

आयकरअपीलीय अधिकरण, जयपुरन्यायपीठ, जयपुर  
IN THE INCOME TAX APPELLATE TRIBUNAL,  
JAIPUR BENCHES,"B" JAIPUR

श्रीसंदीपगोसाई, न्यायिकसदस्य एवंश्रीराठोडकमलेशजयन्तभाई, लेखा सदस्य के समक्ष  
BEFORE: SHRI SANDEEP GOSAIN, JM & SHRI RATHOD KAMLESH JAYANTBHAI, AM

आयकरअपील सं./ITA No. 428/JP/2017 TO 430/JP/2017  
निर्धारणवर्ष / AssessmentYear : 2006-07 TO 2008-09

The DCIT Central Circle-3 Jaipur	बनाम Vs.	M/s. Sums Exim Pvt. Ltd. A-1, Ist Floor, Yamuna Path, Suraj Nagar (West), Jaipur
स्थायीलेखा सं./जीआईआर सं./PAN/GIR No.: AAICS 9072 R		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

आयकरअपील सं./ITA No. 860/JP/2016 TO 863/JP/2016  
निर्धारणवर्ष / AssessmentYear : 2009-10 TO 2012-13

The DCIT Central Circle-3 Jaipur	बनाम Vs.	M/s. Sums Exim Pvt. Ltd. A-1, Ist Floor, Yamuna Path, Suraj Nagar (West), Jaipur
स्थायीलेखा सं./जीआईआर सं./PAN/GIR No.: AAICS 9072 R		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

आयकरअपील सं./ITA No. 431/JP/2017 TO 433/JP/2017  
निर्धारणवर्ष / AssessmentYear : 2006-07 TO 2008-09

The DCIT Central Circle-3 Jaipur	बनाम Vs.	M/s. S.M. Developers A-1, Ist Floor, Yamuna Path, Suraj Nagar (West), Jaipur
स्थायीलेखा सं./जीआईआर सं./PAN/GIR No.: ABEFS0165 R		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

आयकरअपील सं./ITA No. 864/JP/2016 TO 867/JP/2016  
निर्धारणवर्ष/AssessmentYear : 2009-10 TO 2012-13

The DCIT Central Circle-3 Jaipur	बनाम Vs.	M/s. S.M. Developers A-1, Ist Floor, Yamuna Path, Suraj Nagar (West), Jaipur
स्थायीलेखा सं./जीआईआर सं./PAN/GIR No.: ABEFS 0165 R		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by : Shri B.P. Mundra, CA  
Shri Atharv Mundra, Adv.  
राजस्व की ओर से / Revenue by: Shri Sanjay Dhariwal, CIT  
Smt. Runi Pal, Addl. CIT

सुनवाई की तारीख / Date of Hearing : 14/03/2023  
उदघोषणा की तारीख / Date of Pronouncement: 24/04/2023

आदेश / ORDER

PER: PER BENCH

The Revenue has filed all these fourteen appeals in respect of above assessee's namely M/s. SUMS Exim Pvt. Ltd. Jaipur and M/s. S.M. Developers, Jaipur against different orders of the Id. CIT(A)-4, Jaipur dated 30-03-2017 and 26-07-2016 for the assessment years 2006-07 to 2008-09 and 2009-10 to 2012-13 respectively whose details are mentioned as under:-

Name of the assessee	ITA Nos.	CIT(A)	Date of order	A.Y.
M/s.SUMS Exim Pvt. Ltd.	428/JP/2017 to 430/JP/2017	CIT(A)-4, Jaipur	30-03-2017	2006-07 to 2008-09
M/s.SUMS Exim Pvt. Ltd.	860/JP/2016 to 863/JP/2016	CIT(A)-4, Jaipur	26-07-2016	2009-10 to 2012-13
M/s. S.M. Developers	431/JP/2017 to 433/JP/2017	CIT(A)-4, Jaipur	30-03-2017	2006-07 to 2008-09
Ms/s. S.M. Developers	864/JP/2016 to 867/JP/2016	CIT(A)-4, Jaipur	26-07-2016	2009-10 to 2012-13

2. The grounds of appeals raised by the Revenue in the above mentioned appeals are as under:-

M/s.SUMS Exim Pvt. Ltd ITA NO. 428/JP/2017- A.Y. 2006-07

“1. Whether on the facts and in the circumstances of the case and in law the Id. CIT(A) erred in holding the proceedings-initiated u/s 153C of Income Tax Act, 1961 as Null and void ignoring the incriminating documents and admission made u/s 132(4) of the Income Tax Act, 1961 by the erstwhile Director for the A.Y. under consideration.”

2. Whether on the facts and in the circumstances of the case, the Id. CIT(A) was right in deleting the addition of Rs.1,4913,171/- made by AO on account of undisclosed sales.”

M/s.SUMS Exim Pvt. Ltd ITA NO. 429/JP/2017- A.Y. 2007-08

“1. Whether on the facts and in the circumstances of the case and in law the Id. CIT(A) erred in holding the proceedings initiated u/s 153C of Income Tax Act, 1961 as Null and void ignoring the incriminating documents and admission made u/s 132(4) of the Income Tax Act, 1961 by the erstwhile Director for the A.Y. under consideration.”

2. Whether on the facts and in the circumstances of the case, the Id. CIT(A) was right in deleting the addition of Rs.5,24,17,096/- made by AO on account of undisclosed sales.”

M/s.SUMS Exim Pvt. Ltd ITA NO. 430/JP/2017- A.Y. 2008-09

“1. Whether on the facts and in the circumstances of the case and in law the Id. CIT(A) erred in holding the proceedings-initiated u/s 153C of Income Tax Act, 1961 as Null and void ignoring the incriminating documents and admission made u/s 132(4) of the Income Tax Act, 1961 by the erstwhile Director for the A.Y. under consideration.”

2. Whether on the facts and in the circumstances of the case, the Id. CIT(A) was right in deleting the addition of Rs.4,57,10,029/- made by AO on account of undisclosed sales.”

M/s.SUMS Exim Pvt. Ltd ITA NO. 860/JP/2016 - A.Y. 2009-10

“1. Whether on the facts and in the circumstances of the case the Id. CIT(A) was right in deleting the addition of Rs.4,23,99,946/- made by the AO on account of undisclosed sales holding that additions in subsequent years were made on the basis of **extrapolation** of on money received in earlier years.

2. Whether on the facts and in the circumstances of the case the Id. CIT(A) was right in holding that in proceedings u/s 153A/153C of the Act, additions cannot be made in all the six years on the basis of material related to a particular year.

M/s.SUMS Exim Pvt. Ltd ITA NO. 861/JP/2016 - A.Y. 2010-11

“1. Whether on the facts and in the circumstances of the case the Id. CIT(A) was right in deleting the addition of Rs.1,88,61,272/- made by the AO on account of undisclosed sales holding that additions in subsequent years were made on the basis of extrapolation of on money received in earlier years.

2. Whether on the facts and in the circumstances of the case the Id. CIT(A) was right in holding that in proceedings u/s 153A/153C of the Act, additions cannot be made in all the six years on the basis of material related to a particular year.

M/s.SUMS Exim Pvt. Ltd ITA NO. 862/JP/2016 - A.Y. 2011-12

“1. Whether on the facts and in the circumstances of the case the Id. CIT(A) was right in deleting the addition of Rs.2,59,00,183/- made by the AO on account of undisclosed sales holding that additions in subsequent years were made on the basis of extrapolation of on money received in earlier years.

2. Whether on the facts and in the circumstances of the case the Id. CIT(A) was right in holding that in proceedings u/s 153A/153C of the Act, additions cannot be made in all the six years on the basis of material related to a particular year.

M/s.SUMS Exim Pvt. Ltd ITA NO. 863/JP/2016 - A.Y. 2012-13

"1. Whether on the facts and in the circumstances of the case the Id. CIT(A) was right in deleting the addition of Rs.1,80,50,149/- made by the AO on account of undisclosed sales holding that additions in subsequent years were made on the basis of extrapolation of on money received in earlier years.

2. Whether on the facts and in the circumstances of the case the Id. CIT(A) was right in holding that in proceedings u/s 153A/153C of the Act, additions cannot be made in all the six years on the basis of material related to a particular year.

M/S. S.M. DEVELOPERS ITA NO. 431/JP/2017 - A.Y. 2006-07

"1. Whether on the facts and in the circumstances of the case and in law the Id. CIT(A) erred in holding the proceedings initiated u/s 153C of Income Tax Act, 1961 as Null and void ignoring the incriminating documents and admission made u/s 132(4) of the Income Tax Act, 1961 by the erstwhile Director of the partner company M/s. SUMS Exim Pvt. Ltd for the A.Y. under consideration."

2. Whether on the facts and in the circumstances of the case, the Id. CIT(A) erred in deleting the addition of Rs.1,30,03,657/- made by AO on account of undisclosed investment/ expenditure."

M/S. S.M. DEVELOPERS ITA NO. 432/JP/2017- A.Y. 2007-08

"1. Whether on the facts and in the circumstances of the case and in law the Id. CIT(A) erred in holding the proceedings initiated u/s 153C of Income Tax Act, 1961 as Null and void ignoring the incriminating documents and admission made u/s 132(4) of the Income Tax Act, 1961 by the erstwhile Director of the partner company M/s. SUMS Exim Pvt. Ltd for the A.Y. under consideration."

2. Whether on the facts and in the circumstances of the case, the Id. CIT(A) erred in deleting the addition of Rs.4,07,44,017/- made by AO on account of undisclosed investment/ expenditure."

M/S. S.M. DEVELOPERS ITA NO. 433/JP/2017- A.Y. 2008-09

"1. Whether on the facts and in the circumstances of the case and in law the Id. CIT(A) erred in holding the proceedings initiated u/s 153C of Income Tax Act, 1961 as Null and void ignoring the incriminating documents and admission made u/s 132(4) of the Income Tax Act, 1961 by the erstwhile Director of the partner company M/s. SUMS Exim Pvt. Ltd for the A.Y. under consideration."

2. Whether on the facts and in the circumstances of the case, the Id. CIT(A) erred in deleting the addition of Rs.3,45,40,546/- and of Rs.11,75,84,639/-/- made by AO on account of undisclosed sales and undisclosed investment/ expenditure."

M/S. S.M. DEVELOPERS ITA NO. 864/JP/2016 - A.Y. 2009-10

"1. Whether on the facts and in the circumstances of the case the Id. CIT(A) was right in deleting the addition of Rs.5,61,44,663/- made by the AO on account of undisclosed sales holding that additions in subsequent years were made on the basis of **extrapolation** of on money received in earlier years.

2. Whether on the facts and in the circumstances of the case the Id. CIT(A) was right in holding that in proceedings u/s 153A/153C of the Act, additions cannot be made in all the six years on the basis of material related to a particular year.

M/S. S.M. DEVELOPERS ITA NO. 865/JP/2016 - A.Y. 2010-11

"1. Whether on the facts and in the circumstances of the case the Id. CIT(A) was right in deleting the addition of Rs.5,61,44,663/- made by the AO on account of undisclosed sales holding that additions in subsequent years were made on the basis of extrapolation of on money received in earlier years.

2. Whether on the facts and in the circumstances of the case the Id. CIT(A) was right in holding that in proceedings u/s 153A/153C of the Act, additions cannot be made in all the six years on the basis of material related to a particular year.

M/S. S.M. DEVELOPERS ITA NO. 866/JP/2016 - A.Y. 2011-12

"1. Whether on the facts and in the circumstances of the case the Id. CIT(A) was right in deleting the addition of Rs.3,11,96,149/- made by the AO on account of undisclosed sales holding that additions in subsequent years were made on the basis of extrapolation of on money received in earlier years.

2. Whether on the facts and in the circumstances of the case the Id. CIT(A) was right in holding that in proceedings u/s 153A/153C of the Act, additions

cannot be made in all the six years on the basis of material related to a particular year.

