency". Assessee has debited Rs. 26,08,110/- to its P&L A/c which is audited and assessee has filed his return of income along with the audit report. Further, AO in para no. 11.3 in assessment order has reproduced assessee's submission, it is submitted that the expenses of Rs. 26,08,110/- was incurred for land leveling charges, demarcation charges, measurement charges, and marking for each plots with site plan. It is pertinent to mention here that no incriminating documents showing inflation of expenses has been found from the possession of the assessee. An important feature noticed from the impugned seized documents that Sh Madan Mohan Gupta has recorded both cheque & cash component of the transactions in the seized documents, therefore, it may be incorrect to presume that he has inflated the said expenses which will warrant adhoc disallowance @ 25%. AO has also not pointed out any defects in the audited books of accounts. Further, relying on decision of Hon'ble Jurisdictional ITAT Bench Jaipur, in present case, any addition in absence of incriminating materials cannot be sustained.*

*Therefore, in view of facts and circumstances of the case, adhoc addition of Rs. 6,52,028/- is hereby deleted. Assessee's appeal in Gr. No. 4 stands allowed."*

Therefore, after considering such a categorical finding of the learned CIT(A), we find no infirmity in the order of the Id. CIT (A) who has rightly deleted this addition. Thus the ground of the revenue is dismissed.

**ITA NO. 516/JP/2017 (REVENUE): AY 2010-11 :**

**Ground No.1 relates to deletion of addition of Rs.1,01,99,728/- made by the AO on account of unaccounted investment on the basis of Page 57 of Annexure-A,Exhibit-1 found and seized during the course of search.**

35. Before us, the Id. Counsel for the assessee submitted that the AO has made the addition of Rs. 1,01,99,728/- on the basis of seized documents page no. 55 to 58 and 62 of annexure-A exhibit-1. These papers are related to the land purchased by M/s Hemang Construction Pvt Ltd. through the director Shri Rajendra Kumar Jain during the month of May 2009 and June 2009. Details of total 12 plots (116, 17, 29, 32, 52, 53, 79, 80, 81 to 84) are available in these pages. This details reflect that there is a total difference of Rs 1,01,99,728/- in the share consideration as shown in the sale deeds of these plots and the amounts mentioned on page no. 57 regarding these plots which has been added by the AO. Since this transaction did not pertain to the assessee, the assessee was not a buyer nor a seller. The Id. A/R, therefore, submitted that there is no connection of the assessee with regard to this entry. The learned CIT(A) in his appellate order has given factual finding backed by credible evidences like registered sale deed, banking transactions between the buyer and seller and the same has been found recorded in their income tax records. The Id. A/R further submitted that there is no question of adding this amount in the hands of the assessee who is only a deed writer. The Id. CIT (A), therefore, has rightly deleted this addition vide para 3.3.2 of his order which deserves to be sustained.

36. On the other hand, the Id. D/R supported the order of the Assessing Officer.

37. We have heard the rival contentions, perused the material available on record and gone through the orders of the Revenue authorities. We find that the Id. CIT (A) has dealt with the matter taking into consideration the submissions of the assessee and taking note of the assessment order, various seized documents /annexure and the case laws relied on by both the sides. The Id. CIT (A) after giving detailed findings in Para 3.2.2 at pages 75 of his order, deleted the addition by observing as under :-

*" 3.2.2. I have duly considered assessee's submission and carefully gone through assessment order. I have also taken a note of factual matrix of the case as well as applicable case laws relied upon. AO has made protective addition of Rs. 1,01,99,728/- on the basis of seized documents pg 55 to 58 & Pg 62 of Annex-A, Exhibit-I. On perusal of assessment order it is seen that AO has also mentioned details of 12 plots in the assessment order pg 57 contains plot wise rates estimated of which came to Rs. 2,42,54,010/=. Further, as in the sworn statement u/s 131 recorded of Sh. Rajendra Kr Jain on 27/02/2017 while replying to Q. No. 9, he has admitted that Sh Madan Mohan Gupta was appointed as Director of M/s Hemang Construction Pvt Ltd. All these 12 plots were adjoining to the existing plot of M/s Hemang Construction Pvt Ltd which did not have any access to the road. This fact is further explained by the site plan of Jamna Vihar Teelawala (PB 204 of AY 2010-11). On perusal of assessment orders for AY 2010-11 of Sh Madan Mohan Gupta and Sh Rajendra, Kr Jain, it is seen that AO has summarized the table and calculation has been made for the total made as per the seized papers and sale consideration as per sale deeds, and the difference of Rs. 1,01,99,728/- being the differential cash investments has been taxed as substantial in the hands of Sh*