M/S. S.M. DEVELOPERS ITA NO. 867/JP/2016 - A.Y. 2012-13

"1. Whether on the facts and in the circumstances of the case the Id. CIT(A) was right in deleting the addition of Rs.6,14,44,984/- made by the AO on account of undisclosed sales holding that additions in subsequent years were made on the basis of extrapolation of on money received in earlier years.

2. Whether on the facts and in the circumstances of the case the Id. CIT(A) was right in holding that in proceedings u/s 153A/153C of the Act, additions cannot be made in all the six years on the basis of material related to a particular year."

3. Since in all these appeals of the revenue the only issue involved is of on money transactions undertaken by Shri Sanjay Jain for the two firms i.e. M/s. Sums Exim Pvt. Ltd and M/s. S.M. Developers Pvt. Ltd. based on the paper found in the search. Thus, the issues involved for all the years are almost identical and are almost common, except the difference in figure of additions disputed in each assessment year and are related to those seized document. Therefore, all these appeals were heard together with the agreement of both the parties and are being disposed off by this consolidated order.

4. At the outset, the Id. DR submitted that the matter pertaining to Sums Exim Private Limited in ITA no. 430/JP/2017- A.Y. 2008-09 may be taken as a lead case for discussions as the issues involved in the lead case are common and inextricably interlinked or in fact interwoven and the facts and

circumstances of other cases are exactly identical except the difference in the amount in other assessment year. The Id. AR did not raise any specific objection against taking that case as a lead case. Therefore, for the purpose of the present discussions, the case of ITA No. 430/JP/2017 is taken as a lead case of each party's contentions for the discussion.

4.1 Based on the above arguments we have also seen that for all these appeals facts are similar and arguments were similar and therefore, were heard together and are disposed by taking lead case facts, grounds and arguments from the folder in ITA No.430/JP/2017.

5. Both parties have disputed the orders of lower authorities and heavily relied upon to support their claims of their respective orders as appearing from the order of the AO and Id. CIT(A) respectively to the extent the finding support their contentions. So, before moving towards the facts of the case we would like to mention that the revenue has assailed the appeal in ITA No.430/JP/2017 on the following grounds;

M/s.SUMS Exim Pvt. Ltd ITA NO. 430/JP/2017- A.Y. 2008-09

"1. Whether on the facts and in the circumstances of the case and in law the Id. CIT(A) erred in holding the proceedings-initiated u/s 153C of Income Tax Act, 1961 as Null and void ignoring the incriminating documents and admission made u/s 132(4) of the Income Tax Act, 1961 by the erstwhile Director for the A.Y. under consideration."

2. Whether on the facts and in the circumstances of the case, the Id. CIT(A) was right in deleting the addition of Rs.4,57,10,029/- made by AO on account of undisclosed sales."

6. As it is seen that the revenue has taken two grounds one is related to challenging the finding on issue of notice u/s. 153C of the Act and another the addition on merits of the case.

7. But before dealing with each grounds of appeal of the revenue we note the fact as culled out from the assessment order here in below:

In this case original return declaring income at Rs.(-) 8,71,988/- was filed on 30-09-2008. A search was conducted on 28-04-2011 in the case of Supreme Group, Jaipur to which the assessee belongs. Various assets/ books of accounts and documents were found and seized as per annexure prepared during the course of search. Thereafter, jurisdiction over this case was assigned to ACIT, Central Circle-2, Jaipur vide notification u/s 127 of the Income Tax Act, 1961 by the CIT, Jaipur-1, Jaipur circulated vide order No.CIT-I/ACIT/Hqrs)/JPR/2013-14/1581 dated 29-07-2013. Accordingly, notice u/s 153A r.w.s. 153C of the I.T. Act, 1961 was issued on 03-02-2014 for the assessment year 2008-09 which was duly served upon the assessee on 06-02-2014. In compliance of this notice return declaring total income at Nil was filed on 28-02-2014 for the A.Y. 2008-09. The main business of assessee is development and selling of Land, trading of various items and commission agent. M/S SUMS Exim Pvt. Ltd., having its registered office at A-1, Yamuna Path, Suraj Nagar (West), Civil Lines, Jaipur was incorporated in 2005 by four persons Sh. Sanjay Jain, Uttam Khatwani (alias Tharyamal), Mantosh Dass and Sunil Mehta (hence-SUMS). All four persons were directors in this company holding 25% equity stake. The main objects and business interests of this company were-

- (a) Import / domestic sale of silk yarn and Fake Currency Detection machines;
- (b) Export of land ready-made garments.
- (c) Purchase of land on the Jaipur Delhi Highway at Vill: ChakCharanvas Tehsil Jamwa Ramgarh District-Jaipur and development of a plotted residential colony under the tile "Nature Farms."

Besides the trading of articles, the company took up the real estate project "Nature Farms" which lies off National Highway No. 8 (Delhi-Jaipur). The seized documents reveal that the land was sold in the shape of plots ranging from 700 sq. yards to 2500 sq. yard for which money was taken by the company in form of cheques as well as in cash. The seized documents contain computed generated sheets clearly indicating the cheque rate, cash rete, cheque received, cash

received and cheque amount outstanding and cash amount outstanding against each of the plot allottees. The seized documents also contain printed pages which indicates the total receipts and expenses including the cash element, in the sale of plots.

Another concern M/s. SM Developers is a partnership concern with two partners – M/s. Mamonlspat Private Ltd. (represented by Shri Shashank Goyal) and M/s. UMS Exim Pvt. Ltd. This firm also entered into purchase of land at Village ChakCharaanwas and its contiguous villages and developed a residential area under the scheme 'Nature Farms Hill Retreat'. The modus operandi in this company was identical to that of M/s. SUMS Exim/Nature Farm, and even the data regarding sale of plots in Nature Farms Hill Retreat was found on the same set of documents.

In the year 2008, some differences among directors were born and Shri Sanjay Jain stopped working as director of the assessee company and left the group. The other three directors continued working in the assessee company. Thereafter, some FIRS were filed against Shri Sanjay Jain by the assessee company and its other directors. Then settlement (out of court) took place and profits including cash were redistributed among these directors. Some papers were claimed to have been prepared before settlement took place. After the settlement, on 28-04-2011, search was conducted on Shri Sanjay Jain and his associates and group concerns. Therefore, papers relating to M/s. SUMS Exim Pvt Ltd. and M/s. S.M. Developers were found during the course of search and the same being incriminating in nature were seized also. On the basis of such seized papers Shri Sanjay Jain admitted voluntarily to have earned sales consideration (in cash) of land plots of M/s. SUMS Exim Pvt Ltd. and M/s. S.M. Developers. Since, cash sales were not recorded in the books of said concerns, he disclosed unaccounted income of Rs.4 crore as his share.

As the search was conducted on 28.04.2011 in the case of Supreme 6. Group, Jaipur (key person Sh. Sanjay Jain) at various residential/business premises. During the course of search various books of account/loose papers/documents related to the assessee (M/S SUMS Exim Pvt. Ltd.) were found and seized as per annexure prepared during the course of search at residential/business premises covered in the search. Accordingly, in the case of the assessee proceedings u/s 153C r.w.s. 153A of the IT Act, 1961 has been initiated after recording reasons. During the course of assessment proceedings, vide questionnaire dated 03.03.2014 the assessee was asked to furnish complete details of each page of the following exhibits of the Annexure related to it found and seized during the search: -

(i) Pages 115 to 131, Exhibit-1 of Annexure-A dated 29.04.2011 seized from the Factory-cum-office of M/s Supreme Polymers Pvt. Ltd., 137-138, Jhotwara Industrial Area, Jaipur

(ii) Pages 21 to 88, Exhibit-2 of Annexure-AS dated 28.04.2011 seized from the Residence of Sh. Lal Singh Sisodia, 5, Nemi Sagar Colony, Queen's Road, Jaipur

(iii) Pages 1 to 66, Exhibit-1 of Annexure-AS dated 28.04.2011 seized from the Factory-cum-office of M/s Shreya's India Pvt. Ltd., 57, Jhotwara Industrial Area, Jaipur

(iv) Pages 1 to 75, Exhibit-2 of Annexure-AS dated 28.04.2011 seized from the Factory-cum-office of M/s Shreya's India Pvt. Ltd., 57, Jhotwara Industrial Area, Jaipur

Further, the assessee was also required to explain the nature of entries and transactions mentioned on these papers and to get these entries verified from its regular books of account. In reply, vide letter dated 13.03.2014 the assessee submitted its reply on each page of above exhibits at point No. 14 to 17. In this reply, in point No. 1 to 12 the assessee submitted that it has nothing to do with these documents and these are not related to it.

The AO considered the reply of the assessee and not found fully satisfactory. There are some entries appeared on these seized papers which belong to the assessee, this fact has also been admitted by the assessee in its reply. Though there is difference in size of plots or name appeared against the plot number which was due to change in the size of plot or change in the plot numbers.

On perusal of the seized paper, the AO observed that soe ledger accounts were prepared under the "SUMS PL or '1. SUMS PL' in which cheque amounts as well as cash amounts related to sale of plots in "Nature Farms" scheme were mentioned. Most of the names of purchasers are appearing in the assessee's books.

During the post search proceedings statement of Shri Sanjay Jain one of the Ex-Directors of the assessee company was recorded on 16-05-2011 and 19-05-2011. In his statements Shri Sanjay Jain admitted that pages 115 to 131, Exhibit-1 of Annexure-A dated 29-04-2011 seized from the Factory-cum-office of M/s. Supreme Polymers Pvt. Ltd. , 137-138, Jhotwara Industrial Area, Jaipur, pages 1 to 75, Exhibit-2 of Annexure-AS dated 28-04-2011 seized from the Factory-cum-office of M/s. Shreya's India Pvt. Ltd., 57, Jhotwara Industrial Area, Jaipur, pages 1 to 66, Exhibit-1 of Annexure-AS datted 28-04-2011 seized from the Factory-cum-office of M/s. Shreya's India Pvt. Ltd., 57, Jhotwara Industrial Area, Jaipur, Jaipur and pages 21 to 88, Exhibit-2 of Annexure-AS dated 28-04-2011 seized from the residence of Sh. Lal Singh Sisodia, 5, Nemi Sagar Colony, Queen's Road, Jaipur are related to him, M/s. SUMS Exim Pvt Ltd. and M/s. S.M. Developers Pvt. Ltd. In his statements Shri Sanjay Jain described the nature of transactions mentioned on these papers and admitted that unaccounted cash entries mentioned on these papers/documents are related to M/s. SUMS Exim

Pvt Ltd. and M/s. S.M. Developers are not related in the books of these concerns.

In the the post search proceedings, statements of Sh. Bhaskar Sharma, erstwhile accountant of the assessee, were also recorded on oath u/s 131 of the I.T. Act, 1961 on 28-06-2011 and 01-08-2011. In this statements, Sh. Bhaskar Sharma admitted that he used to maintain the books of account of the assessee on computer from April 2005 to to July 2008. He further admitted that all entries mentioned on page 1 to 75 of Exhibit -2 of Annexure –AS are cash and cheque amounts received by M/s. SUMS Exim Pvt Ltd. and M/s. S.M. Developers. He also narrated te nature of entries mentioned on all the seized documents/ papers specifically giving the details of actual rate of sale of plots in the "Nature Farms" Scheme and 'Nature Farm Hill Retreat' Scheme. Accordingly, a show cause letter dated 20-03-2014 was issued to the assessee. The A/R of the assessee vide letter dated 26-03-2014 submitted the reply of the said show cause notice.

Based on the submission and a detailed discussion, the AO observed that the authenticity of the documents/papers seized from various premises in Supreme Group of cases related to M/S SUMS Exim Pvt. Ltd. and SM Developers can not be denied. It is also to point out that Shri Sanjay Jain admitted the undisclosed income of Rs. 4 Cr. In his statement recorded during the course of search from sale of plots in these concerns. Thus, it proves that in the sale of plots in both the concerns unaccounted money was taken, but the question remains that who was the beneficiary of this unaccounted income on sales of plots. Since the documents have been seized from the premises of the concerns of Shri Sanjay Jain and Shri Sunil Mehta in his statement recorded during the post search enquiry u/s 131 of the IT Act, 1961, denied of having any relation with these documents & in absence of any concrete evidences it is held that both the concerns M/S SUMS Exim Pvt. Ltd and M/s SM Developers have earned (unaccounted money over and above the amount shown in this books of account) but this income was earned by Shri Sanjay Jain under the name of these concerns. Hence, it is held that addition of undisclosed income of 4,57,10,029/- determined in-next para will be added on substantive basis in the hands of Shri Shri Sanjay Jain/Supreme Polymers Pvt. Ltd./Shreyas India Pvt. Ltd. whose case is pending before Hon'ble Settlement Commission, but to protect the interest of revenue same addition on protective basis, is made in the hands of the assessee.

The assessment yearwise undisclosed sales of the assessee are as under:-

A.Y.s	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13
Undisclosed sales	1,49,13,171	5,24,17,096	4,57,10,946	4,23,99,946	1,88,61,272	2,59,00,183	1,80,50,149

The sales determined in the above para represents the undisclosed income of the assessee for the various assessment years as it is assumed that all the expenditure for purchase and development of land and sale were already

booked by the assessee in its books of accounts. Moreover, in the seized documents, no such documents were seized which suggests any undisclosed investment made by the assessee in the development of plots.

As per the above chart, the undisclosed income of the assessee for the year under consideration comes to Rs. 4,57,10,029/- which is protectively assessed in his hands. This would result in an addition of Rs.4,57,10,029/-

8. Apropos to Ground no. 1 of the revenue, the facts as emerges from the order of the Id. CIT(A) are as under:

"4.1.1. I have duly considered assessee's submission and also carefully gone through the assessment order. I have also taken a note of factual matrix of the case as well as case laws relied upon with regard to proceedings u/s 153C of the Act in absence of incriminating documents found as a result of search carried out. Assessee contends that on the basis of some documents seized from the possession of 3rd party, addition cannot be made. Legally, Section 132(4) of the Act empowers the Authorized Officer to record the statement of any person on oath in course of search and seizure proceedings from whose possession the incriminating materials found and seized. It is specifically provided that such statement may be used in evidence in any proceedings under this Act. Therefore, such statement has an evidentiary value in law. Generally, it is presumed that whatever is stated at the time of recording of preliminary statement u/s 132(4) of the Act is true and correct. Thus, whenever assessee pleaded that the statement has been obtained forcefully/under coercion/undue influence/without material/contrary to the material then it should be supported by strong evidence. Therefore, in view of these, now I put following questions for the adjudication of case as under:

(i) Whether presumption u/s 292C r.w.s 132(4A) is available to the assessee or not? Whether the seized documents supra are dumb documents? Whether can it be termed as 3rd party document or not as claimed by the assessee?

(ii) What is the relevance of seized documents found from the premises of concerns of Sh Sanjay Jain in this case? Whether assessee's contention with regard to "seized document supra by assessee" is acceptable or not? What are the other corroborative evidences gathered during the search operation? Whether transactions recorded there in are relatable to other documentary evidences of not? whether has AO brought

about all these in the Asst. Order or not ? Whether the documentary evidences and oral evidences gathered during the Remand Proceedings will have any bearing on this case or not?

(iii) Relevance of sworn statements of Sh Sanjay Jain & Sh Sunil Mehta during search operation and remand proceedings are so crucial for the analysts of evidences and adjudication of this case? What are the other corroborative evidences gathered to substantiate AO's contention?

The observations with regard to questions framed above are, as under: -

Question (1) Whether presumption u/s 292C r.w.s 132(4A) is available to the assessee or not ? Whether the seized documents supra are dumb documents ? Whether can it be termed as 3rd party document or not as claimed by the assessee?

Findings: The presumptions u/s. 292C r.w.s. 132(4A) of the Act are that the documents belong to the persons i.e., Sh Sanjay Jain and his concerns from whose possession and control they were found. The second presumption is that the contents of such documents are true. The third presumption is that the signature and handwriting shall be taken to be that of the person from whom the documents were found. The documents belong to the appellant. The contents are also true. The dispute is: what are the contents? Is it permissible to draw the inference against the appellant on his failure to explain the contents of the documents after presuming that the contents are correct? Here I would like to quote the decision of Hon'ble ITAT Jabalpur in the case of ACIT Vs Satyapal Wassan (2007) 295 ITR (AT) 352 ITAT Jabalpur wherein elucidating with respect to the same issue, the Hon'ble the Tribunal has held as under:

"The crux of these decisions is that a document found during the course of search must be a speaking one and without any second interpretation, must reflect all the details about the transactions of the assessee in the relevant assessment year. Any gap in the various components as mentioned in section 4 of the Income tax Act must be filled up by the Assessing Officer through investigations and correlations with the other material found either during the course of the search or on investigation...

From above decision of Hon'ble ITAT Jabalpur Bench it is pertinent to note that a charge can be levied on the basis of document only when the document is a speaking one. The document should speak either out of itself or in the company of other material found on investigation and /or in the search. The document should be clear and unambiguous in respect of all four components of charge of tax if it is not so, the document is only a

dumb document and no charge of tax can be levied on the assessee on the basis of a dumb document. Here in this case, document in question is a speaking one a dumb document. The legal presumption does not permit the inference that documents found from assessee's premise, is none other than the appellant. The search action at the residence of the plant has yielded materials which justify such inference. It is in my opinion, even after presumption applied to the facts under Section 292C, there is adequate material to conclude that the transactions in the seized documents are the transactions of the appellant which remained undisclosed. The appellant, under the principles of natural justice, has the right to rebut the presumption. Under that right also, assessee and Sh Sunil Mehta are entitled to state that the transactions belonging to assessee are not recorded. In the opinion of AO, the information about the undisclosed income of the appellant is based on adequate relevant material. This is very important since the presumption under section 292C permitted only in respect of the documents in possession or control of the assessee. Onus is on the assessee to prove that what was stated in the seized document was true. Such an interpretation would render the deeming provisions of section 292C otiose and presumption as to the correctness of seized documents is under section 292C of the Act unless the contrary is proved and as such, the assessee was legally required to substantiate the seized documents with supporting evidence. Where the Statute provides a deeming provision, what is prescribed is to be deemed without seeking corroborative evidence. AO has observed that these are speaking documents and not dumb documents. A dumb document is a document which does not speak for itself and not a self explanatory and detailed document like present one. Since in assessee own case AY 2009-10, 2010-11 & 2011-12 it has been decided that the document in question is NOT a "DUMB DOCUMENT" BUT A "SPEAKING DOCUMENT" on the basis of noting and jottings made therein which are easily verifiable and corroborated with other documentary evidences gathered during the course of search operation conducted against the assessee. However, AO has not conducted any enquiry to establish that the impugned seized documents actually belonged to assessee. AO has simply relied upon the statement recorded on oath of Sh Sanjay Jain & Sh Bhasker Sharma u/s 131 of the Act during assessment proceeding, In view of that the A.O has rightly rejected assessee's objection. Now, it is to be seen whether the facts and circumstances in the given case may by itself would be sufficient to rebut the presumption w/s 292C of the Act?

AO contents that as per the sworn statement recorded on oath of Sh Sanjay Jain, notings/ transactions mentioned therein the seized document pertains to therefore, presumption w/s 292C r.w.s. 132(4A) of the Act would arise against the assessee. AO in the order passed has correctly explained the presumption under section 132(4A) of the Act to the assessment proceedings. This aspect is all the more significant in view of

the provisions contained in section 292C, which was inserted by the Finance Act 2007 and has been given retrospective effect from October 1, 1975 and provides for legal presumption. The Hon'ble Bombay High Court in the use of Surendra M. Khandhar Vs ACIT 321 ITR 254 held as under:

"The language of section 132(4A) of the Income-tax Act, 1961, is similar the language used in section 292C. The provisions raise a presumption that the contents of a document found during search proceedings are true. The presumption can be rebutted."

In view of these facts, AO has been asked to carry out necessary enquiry u/s 250(4) of the Act from Tehsildar to establish ownership of the plots as mentioned in the Khata/ Khesra No. in the seized document. On receipt of documentary evidences gathered and examination /cross-examination of Sh Sanjay Jain by Sh Sunil Mehta, it is seen that the impugned document actually belonged to Sh Sanjay Jain & his entities

Question (ii) What is the relevance of seized documents found from the premises of concerns of Sh Sanjay Jain in this case? Whether assessee's contention with regard to "seized document supra by assessee" is acceptable or not? What are the other corroborative evidences gathered during the search operation? Whether transactions recorded there in are relatable to other documentary evidences of not? whether has AO brought about all these in the Asst. Order or not? Whether the documentary evidences and oral evidences gathered during the Remand Proceedings will have any bearing on this case or not?

Question (iii) Relevance of sworn statements of Sh Sanjay Jain & Sh Sunil Mehta during search operation and remand proceedings are so crucial for the analysis of evidences and adjudication of this case? What are the other corroborative evidences gathered to substantiate AO's contention?

Findings: The corroborative evidences gathered during the remand proceeding have been discussed in details in para no. 2.16.4 & 2.16.6

During the assessment proceeding. AO has not accorded opportunity to Sh Sunil Mehta to cross-examine Sh Sanjay Jain. AO has simply relied upon the sworn statement of Sh Bhasker Sharma & Sh Sanjay Jain, In fact AO has also not properly examined the impugned seized documents and also not carried out necessary investigation to establish veracity of entries recorded therein and the ownership of seized documents. During appellate proceeding and the remand proceeding documentary and oral evidences have been gathered which clearly suggest that the impugned documents don't pertain to the assessee rather they belong to Sh Sanjay Jain & his associates /entities. These facts were not placed before the Hon'ble ITSC, New Delhi at the time of passing order, accordingly, they

have not been considered which makes the order passed u/s 245D(4) of the Act as void because it has been obtained by fraud and misrepresentation of facts on the part of Sh Sanjay Jain & his entities. In view of these facts, AO is hereby directed under section 150(1) of the Act to re-open the case of Sh Sanjay Jain, M/s Shrey's India Pvt Ltd. M/s Supreme Polymers Pvt Ltd & M/s SiddarthPolysacks Pvt Ltd for AY 2006-07, 2007-08 & 2008-09.

In view of facts & circumstances of the case as discussed above, and also on the basis of documentary and oral evidences gathered during the remand proceeding conducted u/s 250(4) of the Act. It has been established that the impugned documents don't pertain to the assessee rather they belong to Sh Sanjay Jain & his entities, Accordingly, proceeding initiated u/s 153C of the Act becomes null & void. Assessee's appeal stands allowed on this ground."