*Rajendra Kr Jain and protective in the hands of Sh Madan Mohan Gupta.*

*Accordingly, keeping in view of these evidences, it has been decided substantive addition of Rs. 1,01,99,728/= has to be made & sustained in the hands of Sh Rajendra Kr Jain AY 2010-2011. In view of these facts and circumstances of the case, as discussed above no addition of Rs. 1,01,99,728/- on protective basis is required to be made in the hands of the assessee. Accordingly, addition made is hereby deleted. Assessee's appeal in Gr No. 2 stands allowed."*

After considering the order of the Id. CIT (A), we are of the view that the Id. CIT (A) has given a categorical finding in respect of the issue involved and accordingly deleted the addition in the hands of the assessee as above. We, thus find no infirmity in the order of the Id. CIT (A) who has rightly deleted this addition. Thus the ground of the revenue is dismissed.

**Ground No. 2 relates to deletion of addition of Rs. 9,00,000/- made by the AO on account of undisclosed investment in purchase of land on the basis of documents found and seized during the course of search.**

38. Before us, the Id. Counsel for the assessee submitted that the AO has made the addition of Rs. 9,00,000/- on the basis of seized documents page no. 64 of Annexure-A, Exhibit-1. This paper is related to payment against purchase of land to Mool Chand by Shri Rajendra Kumar Jain regarding purchase of land at Teelawala. The assessee has worked for this transaction as a deed writer only. No consideration was paid or received by the assessee. Therefore the addition made by the learned AO is not justified and deserves to be deleted. The Id. A/R submitted that the Id. CIT

(A) after considering the submissions of the assessee has given a factual finding backed by credible evidences like registered sale deed, banking transactions between the buyer and seller and the same has been found recorded in their income tax records. Therefore there is no question of adding this amount in the hands of the assessee who is only a deed writer. He, thus submitted that the learned CIT(A) has rightly deleted the addition as held in para 3.3.2 of his order.

39. On the other hand, the Id. D/R relied on the order of the Assessing Officer.

40. We have heard the rival contentions, perused the material available on record and gone through the orders of the Revenue authorities. We find that the Id. CIT (A) has dealt with the matter taking into consideration the submissions of the assessee and taking note of the assessment order, various seized documents /annexure and the case laws relied on by both the sides. The Id. CIT (A) after giving detailed findings in Para 3.3.2 at pages 76 of his order, deleted the addition by observing as under :-

*“ 3.3.2 I have duly considered assessee's submission and carefully gone through assessment order. I have also taken a note of factual matrix of the case as well as applicable case laws relied upon. The said notings pertains to transactions recorded on page 64 of annexure-A, Exhibit-1 which relates to cash payments to Sh Moolchand by Sh Rajendra Kr Jain, to which AO has made substantive additions of Rupees 9,00,000/- in the hands of Sh Rajendra Kr Jain for AY 2010-11 & simultaneous protective addition in the hands of assessee Sh Madan Mohan Gupta for AY*

*2010-11. In para 2.1.8.5 issue no. 8, it has been decided to add Rs. 9,00,000/- on substantive basis in the hands of Sh Rajendra Kr Jain for AY 2010-11, accordingly, no addition of Rs. 9,00,000/- is required to be made in the hands of the assessee for the AY 2010-11. Therefore, addition made is hereby deleted. Assessee's appeal in Gr No. 3 stands allowed."*

We have deliberated on the facts and circumstances of the case, and after considering the order of the Id. CIT (A), we are of the view that the Id. CIT (A) has given a categorical finding in respect of the issue involved and accordingly deleted the addition in the hands of the assessee as above. We, thus find no infirmity in the order of the Id. CIT (A) who has rightly deleted this addition. Thus the ground of the revenue is dismissed.