9. During hearing, Id. DR submitted that the Id. CIT(A) has wrongly annulled the proceedings-initiated u/s 153C made in the case of the assessee. To support the contentions raised before us the Id. DR has filed two papers book. The index showing the papers filed and relied upon are as under:

Paper Book dated 30-06-2022 with Index

S.N.	Description of case	Page No.
1.	Copy of page No.115 to 131, exhibit 1 of annexure A dated 29-04-2011 seized from the factory cum office of M/s. Supreme Polymers Pvt. Ltd. 137-138, JhotwaraIndustrialArea, Jaipur	2-19
2.	Copy of page no. 21 to 28, exhibit-2 of annexure AS dated 28-04-2011 seized from rsidence of Shri Lal Singh Sisodoa, 5, Nemi Sagar Colony,Queen's Road, Japur	20-28
3.	Copy of Page No. 1 to 66, exhibit-1 of annexure AS dated 28-04-2011 seized from the factory cum office of M/s. Shreya's India Pvt. Ltd.157, Jhotwara Industrial Area, Jaipur	89-155
4.	Copy of page no. 1 to 75, exhibit 2 of annexure AS dated 28-04-2011 seized from factory cum office of M/s. Shreya's India Pvt. Ltd.157, Jhotwara Industrial Area, Jaipur	156-231
5.	Statement of Shri Sanjay Jain recorded u/s 132(4) on 29-04-	232-237

	2011	
6.	Statement of Shri Sanjay Jain recorded u/s 131 on 16-05-2011	238-244
7.	Statement of Shri Sanjay Jain recorded u/s 131 on 19-05-2011	245-254
8.	Statement of Shri Bhaskar Sharma recorded u/s 132(4) on 28-04-2011	255-260
9.	Statement of Shri Bhaskar recorded u/s 131 on 28-06-2011	261-270
10.	Statement of Shri Sunil Mehta recorded u/s 131 on 21-06-2011	271-300
11.	Statement of Shri Bhaskar Sharma recorded u/s 131 on 01-08-2011	301-315

Paper Book –II dated 22-08-2022 with Index

S.N.	Description of case	Page No.
1.	Order of Hon'ble Rajasthan High Court on writ petition filed by Shri SanjayJain	1
2.	Copy of SB Civil Writ Petition No.26828/2018 filed by Shri Sanjay Jain before Hon'ble Rajasthan HighCourt	2-15

9.1 Dealing with the facts of the case based on the documents so submitted he stated that both the assessee's represented by a Group of 04 persons and they are running the firm M/s. S.M. Developers and M/s. Sum Exims (P) Ltd. As the Group divided amongst themselves because of disputes arose between them related to the business of these firms and Mr. Sanjay Jain who was handling the finance of these two entities. The other group raised the FIR against Mr. Sanjay Jain on account of claim of embezzlement of money and he has ultimately resigned in 2008. It is also undisputed that both these assessee's premises were not searched but based on the loose papers and incriminating material found from the

company where Mr. Sanjay Jain involved, notices were issued to the assessee u/s 153C of the Act. The Id. DR relying on the disclosure statement relating to the business of these firms wherein the disclosure was made for an amount of Rs.4.00 Crores and the revenue contended that balance amount is required to be taxed in the case of these assessee. As the documents found were having the nature of incriminating material found during search, addition made were made and the same were made as per provision of section 153C of the Act. Before the Assessing Officer, the assessee pleaded that they have not received the on money and the dispute is going on between themselves. Even the complaint was made against Shri Sanjay Jain to this aspect. The assessee also challenged the authority of making the assessment u/s. 153C of the Act as these seized documents saying that the size of plot and numbers are not matching and even the plot sold were agricultural whereas based on the information on these seized materials, it seems related to be of non-agriculture plots and thereby distinguishing the seized material. The revenue made the protective addition considering the peculiar facts on hands. The Id. DR also vehemently argued that the view taken by the Id.CIT(A) saying that the documents were not related to these assessee firm is incorrect view and is not correct on his part to interpret the fact that names and amount accepted

by the assessee so far as it relates to cheque money. Even based on these findings, the reopening was made in the case of Shri Sanjay Jain who has challenged the reopening proceedings in the Hon'ble High Court and the matter is under adjudication. Hence, based on set of documents, the transactions are related to the assessee's business and the same has correctly been taxed by the AO on protective basis. Since the transactions and documents are clearly pertaining to the case of the assessee and the view taken by the Id. CIT(A) that the proceedings are incorrectly initiated is not correct view since the Id AR did not controvert by filling any documents that the same found is not recorded in the books of the assessee so far it relates to the cheque money then in that case how the Id. CIT(A) hold in favour of the issue on technical ground. The assessee before Settlement Commission submitted that he is not concerned about these concerns and the case of the assessee was reopened and protective addition was made in the hands of the assessee firm. The AO has correctly made addition in the case of M/s. Sum Exims and in the case of M/s. S.M. Developers over a period of seven years on protective basis. Without dealing with the facts of the case, the Id. CIT(A) has quashed the notice u/s 153C of the Act considering the view that the information unearth in search is not pertaining to the assessee firms. As it is evident in these papers, it is clearly

mentioned that the portion of cash and cheque is correctly written against the name of each party. The Id. DR tried to reconcile the amount recorded on these pages with that of accounts of the assessee firm and based on that facts submitted that the view taken by Id. CIT(A) is incorrect that these documents were not pertain to the assessee. Shri Sanjay Jain has not disclosed correct income at Rs.4.00 crores and, therefore, to tax his income substantive the matter is pending with Hon'ble High Court. Based on that facts as these papers are related to these firms, the addition made on protective basis requires to be sustained as even the Settlement Commission has not dealt with this aspect as the assessee has already resigned. Based on this detailed argument, the Id. DR stated that the Id. CIT(A) has exceeded the jurisdiction in allowing the appeal of the assessee on technical ground and same is bad in law. Based on these facts he supported the order of the Id. AO and addition so made on protective basis should be confirmed.

10. On the other hand, the Id. AR supported the order of the Id. CIT(A) praying that he has explicitly mentioned in his order that it has been established that the impugned documents don't pertain to the assessee rather they belong to Shri Sanjay Jain & his entities. Accordingly, proceeding initiated u/s 153C of the Act becomes null & void. Accordingly,

the Id. CIT(A) rightly allowed the appeal of the assessee on this issue. To this effect, the Id. AR filed the following detailed written submission:

1. **Whether on the facts and in the circumstances of the case and in law, the CIT(A) erred in holding the proceedings initiated u/s 153C of Income Tax Act, 1961 as Null and Void ignoring the incriminating documents and admission made u/s 132(4) of the Income Tax Act, 1961 by the erstwhile director for the A.Y. under consideration.**

Kindly refer to submissions/arguments made by the Ld. DR on the strength of the paper book submitted by the Ld. DR. The Ld. DR made submissions on various papers / documents seized during the search conducted by the department against Shri Sanjay Jain and his Group from the premises of Shri Sanjay Jain and his Group as well statement of Shri Sanjay Jain, Bhaskar Shram and Shri Sunil Mehta. In defence the AR submits as under:-

- 1.1. **Your Honour, the AR relied the order of the Ld CIT (Appeals).**
- 1.2. As regard to paper book submitted by the Ld. AO the AR submits as under:-

Sno	Paper Book Point no	Ld. AO considered in his order at page no.
1	Ld. AO PB Point no 1-4	Ld. AO order Page no. 1-2
2	Ld. AO PB Point no 5	Ld. AO Order page no. 14 point no. 11(a)
3	Ld. AO PB Point no 6-7	Ld. AO Order page no. 5 point 8.2 para 2
4	Ld. AO PB Point no 8-9-11	Ld. AO Order page no. 6point 8.2 para 3
5	Ld. AO PB Point no 10	Ld. AO Order page no. 11point 10

- 1.3. **Hence**, your honour **Ld. AO had already considered the entire paper book** submitted by the department during the assessment proceedings. Your honour, the assessee was also required to explain the nature of entries and transactions mentioned on the incriminating materials as appearing in the assessment order page no. 2 point no. 6 last para 8<sup>th</sup> last line on wards.

**6.** A search was conducted on 28.04.2011 in the case of Supreme Group, Jaipur (key person Sh. Sanjay Jain) at various residential/business premises. During the course of search various books of account/loose papers/documents related to the assessee (M/s SUMS Exim Pvt. Ltd.) were found and seized as per annexure prepared during the course of search at residential/business premises covered in the search. Accordingly, in the case of the assessee proceedings u/s 153C r.w.s. 153A of the IT Act, 1961 has been initiated after recording reasons. During the course of assessment proceedings, vide questionnaire dated 03.03.2014 the assessee was asked to furnish complete details of each page of the following exhibits of the Annexure related to it found and seized during the search:-

- (i) *Pages 115 to 131, Exhibit-1 of Annexure-A dated 29.04.2011 seized from the Factory-cum-office of M/s Supreme Polymers Pvt. Ltd., 137-138, Jhotwara Industrial Area, Jaipur*
- (ii) *Pages 21 to 88, Exhibit-2 of Annexure-AS dated 28.04.2011 seized from the Residence of Sh. Lal Singh Sisodia, 5, Nemi Sagar Colony, Queen's Road, Jaipur*

(iii) Pages 1 to 66, Exhibit-1 of Annexure-AS dated 28.04.2011 seized from the Factory-cum-office of M/s Shreya's India Pvt. Ltd., 57, Jhotwara Industrial Area, Jaipur

(iv) Pages 1 to 75, Exhibit-2 of Annexure-AS dated 28.04.2011 seized from the Factory-cum-office of M/s Shreya's India Pvt. Ltd., 57, Jhotwara Industrial Area, Jaipur

Further, the assessee was also required to explain the nature of entries and transactions mentioned on these papers and to get these entries verified from its regular books of account.

- 1.4. Kindly refer Ld. AO order page no. 3 point no. 7 wherein the submission of the assessee is appearing that these documents are not related to the assessee.

7. In reply, vide letter dated 13.03.2014 the assessee submitted its reply on each page of above exhibits at point No. 14 to 17. In this reply, in point No. 1 to 12 the assessee submitted that it has nothing to do with these documents and these are not related to it.

- 1.5. Kindly refer Ld. AO order page no. 6 point no. 9 wherein the Ld AO issued show cause notice. The main contents of the show cause notice were as under:-
- A. The Ld. AO gave details about partners and nature of business and about another concern M/s SM Developers and also regarding dispute, FIR and settlement out of court at page no. 3 to 5 point no. 8.1. The relevant scanned portion is as under-

**8.1** Facts of the case are as under :-

M/s SUMS Exim Pvt. Ltd., having its registered office at A-1, Yamuna Path, Suraj Nagar (West), Civil Lines, Jaipur was incorporated in 2005 by four persons Sh. Sanjay Jain, Uttam Khatwani (alias Tharyamal), Mantosh Dass and Sunil Mehta (hence-SUMS). All four persons were directors in this company holding 25% equity stake. The main objects and business interests of this company were-

- (a) Import / domestic sale of silk yarn and Fake Currency Detection machines;



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*Assessment Order U/s 153C r.w.s 143(3)  
M/s SUMS Exim., Jaipur  
Assessment Year 2006-07*

- (b) Export of ready-made garments;
- (c) Purchase of land on the Jaipur Delhi Highway at Vill: Chak Charanvas Tehsil Jamwa Ramgarh District - Jaipur and development of a plotted residential colony under the title "Nature Farms".

Besides the trading of articles, the company took up the real estate project 'Nature Farms', which lies off National Highway No. 8 (Delhi-Jaipur). The seized documents reveal that the land was sold in the shape of plots ranging from 700 sq. yards to 2500 sq. yards for which money was taken by the company in form of cheques as well as in cash. The seized documents contain computer generated sheets clearly indicating the cheque rate, cash rate, cheque received, cash received and cheque amount outstanding and cash amount outstanding against each of the plot allottees. The seized documents also contain printed pages which indicates the total receipts and expenses, including the cash element, in the sale of plots.

Another concern M/s SM Developers is a partnership concern with two partners – M/s Mamon Ispat Private Limited (represented by Sh. Shashank Goyal) and M/s SUMS Exim Pvt. Ltd. This firm also entered into purchase of land at village Chak Charanwas and its contiguous villages and developed a residential area under the scheme 'Nature Farms Hill Retreat'. The modus operandi in this company was identical to that of M/s SUMS Exim/'Nature Farms', and even the data regarding sale of plots in Nature Farms Hill Retreat was found on the same set of documents.

In the year 2008 some differences among directors were born and Sh. Sanjay Jain stopped working as director of the assessee company and left the group. The other three directors continued working in the assessee company. Thereafter, some FIRs were filed against Sh. Sanjay Jain by the assessee company and its other directors. Then settlement (out of court) took place and profits including cash were redistributed among these directors. Some papers were claimed to have been prepared before settlement took place. After the settlement, on 28.04.2011, search was

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*Assessment Order U/s 153C r.w.s 143(3)  
M/s SUMS Exim., Jaipur  
Assessment Year 2006-07*

conducted on Sh. Sanjay Jain and his associates and group concerns. Therefore, papers relating to M/s SUMS Exim Pvt. Ltd. and M/s S.M. Developers were found during the course of search and the same being incriminating in nature were seized also. On the basis of such seized papers Sh. Sanjay Jain admitted voluntarily to have earned sales consideration (in cash) of land plots of M/s SUMS Exim Pvt. Ltd. and M/s S.M. Developers. Since, cash sales were not recorded in the books of said concerns, he disclosed unaccounted income of Rs. 4 Crore as his share.

- B. The Ld. AO further examined the seized documents under the name "SUMS PL" of "1. SUMS PL" and "NATURE FARMS". Further the Ld. AO considered the statement of Shri Sanjay Jain that seized documents are related to M/s SUMS EXIM Pvt. Ltd. And M/s SM Developers and that these seized documents are not entered in the books of these concerns. Further statement of Shri Bhaskar Sharma was also examined. Kindly see Ld. AO order page no. 5-6 point no. 8.2. The relevant scanned portion is as under:-

*Assessment Order U/s 153C r.w.s 143(3)  
M/s SUMS Exim., Jaipur  
Assessment Year 2006-07*

During the post search proceedings, statements of Sh. Bhaskar Sharma, erstwhile accountant of the assessee, were also recorded on oath u/s 131 of the IT Act, 1961 on 28.06.2011 and 01.08.2011. In his statements, Sh. Bhaskar Sharma admitted that he used to maintain the books of account of the assessee on computer from April-2005 to July-2008. He further admitted that all entries mentioned on Page 1 to 75 of Exhibit -2 of Annexure-AS are cash and cheque amounts received by SUMS Exim Pvt. Ltd and SM Developers. He also narrated the nature of the entries mentioned on all the seized document/papers specifically giving the details of actual rate of sale of plots in the 'Nature Farm' scheme and 'Nature Farm Hill Retreat' scheme.

- 1.6. After considering all above points the Ld. AO issued show cause notice. As appearing in the Ld. AO Order page no.6-7 point no. 9. The relevant scanned portion is as under:-



10. The A/R of the assessee vide letter dated 26.03.2014 submitted the reply of above show cause which is reproduce here under:-

*“Kindly refer to your honour’s above referred letter. We have noted the contents of the letter carefully and understand that your honour had relied on Exhibit -1 of Annexure –AS seized from the location of M/s Shreya’s India Private Limited, Jhotwara Industrial Area, Jaipur. Your honour had wrongly assumed that these documents are related to plot status of “nature farm and accordingly concluded that details given in these Annexures are relating to our project “Nature Farms”. Accordingly your honour had asked us to get these sales transactions verified of Rs. 22,99,18,429/- inclusive of both cash and cheques amount from our books of A/cs. Your honour intends to add this receipt in our income as unaccounted income if they are not found in our books. In this reference the assessee submitted on 27-02-2014 a detailed explanation backed with evidence and accounts books that these papers do not belong to the assessee. In addition to above submissions, we are to further furnish as under –*

1. *Though we had proved in next set of paras in the documents submitted by us that the above stated seized papers are not belonging to us and also the above stated sales of Rs. 22,99,18,429/- is not belonging to us. Your honour has proposed to add as unaccounted income of total sales transactions of Rs. 22,99,18,429/- on the basis of the above seized papers is bad in law and facts. Whereas the profit of any assessee is the income of the assessee, and not the sales of the assessee. The detailed sales and net profit of A. Y. 2006-07 to 2012-13 of the assessee is as under:-*

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Assessment Order U/s 153C r.w.s 143(3)  
M/s SUMS Exim. , Jaipur  
Assessment Year 2006-07

SNO	Particulars	31.3.2006	31.3.2007	31.3.2008	31.3.2009	31.3.2010	31.3.2011	31.3.2012	Total
1	Sales	13113885	46102950	40210488	37297630	16591549	22783412	15878034	191977948
2	Gross Profit	1991858	7685926	4546843	8295294	8448302	8636630	7180768	46785621
3	Nett Profit	-1142044	3031542	681936	684372	902044	942751	918947	6019548

2. *Now with reference to the validity of the seized documents. Kindly note that these documents were seized from the place of a third party. These document **Pages 1 to 66 Exhibits-1 of Annexure-AS dated 28.04.2011 seized from the Factory-cum-office of M/s Shreya’s India Pvt. Ltd.,57, Jhotwara Industrial Area, Jaipur. Our office address is A-1, 1<sup>ST</sup> Floor, Yamuna Path, Suraj Nagar (West), Civil Lines, Jaipur. The party from whom these documents were seized is the party against whom we had lodged several FIRs and they were arrested, and/ or were ordered to be arrested following police investigations based on our complaints.***

3. *Your honour is requested to kindly take into account the totality of facts and circumstances, as also weigh the evidences and in taking into account the facts and the position of law before coming to any conclusion. From all above these papers / material seized as well as statements recorded, we noted that Shree Mukesh Goyal is an accountant of Supreme Polymers, Bhaskar Sharma was an accountant of Supreme Polymers before joining Sums Exim Pvt. Ltd. as well as of Shreya's India Pvt. Ltd.. Shree Lal Singh Siosdia is director of Supreme Polymers. Later Shree Bhaskar Sharma had left Sums Exim Pvt. Ltd. and started working exclusively for Supreme Polymers, Shreya's India Pvt. Ltd. and other businesses of Shree Sanjay Jain in which the assessee is nowhere connected. All these above four persons in collusion were found guilty under sec 409/ 420/ 467/ 468/ 471 of Indian Penal Code. Copy of order of District & Session Judge, Jaipur is enclosed at page no. 4 to 9. Kindly refer point no. 9 where it is written "अपराध की गंभीर प्रकृति और प्रार्थीगण की उसमें सीधी लिप्तता को देखते हुए प्रार्थीगण को को अग्रिम जमानत का लाभ दिया जाना उचित नहीं है।" All these four persons with collusion did business of nature farm showing that Nature Farm belong to their Company Supreme Polymers. Kindly refer page no. 3 submitted on 27.02.2014 which clearly shows that these four persons started business of "Nature Farm Phase" showing the same location address. Therefore A/c of I. Sums Pl, Sums Pl, SMD are belonging to Shree Sanjay Jain and assessee is nowhere connected with these accounts. It would be most important for your honour to note that these statements made by Bhaskar Sharma, especially in connection with the assessee, because Shree Bhaskar Sharma had to spend time in Jail on the basis of FIR's filed by the assessee charging him with cheating, fraud and forgery. It may not be too farfetched to believe that Shree Bhaskar Sharma would naturally carry a*

*grudge against the assessee and hence would not give a correct picture in relation to the assessee's books of A/c's. Furthermore your honour may not like to rely on the statements made by character whose bona fides are under doubt. All these papers were available with Shreya's India Pvt. Ltd. where Shree Bhaskar Sharma is working against which assessee filed FIR's for forgery, cheating and fraud. He may have prepared forged documents with the intention of deliberately harming the assessee. It may also be reasonable to conclude that Shri Bhaskar Sharma may have manipulated documents in order to make a defence for himself in the police investigations against him, and later to prepare a defence before the court of law. Your honour had not found any incriminating material neither with the assessee nor with the parties from whom such amounts were claimed to have been taken. Also, all these papers are not in the name of assessee. Since most of the information and documents seized from M/s Shreya's India Pvt. Ltd, where Bhaskar Sharma is working, as well as statements given by Bhaskar Sharma are incorrect. Hence it proves that all the documents seized from M/s Shreya's India Pvt. Ltd. and the statements given by Bhaskar Sharma have been fabricated after leaving our company out of memory and/or with malafide intentions to needlessly harass the assessee. Therefore very few entries fabricated may show as having some link through which he fabricated documents and most of entries in Bank A/c, Plot No. and Size and even name of parties are not correct. Your honour is requested to kindly verify further by calling all these referred parties u/s 131 of the Income Tax Act, 1961 whether they paid any cash to the assessee.*

4. *Your honour had relied on the page no. 13 to 15 and 17, 19, 20 and 21 of Exhibit 1 of Annexure –AS. Your honour's kind attention is invited to the facts that these papers are only computer prints. Neither signature nor any hand written note of the assessee or any staff of the assessee were found thereon. The assessee in his previous submissions had proved that these papers are having lot of mismatch in terms of size of plot, name of purchaser, plot nos., etc..*
5. *Kindly refer to statement dated 10.05.2011 of Shree Sanjay Jain at page no. 10 Q2 wherein Shree Sanjay Jain stated that he got these papers in Sep. 2008 whereas there was dispute between the directors and all powers, including financial, commercial, and banking were withdrawn from Sanjay Jain in May 2008, and all the banks were intimated of the same after a resolution to this effect was passed by the Board of Directors which excluded Sanjay Jain. Following this, several FIRs were lodged against him. In this context, it is not at all possible to conceive that these papers were sent by us in Sep. 2008. Also the assessee has not*



*been provided with any evidence from your honour that on what ground Shri Sanjay Jain's statement can be relied upon that that these documents were handed over by assessee in Sep. 2008. Your honour relied solely upon the statements of Shri Sanjay Jain without any evidence or document to support his statement. If he has submitted any evidence in his support, then you are requested to please provide us the copy of the same so that we may examine the truth and get an opportunity to disprove the same. It may be very important to note that the credibility of Shri Sanjay Jain, in context with statement made by him in our reference, will be in doubt as he had to go underground for several months to evade arrest by the police following our complaints. This can be easily verified from police records. Further, the District Sessions Judge had also found Shri Sanjay Jain to have committed fraud, forgery, and cheating. Hence, statements of such a character like Sanjay Jain cannot be relied upon specially, in the light of our pursuing him through legal and judicial action for fraud and cheating.*

6. *Also the assessee requested your honour to call all the persons u/s 131 of the Income Tax Act, 1961, the names of whom have appeared in the sheets, to verify the facts. Still the assessee has not been informed about any outcome of this request. Without calling these persons as well Mr. Sanjay Jain, Bhaskar Sharma, official representatives of M/s Shreya's India Pvt. Ltd in front of the assessee to enable the assessee to cross examine the statements, their statement can not be relied upon. In case the statement of the third person is recorded with reference to any notings then such a statement undoubtedly has to be confronted with the assessee and he must be allowed an opportunity of cross-examination.*
  
7. *Your honour, forged and fabricated documents were found at the place of a third party. There was no evidence to support that any amount was paid to, or received by the assessee. Neither there was any material which establishes that the amount paid by assessee had been invested. Even a single mistake had not been pointed out from the books of the assessee regarding any unusual investment. Thus, your honour, there was no material for making any addition in the hands of the assessee. Similar view has been expressed by the Hon'ble Supreme Court in the case of R.B. Shreeram Durga Prasad and Fatechand Narsing Das (supra) wherein it is held that without affording an opportunity to the assessee, the order passed by the Settlement Commission was a nullity because it was made in violation of the principle of natural justice. Therefore, in view of the decision of the Apex Court, the proceedings under section U/s 153A r.w.s 153C of The Income Tax Act, 1961 is not justified.*



8. *Your honour's kind attention is invited to fact that the burden is on the department to show that the money is belonging to the assessee by bringing proper evidence on record.*
9. *Further an entry in the books of account maintained in the regular course of business is relevant for purposes of considering the nature and impact of a transaction, but notings on slips of paper or loose sheets of paper cannot fall in this category. Notings on loose sheet of papers are required to be supported / corroborated by other evidence and which may include the statement of a person, who admittedly is a party to the notings. A further distinction has to be drawn between slips of paper or loose sheets found from the possession of an assessee and similar documents found from a third person. In case the statement of the third person is recorded with reference to the notings then such a statement undoubtedly has to be confronted to the assessee and he should be allowed an opportunity of cross-examination.*
10. *Your honour had taken statement of Shri Sunil Mehta on dated 21-06-2011. Kindly refer question no.17 page no. 190. Wherein Shri Sunil Mehta clearly stated that these papers do not belong to the assessee. Kindly refer reply of question no. 17 enclosed as annexure 1. The above reply clearly reveals that these papers do not belong to us.*
11. *Shree Sunil Mehta in above same referred statement was asked in Q22, copy of same is enclosed herewith as Annexure 2. The reply of Shri Sunil Mehta clearly reveals that these papers are not belonging to us as lot of plots were yet unsold, whereas they were shown as sold from the records recovered from a third party . Also area of purchase does not match with our records. Also the sizes of the plots do not match with our records. Hence it is very clear and evident that these papers do not belong to us.*
12. *The explanation asked for by your honour is on the basis of few computer prints which bears neither any sign nor any marking / initial of the assessee / any authorized employee of the assessee without carrying out any independent investigation to verify such entries from third parties or independent sources. The intention to make the huge and unjustified additions for all these years without any cross verification, examining the contentions of assessee and only relying on statement of those person, against whom the assessee had filed various FIRs against their fabricated documents, is highly arbitrary and unsustainable. Thus your honour is requested to exercise your quasi judicial statutory jurisdiction to impartially enquire into the matter and form your honored opinion on the*