**Ground No. 3 relates to deletion of addition of Rs. 1,17,16,000/- on account of disallowance of set-off of income against unaccounted surrendered income.**

41. Before us, the Id. Counsel for the assessee submitted that the AO has made the addition of Rs. 1,17,16,000/- on the basis of undisclosed income surrendered by the assessee in the statement recorded u/s 132(4) of the IT Act 1961 for Revenue Residency Scheme out of total surrender of Rs. 2,48,16,000/-. Since the assessee has honored only Rs. 1.31 Crore in ITR for assessment year 2010-11, therefore the remaining amount was added where the assessee claimed set off of income declared in assessment year 2009-10 and 2010-11 of Rs. 1,17,16,000/- but the AO has not

allowed this claim of set off and made the addition inspite of the fact that the assessee has duly recorded this amount in his books of account. The facts and submissions are apparent from the seized record and books of accounts. But in the appellate proceedings, the learned CIT(A) has considered the claim of the assessee and directed to allow the claim to the assessee in para 3.4.2 on page 82 to 84 of his order.

42. On the other hand, the Id. D/R supported the order of the Assessing Officer.

43. We have heard the rival contentions, perused the material available on record and gone through the orders of the Revenue authorities. We find that the Id. CIT (A) has dealt with the matter taking into consideration the submissions of the assessee and taking note of the assessment order, various seized documents /annexure and the case laws relied on by both the sides. The Id. CIT (A) after giving detailed findings in Para 3.3.2 at pages 82 to 84 of his order, deleted the addition by observing as under :-

*"3.4.2. I have duly considered assessee's submission and carefully gone through assessment order. I have also taken a note of factual matrix of the case as well as applicable case laws relied upon. The addition of Rs. 1,17,16,000/= pertains to differential amount of Rs. 2,48,16,000/= (surrendered undisclosed income by the assessee during the search) and Rs. 1,31,00,000/- being the amount disclosed and offered for taxation in the return of income filed for AY 2010-11. The undisclosed income surrendered by Sh Madan Mohan Gupta on the basis of seized document (Annex.1 Exhibit-1 Pg 95 &100). It is also pertinent to mention here that Sh Madan Mohan Gupta has surrendered Rs. 2,48,16,000/= on the basis of notings in pg 95 & 100 (Annexure-1 Exhibit-1) as referred by the AO in the assessment order*

wherein he has also narrated the details in para 11.2, 11.4 & 11.5 pg 21 & 22 of the Asst Order. In the said order, AO has observed that assessee Sh Madan Mohan Gupta has received on-money @ Rs 2000/= PSY (Per Sq yds) which was also accepted by the assessee in his sworn statement recorded on oath, reference can be made from CD Annexed herewith. In pg 95 of the diary (seized) the saleable area was mentioned at 48798 sq yds for the scheme @ Rs. 3150/= out of which 291.66 sq yds area of land was purchased by the assessee for his granddaughter. Therefore actual saleable area is 48,506.34 sq yds @ 3150 which comes to Rs. 15,27,94,971/=.

Now, on-money @ 2000/= on 48798 sq yds comes to Rs. 9,75,96,000/= against the purchase cost of Rs. 8,15,00,000/= (cash component), therefore profit element on on-money will be Rs. 1,60,96,000/=. With regard to the figure of Rs. 87,20,000/=: it is submitted that it belongs to cheque component of the scheme which has already been disclosed in regular returns filed for AY 2009-10 & 2010-11, detail of which are as under:-

<b><u>Return of income for AY 2009-10</u></b>	
<b>Gross profit declared</b>	<b>Rs. 1,05,50,619/=</b>
<b><u>Return of Income for AY 2010-11</u></b>	
<b>Gross profit declared</b>	<b>Rs. 11,68,260/=</b>
	<b>Rs. 1,17,18,879/=</b>

Against the figure of Rs. 87,20,000/= assessee had already declared his gross profit in ROI for AY 2009-10 & AY 2010-11. This fact was also disclosed before that AO during the assessment proceeding which was also referred by the AO in the order in Pg 23 (para 11.6) of the assessment order in AY 2009-10. Further, assessee has submitted that vide letter dt 26/02/2015 (affidavit-PB -239-241), assessee has retracted. In support of his contention of rate of Rs. 3150/= per sq yds (inclusive of cheque & Cash amount), assessee has submitted copies of showing registry @ 1150/= per sq ft.