*A J*

*basis of independent inquiries and verifications of facts. The submissions made by the assessee denying the receipt of any such alleged money cannot be summarily ignored by the learned AO, treating those fabricated papers and false statements as gospel truth and making it binding on the assessee specially when the assessee produced the books of accounts and all document as required u/s 145 of the Income Tax Act, 1961. It is strongly urged that the proposed addition by your honour is vitiated by various infirmities of investigation, non application of mind, ignoring settled case laws and propositions and hence cannot stand the test of legal scrutiny.*

13. *The Income-tax Act authorities has to exercise their statutory and investigative jurisdiction as per the set prescribed norms based on principles of natural justice. As held by the Division Bench of Madras High court in V. Datchinamurthy v. Asst. Director of Inspection (Intelligence), I.T. Dept. [(1984) 149 ITR 341 (Mad)], the Income-tax Officer is within the limits assigned to him under the Act as an authority of exclusive jurisdiction for the purpose of assessment and are non adversarial and cannot be arbitrary in nature. Any proceedings or adjudication on same issue undertaken under other civil or criminal litigation is not ipso-facto binding on assessment in income tax. The Hon'ble Court for holding so has relied on the decision of the Supreme Court in Chhatrasinhji Kesarisinhji Thakore vs CIT (1966) 59 ITR 562 (SC). The Hon'ble Supreme Court has examined the powers and jurisdiction of the Income-tax Officer in relation to the assessment as compared with other statutory adjudications. Where an assessee, before the Income-tax Officer or other authorities under the Act, denies the ownership of any document allegedly recovered from the possession of third parties, it is obligatory on such authorities to accept the version only after proper independent enquiry and verification. The income-tax authorities are bound to judiciously decide the issue of ownership, belonging and contents of incriminating documents as per the settled cannons of income tax jurisprudence in an independent manner. The law rather cautions against the blind use of forwarded evidence or statements. Reliance is further placed in this behalf on the following decisions:-*

- a. *Income-tax Officer v. Jayaraman [(1987) 168 ITR 757 (Mad)]; - Keshavlal Punjaram v. Commissioner of Income-tax [(1983) 141 ITR 466 (Guj)];*  
b. *Commissioner of Income-tax Vs Thobhandas Jivanlal Gajjar [(1977) 109 ITR 296 (Guj)].*

14. **Your honour is kindly requested that an addition made only on the basis of some loose papers found with a third person, and to rely upon the statements of these persons against whom the**

assessee had lodged several FIRs and who were later arrested, would be bad in law and facts, especially on the basis of those papers which were not found at the place of the assessee. No paper is authenticated, initialed, and nothing has been found to have been written by the assessee. There is no evidence with the department that from the person to whom the plots were sold, the assessee had received any unaccounted money. Further these papers are significantly different from our records, in terms of sizes of plots, total area of purchase, person to whom sold, rate of sold goods, selling amount of the plots, plot location and number of plots, etc.

In view of the afore stated facts, it is clear that the papers recovered from a third party do not belong to us, and may be a set of manipulated documents, and that the statements of persons relied upon would apparently have mala fide intentions to mislead your honour especially with reference to us.

15. Your honour, the assessee had furnished the trading & Profit & Loss A/c, Balance Sheet, audit report of the each year from A.Y. 2006-07 to 2012-13. The Assessee furnished Sales A/c, bank a/c, cash book, journal, books of accounts and produced the books of accounts. The books of accounts of each year are audited and audit report is also furnished. The bank statement is also furnished. Your honour kind attention is invited to the section 145 (3) of the Income Tax Act, 1961 which reads as under:-

"145. **Method of accounting.**

(1) Income chargeable under the head "Profits and gains of business or profession" or "Income from other sources" shall, subject to the provisions of sub-section (2), be computed in accordance with either cash or mercantile system of accounting regularly employed by the assessee.

(2) The Central Government may notify in the Official Gazette from time to time accounting standards to be followed by any class of assessee or in respect of any class of income.

(3) Where the Assessing Officer is not satisfied about the correctness or completeness of the accounts of the assessee, or where the method of accounting provided in sub-section (1) or accounting standards as notified under sub-section (2), have not been regularly followed by the assessee, the Assessing Officer may make an assessment in the manner provided in section 144."



*The assessee further requests that when a return is furnished and accounts books are put in, in support of that return, the accounts books should be taken as the basis for assessment. Until, the books of accounts were not rejected, provisions of sub section (3) of Section 145 were not applicable, which is a sine qua non for rejecting books of accounts. The first proviso to section 145(1), or section 145(2), can be invoked only if and where the elements attracting either of those provisions are found to exist. A clear finding to that effect, along with the materials on which such finding is based, has to be made out and given by the Assessing Officer. The assessee relied the decision held in *Laxmi Stores v. CST, (1979) 43 STC 167, 168 (All)*.*

*In view of facts and circumstances stated above, the proposed addition is arbitrary in nature and bad in law and facts. Hence your honour is requested to assess the income judiciously."*

Hence your honour, the Assessee submitted complete details on each seized paper (kindly see Ld. AO Order page no. 3 point no. 7). Further the submission was made that the document were seized from 3<sup>rd</sup> party against whom the assessee filed FIR. The assessee submitted that "SUMS PL" of "1. SUMS PL" and "NATURE FARMS" are not belonging to the assessee and the document were seized not from the premises of the assessee. The assessee also requested for cross-examination of Shri Sanjay Jain and Shri Bhasker Sharma. It was further requested that the burden was on department to show that the seized document were belonging to the assessee . Sizes of the plots, purchases and sales do not match with the record of the assessee. Seized documents are Computer prints bearing neither any sign nor any marking/initials of the assessee/any authorized employee of the assessee. The assessee requested to exercise Quasi-Judicial Statutory Powers to make inquiry and verification of facts. Further the books of accounts were not rejected u/s 145 of the It Act. Hence, seized Documents do not belong to the assessee.

- 1.8. The Ld. AO has performed detailed examination / verification of accounts books and also of submissions made. Further the Ld. AO discussed the statement of Shri Sanjay Jain, Shri Bhasker Sharma and Shri Sunil Metha. Kindly see Ld. AO Order page no. 14-21 point no. 11. The relevant scanned portion is as under:-

**11.** I have considered the submission of the assessee. Before arriving at any conclusion some of the facts of the case, statements of some related persons recorded u/s 132(4)/131 of the IT Act, 1961 are discussed/reproduced here under:-

a. Relevant part of **Sh. Sanjay Jain's** statement recorded u/s 132(4) of the Act on 28/29.04.2011 is reproduced as under:-

प्रश्न-5 अब आपको Annexure AS-1 के Page No. 116 से 133 दिखाये जा रहे हैं कृपया आप इसके बारे में टिप्पणी दें?

उत्तर उपरोक्त पृष्ठ मैंने देख लिये हैं इन पृष्ठों में मेरे द्वारा तीन अन्य व्यक्तियों के साथ मिलकर खरीदी गई तथा बेची गई जमीन से संबंधित कागजात हैं। यह भूमि Delhi Road पर स्थित है और इसे Nature Farms के नाम से Develop & Promote किया गया था। Page No. 116 से 126 पर इस Projects से विभिन्न Plots के sale से details है तथा page No. 187 पर इस Project का actual P&L a/c है। यह जमीन बेचते समय sale Amount का कुछ हिस्सा नकद में लिया गया था। इस नकद की राशि को Further जमीन खरीदने के लिये use किया गया था। इस प्रकार हर project की कुल प्राप्ति तथा कुल खर्चों की summary page no. 127 पर मौजूद है। इस project की जमीन खरीद के लिये मेरे द्वारा निवेश जो page no. 132 से 133 में विहित है। सन् 2008 में बाकि partners से मेरा मन मुटाव हो गया और उस समय तक लगभग 30-40 प्रतिशत जमीन unsold रह गई थी इसके बाद इस project में मेरे profit एवं unsold जमीन के state के बदले मुझे रकम प्राप्त होना बनता है। इन सारे transactions की actual working अभी कर पाना संभव नहीं है। फिर भी मेरे हिसाब से इस projects से मुझे चार करोड़ का लाभ हुआ और इसे मैंने आगे जमीन खरीद के लिये अग्रिम दे रखा है। इसकी details मैं आपको



प्रस्तुत कर दूंगा। इस चार करोड़ रुपये की अधोपित लाभ एवं उससे किये हुए निवेश को अधोपित आय को करारोपण हेतु घोषणा करता हूँ।

b. Relevant part of **Sh. Sanjay Jain's** statement recorded u/s 131 of the Act on 16/19.05.2011 is reproduced as under:-

प्रश्न 4 आपकी कम्पनी मै 0 सुप्रीम पॉलिमर्स प्रा०लि०, 137-138, झोटवाडा इण्डस्ट्रीयल एरिया, जयपुर पर दिनांक 28.04.2011 को आयकर विभाग द्वारा की गई तलाशी एवं जक्ती की कार्यवाही के दौरान कुछ लूज पेपर्स/दस्तावेज जप्त किये गये थे, जिन्हें Annexure-A के Exhibit-01 व अन्य Exhibit के रूप में सूचीबद्ध किया गया था, जिनमें से मैं आपको Exhibit-01 दिखा रहा हूँ। कृपया उक्त Exhibit-01 के पेज संख्या 116 से 127 तक जप्त पेपर्स/लूज पेपर्स पर क्या अंकित है, पूर्ण जानकारी विस्तारपूर्वक दीजिये।

उत्तर उक्त Annexure-A के Exhibit-01 के पेज संख्या 116 से 127 तक मैंने भलीप्रकार देख लिये हैं। यह SUMS एक्जिम प्रा०लि० कम्पनी से प्राप्त एक नम्बर व दो नम्बर में नेचर फार्म की प्लॉटिंग से प्राप्त पैसों का हिसाब किताब है SUMS एक्जिम प्रा०लि० कम्पनी का मतलब इस कम्पनी के निम्न चारों निदेशकों के प्रथम वर्णाक्षर को दर्शाते हुये गठित की गई थी, जो निम्न है:-

**S- Sunil Mehta,**

**Add:-** Vidhyut Nagar-2, Queens Road, Vaishali Nagar, JPR  
**Mobile-** 98290-59895

**U- Uttam Thariyama,**

**Add:-** Opp. C.M. House, Civil Lines, Jaipur.  
**Mobile-** 98292-66860

**M- Mantosh Das,**

**Add:-** Mansarovar, Jaipur.  
**Mobile-** 98290-55917

**S- Sanjay Jain,**

**Add:-** 46-B, Keshav Nagar, Suraj Nagar (West) Civil Lines, Jaipur.  
**Mobile-** 9829012023

यह कम्पनी सन् 2005 में गठित की गई थी। चारों निदेशकों के बीच 25 प्रतिशत प्रत्येक का इक्विटी शेयर का था एवं इस कम्पनी का मुख्य कार्य निम्न है-

1. सिल्क आयात एवं बिक्री।
2. आयरन स्केप आयात एवं बिक्री।
3. भूमि की खरीद-बिक्री एवं डवलपमेंट।

आपके द्वारा दिखाये जा रहे पेज संख्या 116 पर SUMS एक्जिम प्रा०लि० कम्पनी द्वारा बेची गई भूमि की पार्टियों का नाम, प्लॉट संख्या, एरिया, बेचान मूल्य, दर, एवं उस भूमि कन्वर्ट करवाने का मूल्य, एवं उससे प्राप्त मूल्य, भूमि कन्वर्ट कराने की प्राप्ति एवं उसका योग है।

इसी प्रकार पेज संख्या 117 से 119 तक पेजों पर दर्शाई गई सारणी में मुख्य कॉलम्स में SUMS एक्जिम प्रा०लि० कम्पनी द्वारा बेची गई भूमि की पार्टियों के नाम, जिन पार्टियों ने यह प्लॉट खरीदे हैं, प्लॉट संख्या, एरिया, भूमि बेचान के पेटे चैक द्वारा प्राप्त राशि, भूमि बेचान के पेटे नकद में प्राप्त राशि इत्यादि के विवरण दर्ज है। मैं यहाँ यह स्पष्ट करना चाहता हूँ कि उक्त कम्पनी द्वारा चार्ट के अनुसार बेची गई भूमि/प्लॉट को बेचने की कुछ राशि चैक द्वारा एक नम्बर में प्राप्त की गई है तथा भूमि बेचान का अधिकतर हिस्सा दो नम्बर में नकद में प्राप्त करने का लेखा जोखा है।

पेज संख्या 120 पर पेज संख्या 121 से 126 तक दर्शाये गये विवरण प्लॉट्स, प्लॉट खरीद करने वाली पार्टियों के नाम व इन पार्टियों से नम्बर एक में व नम्बर दो ( क्रमशः : चैक से प्राप्त राशि व नकद में प्राप्त राशि) में उक्त कम्पनी द्वारा प्राप्त राशियों का कुल योग है। जिसके अनुसार विभिन्न पार्टियों को कम्पनी द्वारा बेचे गये प्लॉट्स के पेटे प्राप्त की गई राशि का सारांश का अलग-अलग वर्गीकरण निम्न प्रकार है:-

Cheque	Cash	Cheque	Cash	Cheque	Cash
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Assessment Order U/s 153C r.to.s 143(3)  
M/s Sums Exim., Jaipur  
Assessment Year 2006-07

Amount	Amount	Receipt	Receipt	Balance	Balance
70170258	159748171	64414534	145276599	5755724	14471572
	229918429		209691133		20227296

पेज संख्या 127 पर सम्स एक्विजम प्रा०लि० कम्पनी द्वारा नेचर फार्म प्रोजेक्ट में कुल खरीदी गई जमीन का क्षेत्रफल, कुल खरीदी गई जमीन का कुल खरीद मूल्य, बेची गई जमीन का क्षेत्रफल, बेची गई कुल जमीन के पेटे प्राप्त राशि, बेचने के बाद शेष बची जमीन का क्षेत्रफल व उसका मूल्य इत्यादि बिन्दुओं को सारांश रूप में लिखा गया है. उक्त आंकड़ों का मिलान पेज संख्या 120 पर दर्शाये गये आंकड़ों के सारांश से होता है। जैसे इस पेज 127 के अनुसार बेची गई भूमि का कुल विक्रय मूल्य रू० 22,99,18,429/-, इसमें से प्राप्त राशि रू० 20,96,91,133/- (चैक व नकद दोनों में प्राप्त की गई कुल राशि) तथा शेष प्राप्ति योग्य राशि रू० 2,02,27,296/- है, जो कि पेज 120 के आंकड़ों से बिल्कुल ठीक प्रकार से मेल खाते हैं।

इसी पेज 127 पर जमीन की खरीद-बेचान व डवलपमेंट के प्रत्यक्ष व अप्रत्यक्ष खर्च इत्यादि लिखे गये हैं। इसी पेज पर बुक-1 व बुक-11 के नीचे आंकड़े दर्शाये गये हैं, जो कि नम्बर एक व नम्बर दो की प्राप्तियों को दर्शाता है, यह खर्च NF Hill Retreat से संबंधित है जो कि SM Developers के द्वारा किये गये हैं, मैं उक्त फर्म में भागीदार नहीं हूँ। SM Developers एक पार्टनरशिप फर्म है, जिसका पता 1-ए, यमुनापथ, सूरज नगर(पश्चिम), सिविल लाइन्स, जयपुर है, जिसमें कि निम्न दो कम्पनियों पार्टनर हैं:-

1. सम्स एक्विजम प्रा०लि०
2. मेमंत इरयात प्रा०लि०

मैंने उपरोक्त बयान मेरी कम्पनी के कार्यालय से प्राप्त दस्तावेजों/लूज पेपर्स, जो कि मुझे अच्छी तरह दिखाये गये हैं, के आधार पर पूर्ण होंश हवास में बिना किसी दबाव के दिये हैं। यह बयान मैंने पढ़ एवं समझ लिए हैं यह मेरे कथनानुसार ही लिखे गये हैं। तथा इनमें मैंने कुछ भी नहीं छुपाया है। ईश्वर सत्य बयान करने के लिए हमेशा मेरी मदद करें।

शेष जानकारी जैसे कि किन-किन पार्टियों ने हमारी कम्पनी को प्लॉट बेचने के पेटे नकद में पैसे दिये हैं उन सभी पार्टियों के नाम व पूर्ण पता, स्थाई खाता संख्या, नकद में व बैंक से राशि प्राप्ति का विवरण इत्यादि मैं दिनांक 18.05.2011 को पुनः कार्यालय में उपस्थित होकर अपने बयानों में बताऊंगा मैं दिनांक 18.05.2011 को शेष बयान देने के लिए कार्यालय में उपस्थित हो जाऊंगा।

c. Relevant part of **Sh. Sanjay Jain's** statement recorded u/s 131 of the Act on 19.05.2011 is reproduced as under:-

- प्रश्न 01 आपकी कम्पनी मै० सुप्रीम पॉलिमर्स प्रा०लि०, 137-138, झोटवाडा इण्डस्ट्रीयल एरिया, जयपुर पर दिनांक 28.04.2011 को आयकर विभाग द्वारा की गई तलाशी एवं जब्ती की कार्यवाही के दौरान कुछ लूज पेपर्स/दस्तावेज जप्त किये गये थे, जिन्हें Annexure-A के Exhibit-01 व अन्य Exhibit के रूप में सूचीबद्ध किया गया था, जिनमें से मैं आपको Exhibit-01 दिखा रहा हूँ। उक्त Exhibit-01 के पेज संख्या 116 मैं आपको दिखा रहा हूँ इस पेज पर मददार एरिया, बिक्री राशि इत्यादि दर्शाये हुये हैं, इस पेज पर जो विवरण लिखा गया है उसे सोचकर-समझ कर पूर्ण जानकारी विस्तारपूर्वक दीजियें।
- उत्तर हाँ, यह पेज संख्या 116 सर्व कार्यवाही के दौरान मेरे ही कार्यालय के कम्प्यूटर से बरामद/जप्त किया गया है। इस पेज पर जो विवरण दर्शाया गया है उसमें एक सारणी है, जिसके कॉलम में क्रमशः जो विवरण लिखा गया है उसका क्रमानुसार विवरण- प्रथम कॉलम में पार्टी/व्यक्ति का नाम जिसने मै० सम्स एक्विजम प्रा०लि० कम्पनी से प्लॉट खरीदे हैं, दूसरे कॉलम में प्लॉट संख्या, तीसरे कॉलम में प्लॉट का क्षेत्रफल, चौथे कॉलम में बेची गई जमीन का क्षेत्रफल, पांचवे कॉलम पर बेची गई भूमि की रेट, छठे कॉलम में कन्वर्जन चार्ज रेट प्रति वर्गगज, सातवें कॉलम में कुल रकम जिस पर भूमि बेची गई, आठवे कॉलम में कन्वर्जन चार्ज, नवें कॉलम में भूमि बेचने के पेटे प्राप्त की गई राशि, दसवें कॉलम में कन्वर्जन से प्राप्त राशि, ग्यारहवें कॉलम में बेलेन्स, बारहवें कॉलम में कन्वर्जन बैलेंस दर्शाया गया है।
- प्रश्न 02 अब मैं आपको जप्त किये गये लूज पेपर्स/दस्तावेज के Annexure-A के Exhibit-01 के पेज संख्या 128 से 135 एवं पेज 22 दिखा रहा हूँ। इन पेजों पर जो विवरण लिखा गया है उसे सोचकर-समझ कर पूर्ण जानकारी विस्तारपूर्वक दीजियें।

उत्तर मैंने उक्त एकिजबिट का पेज संख्या 128 से 131 भलीप्रकार से देख लिया है, उक्त प्रश्न के जवाब में मैं यह कहना चाहता हूँ कि उक्त पेपर्स में सन्स एक्जिम प्रा० लि० कम्पनी से संबंधित है, जिसमें कि मैं भी एक डायरेक्टर था। मुझे उक्त संदर्भित पेपर्स उक्त कम्पनी से उस समय प्राप्त हुये जब मेरा व कम्पनी के अन्य निदेशकों का आपस में मनमुटाव व मतभेद चल रहा था यह करीब सितम्बर-2008 के समय की बात है। इन पेपर्स पर नेचर फार्म प्लॉटिंग का विवरण जैसे कि प्लॉट खरीदने वाली पार्टी/व्यक्ति का नाम, प्लॉट संख्या, एरिया, एवं संबंधित प्लॉट को बेचने से प्राप्त नकद राशि व बैंक राशि का विवरण है। इसमें से कुछ प्लॉट हमारी कम्पनी में सुप्रीम पॉलिमर्स प्रा० लि०, मै० सिद्धार्थ पॉलिसेक्स प्रा० लि० एवं मेरे कुछ परिचित लोगों के नाम से हैं। हमारे कम्पनी के नाम व परिचित लोगों के नाम से नेचर फार्म में खरीदे गये प्लॉटों की पूर्ण जानकारी, जैसे कि यह प्लॉट किस व्यक्ति का है, कितने रु० में बेचा, कितनी राशि किस बैंक खाते में प्राप्त की गई, तथा कितनी राशि नकद में ली गई, जिसका हिसाब-किताब कम्पनी की खाता पुस्तकों व मेरी व्यक्तिगत लेखा पुस्तकों में किया गया है या नहीं, मैं खाता-पुस्तकों को देखकर बता दूंगा।

d. Relevant part of **Sh. Bhaskar Sharma's** statement recorded u/s 132(4) of the Act dated 28.04.2011 is reproduced as under:-