- (i) Possession letter
- (ii) Register of allotment of plots to members which part of seized document
- (iii) Agreement to sale signed by Sh Ashok Sharma president of associated with previous chain document.
- (iv) Receipt of no dues PB 220-221.
- (v) Copy of bank account in support of claim of amount of Rs, 1,29,03,000/- receipt of Rajasthan Tehsildar Sewa Parishad

Therefore, the figure of Rs. 87,20,000/= actually represents profit elements from cheque component of registry value against which assessee had already declared Gross Profit of Rs. 1,17,18,879/= in AY 2009-10 & 2010-11. Considering the fact that total profit from the scheme was Rs. 2,48,16,000/= out of which tax has been paid on Rs. 1,17,18,879/= in AY 2009-10 & AY 2010-11. On perusal of assessment order, it is seen that AO has not allowed the set off of Rs. 1,17,16,000/=. However, AO has allowed Rs. 1,31,00,000/= for AY 2010-11 on the basis of ROI filed u/s 153A of the Act. Further, on perusal of seized document it is also seen that assessee has recorded both cheque & cash component in the various transactions. Therefore, the claim of assessee for set off of Rs. 1,17,16,000/= as declared profit is justified and same has to be allowed.

In view of finding given on facts & circumstances of the case discussed above, AO is directed to allow the claim of set off of Rs. 1,17,16,000/= being the income already declared as per the return filed and tax paid thereof. Assessee's appeal in Gr No. 4 stands allowed to the extent mentioned above."

We have deliberated on the facts and circumstances of the case, and after considering the order of the Id. CIT (A), we are of the view that the Id. CIT (A) has given a categorical finding in respect of the issue involved and accordingly deleted the addition in the hands of the assessee as above. We, thus find no infirmity in the order of the Id. CIT (A) who has rightly deleted this addition. Thus the ground of the revenue is dismissed.

44. In the result, appeal of the assessee is allowed and appeals of the revenue are dismissed.

Order pronounced in the open court on 06/03/2023.

Sd/-

( राठौड़ कमलेश जयंतभाई )  
(RATHOD KAMLESH JAYANTBHAI)  
लेखा सदस्य / Accountant Member

Sd/-

(संदीप गोसाईं)  
(SANDEEP GOSAIN)  
न्यायिक सदस्य / Judicial Member

जयपुर / Jaipur

दिनांक / Dated:- 06/03/2023.

Das/

आदेश की प्रतिलिपि अग्रेषित / Copy of the order forwarded to:

1. अपीलार्थी / The Appellant- Shri Madan Mohan Gupta, Jaipur.
2. प्रत्यर्थी / The Respondent- The ACIT, Central Circle-1, Jaipur.
3. आयकर आयुक्त / CIT
4. आयकर आयुक्त / CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur.

## 6. गार्ड फाईल / Guard File {ITA No. 449 &amp; 513-516/JP/2017}

आदेशानुसार / By order,

सहायक पंजीकार / Asst. Registrar

Sl. No.		Date	Initial
1	Date of dictation		
2	Date on which the typed draft is placed before the Dictating Member .....		
	Other Member.....		
3	Date on which the approved draft comes to the Sr.P.S./P.S		
4	Date on which the fair order is placed before the Dictating Member for pronouncement		
5	Date on which the fair order comes back to the Sr.P.S./P.S.		
6	Date on which the file goes to the Bench Clerk		
7	Date on which the file goes to the Head Clerk		
8	The date on which the file goes to the Assistant Registrar for signature on the order		
9	Date of Dispatch of the Order		