- प्रश्न-5 कृपया बताए कि आप मै० सन्स एग्जीन प्रा० लि० में किस प्रकार का कार्य करते थे एवं इस कम्पनी में मुख्य रूप से क्या कारोबार किया जाता था?
- उत्तर मै० सन्स एग्जीन प्रा० लि० में चार पार्टनर थे-श्री सुनील मेहता, विद्युत नगर जयपुर, श्री संजय जैन, श्री उत्तम खतवानी एवं श्री मनतोष दास सभी डायरेक्टर थे। इस कम्पनी का कार्यालय-A1, यमुना पथ, सूरज नगर, सिविल लाइन्स, जयपुर कम्पनी के द्वारा दिल्ली रोड पर राजपुरवास गाँव में नेचर फार्मस के नाम से स्कीम निकाली थी इस स्कीम में लगभग 200 बीघा जमीन खरीद कर फार्म हाउस बनाकर बेचे गये। इस कम्पनी में मैं accountant के पद पर कार्य करता था एवं मेरे अलावा एक श्री नवरतनमल भी accountant का कार्य देखते थे। नेचर फार्म से संबंधित कागजात एवं लेखा-जोखा भी हमारे द्वारा ही कम्पनी के कार्यालय में स्थित डायरेक्टर की देखरेख में ही लिखे जाते थे।
- प्रश्न-6 मैं आपको दिनांक 28.04.2011 को सर्वे की कार्यवाही के दौरान मै० श्रेयास इण्डिया प्रा० लि० के ऑफिस से पाये गये कागजात जिनको कि Annexure 'AS', Exhibit 1&2 सूचीबद्ध किये गये हैं एवं आपको दिखा रहा हूँ, कृपया इनको देखकर बताए कि यह किस प्रकार के हैं तथा क्या लेन-देन हैं?
- उत्तर मेरे द्वारा उक्त दोनो Annexure 'AS', Exhibit देख एवं समझ लिया है इसमें annexure AS-1 में पेज 1 से 66 मै० सन्स इण्डिया प्रा० लि० द्वारा दिल्ली रोड राजपुरवास लगभग 200 बीघा जमीन खरीद कर नेचर फार्म हाउस काट कर बेचे गये हैं उनसे संबंधित लेखा रिकार्ड हैं। उनमें कम्पनी द्वारा बेचे गये फार्महाउस के खरीददारों के नाम, कुल एरिया बैंक एवं नकद से प्राप्त राशि का विवरण है। बाकी इसके बारे में विस्तृत में कम्पनी के निदेशक ही बता सकते हैं। और इसी प्रकार Annexure 'AS' exhibit 2 में पेज सं० 1 से 75 में भी इन्हीं सौदों का विवरण है।
- प्रश्न-7 मैं आपको Annexure 'AS'-2 के पेज नं० 55 से 66 तक दिखा रहा हूँ जिसमें रामस एग्जीन प्रा० लि० की कापियां लगी हैं इन्हें देखकर इनके बारे में व सन्स एग्जीन प्रा० लि० के बारे में बताए?
- उत्तर जी हाँ, मैंने उस कापियों को देख एवं समझ लिया है। उक्त खाते सन्स एग्जीन प्रा० लि० के कार्यालय में लगे कम्प्यूटर पर मेरे द्वारा ही कम्पनी के निदेशकों की देखरेख में बनाए जाते थे एवं रखे जाते थे। इन खातों को श्री नवरतनमल जैन accountant भी देखते थे।
- प्रश्न-8 इसी प्रकार इसी Annexure के पेज नं० 69 से 73 को दिखा रहा हूँ जिनमें SM Develops SM Buillders, Whispering Medows Club 4 Resorts Pvt. Ltd. के प्रिंट आउट की कापियां लगी हैं इनके बारे में विस्तार से बताए?
- उत्तर मैंने उक्त पेज नं० 69 से 73 देख लिये हैं यह अलग-अलग स्कीम हैं जिनके अन्तर्गत जमीनें खरीदी गई हैं। विस्तार से इसके बारे में इनके निदेशक ही जानते हैं।

प्रश्न-9 मैं आपको Annexure 'AS' Exhibit -2 का पेज नं० 64 दिखा रहा हूँ जिसमें समस पी. एल. नाम की कम्पनी में राजीव गुप्ता-गुनवता account की कम्प्यूटर कापी है, कृपया समस पी.एल. के बारे में बताए।  
उत्तर जी हों मैंने उक्त कापी को देख लिया है यह समस एग्जीन प्रा० लि० से ही संबंधित है। इस नाम की अलग कम्पनी की मुझे कोई जानकारी नहीं है। इसमें समस एग्जीन प्रा० लि० के नेचर नगद राशी का लेखा-जोखा रखा जाता था। और यह लेखा भी मेरे और नवरतन मल जैन द्वारा समस एग्जीन प्रा० लि० कम्पनी के निदेशकों की देखरेख में रखा जाता था। उक्त नगद राशी भी मैंने समस एग्जीन प्रा० लि० से संबंधित ही होती थी। उक्त दोनों Annexure के कागजातों एवं प्रिंटस की सोफ्ट कापी मैंने समस एग्जीन प्रा० लि० के कार्यालय में लगे कम्प्यूटर पर ही है।

e. Relevant part of **Sh. Bhaskar Sharma's** statement recorded u/s 131 of the Act dated 28.06.2011 is reproduced as under:-

प्रश्न 3 मैंने समस एक्विजम प्रा० लि०, 1-ए, यमुनापथ, सिविल लाइन्स, जयपुर कम्पनी में आप किस पद पर, कब से कब तक कार्यरत थे एवं आपके द्वारा किये जाने वाले कार्य का पूर्ण ब्यौरा दीजिये।  
उत्तर मैं, मैंने समस एक्विजम प्रा० लि० कम्पनी में अप्रैल-2005 से जुलाई- 2008 तक एकाउन्टेड के तौर पर कार्यरत था। मैं इस कम्पनी में कम्पनी के प्रारम्भ होने के समय अप्रैल-2005 से जुड़ा हुआ था। मैं यहाँ कम्पनी के समस्त एकाउन्टेड संबंधित कार्य देखता था। जिसमें कम्प्यूटर पर टेली सॉफ्टवेयर पर सारे एकाउन्टेड मैन्टेन करता था। इस एकाउन्टेड कार्य में मैं कम्प्यूटर पर उक्त सॉफ्टवेयर में एन्ट्रियों करता था। ये सभी एन्ट्रिया उक्त कम्पनी मैंने समस एक्विजम प्रा० लि० के डायरेक्टर्स के निर्देशानुसार करता था।

f. Relevant part of **Sh. Sunil Mehta's** statement recorded u/s 131 of the Act dated 21.06.2011 is reproduced as under:-

प्रश्न-28 दिनांक 28.04.2011 को सर्वे की कार्यवाही के दौरान श्री संजय जैन की कम्पनी श्रेयास इण्डिया प्रा० लि० 57, झोटवाडा इण्डस्ट्रीयल एरिया, जयपुर में कुछ लूज पेपर मिले थे जिसे एनेक्चर AS एगजीबिट 2 का नाम दिया गया, जिसमें कुल पेज सं० 75 हैं उसमें कुछ कागजात आपकी कम्पनी समस एग्जीम प्रा० लि० के हैं जो कि विभिन्न तारीखों में इन्द्राज है कृपया इन एन्ट्रियों का विस्तृत ब्यौरा दीजिये।  
1. पेज 20 31.05.2006 To Cash SUMS Cash Paid for Euro Bought for SM & SJ Rs. 1,78,500/-  
उत्तर मैंने यह पृष्ठ देख लिया है इसमें मैं सुनील मेहता व संजय जैन यूरोप गये थे इसका पूरा भुगतान संजय जैन ने ही किया था यह उसी की एन्ट्री है उस यात्रा के जितने भी खर्चे थे वह मेरे पर संजय जैन ने ही खर्च किये थे।  
प्रश्न-29 इसी प्रकार पेज 19 में 17.07.2006 को By Cash Sums Cash Received from SJ Paid to SM for 1 Bigha 3.5 Biswa Land Rs. 6,00,000 इसका पूर्ण विवरण दीजिये।  
उत्तर मैंने यह पृष्ठ देख लिया है इसमें सिर्फ संजय जैन द्वारा सुनील मेहता को 1 बीघा 3.5 बिसवा जमीन के पेटे रू० 6,00,000/- दर्शा रखे हैं परन्तु मैंने इस तरह का कोई भी भूमि या जमीन का लेन-देन संजय जैन के साथ नहीं किया था।  
प्रश्न-30 इसी प्रकार पेज 18 पर 29.08.2006 को To cash SUMS cash received by SJ from SR Bhandari Rs. 5,00,000 का पूरा विवरण दीजिये।  
उत्तर मैंने यह पृष्ठ देख लिया है इसमें जो एन्ट्री दर्शाई गई है उसके बारे में मुझे कोई ज्ञान नहीं है। एस. आर. बंधारी जो मेरे मामाजी हैं, को एक प्लॉट नं० 116 जो बेचा गया था उसके बारे में ध्यान है क्योंकि वह प्लॉट मेरी पत्नी श्रीमती प्रिति मेहता ने ही उन्हें बेचा था। दूसरे प्लॉट का सौदे के बारे में मुझे ज्ञान नहीं है यह संजय जैन ने किया था।  
प्रश्न-31 इसी तरह पेज 18 पर 19.09.2006 By Sunil Mehta Chq. Received from SM in SUMS and Cash Payable to SJ Rs. 60,000/- का पूरा विवरण दीजिये।

- उत्तर जहाँ तक मुझे ध्यान है मैं कभी-कभी अपनी अतिआवश्यक जरूरतों को पूरा करने के लिए संजय जैन से पैसे उधार लिया करता था। संजय जैन जो कि कम्पनी के फाइनेन्सियल डायरेक्टर थे एवं एकमात्र बैंक सिग्नेटरी थे, ने बहुत बार मुझे कम्पनी से या स्वयं संजय जैन ने खुद ने पैसे उधार दिये हैं इस पेज से यह प्रतीत होता है कि यह पैसा संजय जैन ने समस से दिलवाया था जो कि मैंने समस को वापस दे दिया है। इसके बाद समस ने संजय जैन को पैसा दिया, मुझे इस बारे में ज्ञान नहीं है।
- प्रश्न-32 इसी तरह पृष्ठ 17 पर दिनांक 24.10.2006 पर By Bonus Paid Bonus payable @ 2.5 to SJ.UT.MD, SM and 1 to BS accounted Rs. 2,50,000/- का पूरा विवरण दीजिये।  
उत्तर 24.10.2006 को मेरा अर्थात् सुनील मेहता का जन्मदिन था इस दिन संजय जैन ने मुझे एक सोनी कम्पनी का डिजिटल कैमरा जन्मदिन के उपहार स्वरूप दिया था इसने पेज पर जो एन्ट्री है इसने SJ UT MD SM के नाम बोनस के पेटे रु० 2,50,000/- दिखा रखे हैं। इसने मुझे संजय जैन ने दीपावली के दिन नकद रु० 51,000/- दिये थे वह बोनस के पेटे बोलकर दिये थे। इसके अलावा 51,000/-रु० अन्य दोनों डायरेक्टरों को भी दिये थे।
- प्रश्न-33 इसी प्रकार इसी पृष्ठ 17 पर दिनांक 31.10.2006 को To cash SUMS Cash deposited into citi bank account of UT Rs. 1,25,000/- का पूर्ण विवरण दीजिये।  
उत्तर यह पृष्ठ 17 पर दिखाई एन्ट्री मैंने देख ली है यह मेरे ध्यान में नहीं है एवं प्रतीत होता है कि संजय जैन के द्वारा यह राशि मेरे पार्टनर श्री उत्तम कुमार खटवानी के अकाउंट में जमा कराई है। जिसका जवाब श्री संजय जैन या श्री उत्तम कुमार खटवानी ही दे पायेंगे।
- प्रश्न-34 इसी तरह पृष्ठ 15 पर दिनांक 07.12.2006 को Purchase of Land at Nature Fames Being cash Paid for purchase of land from Neet Agarwal 3500000 + 150000REG+ 23000 REG Charges (51000+23000 paid by SM) ( 10,00,000/- paid from Sanjay Jain account Rs. 10,00,000/- का पूरा विवरण दीजिये।  
उत्तर मैंने यह पृष्ठ 15 पर दशाई एन्ट्री मैंने देख ली है इस पेज पर दशाई गई जमीन की खरीद संजय जैन द्वारा ही फाईनल की गई थी यह जमीन संजय जैन ने नीत अग्रवाल से कम्पनी के लिए व स्वयं के लिए क्रय की थी। जहाँ तक मुझे ध्यान है इस जमीन का 50 प्रतिशत हिस्सा संजय जैन ने स्वयं के नाम पर खरीदा था। इस सारी खरीद की प्रक्रिया के पूरे होने के बाद मुझे अर्थात् सुनील मेहता को यह जिम्मेवारी सौंपी गई थी कि इन दोनों जमीन की रजिस्ट्रीया सबरजिस्ट्रार के पास जाकर अविलम्ब करवाये। चूंकि सबरजिस्ट्रार का कार्यालय राजस्व कार्यालय में होता है जहाँ मुझे अक्सर स्वीकृतियाँ या अन्य सरकारी कार्यों के लिए जाना पड़ता रहता है दोनों रजिस्ट्रारों की स्टाम्प ड्यूटी के पेटे संजय जैन ने मुझे रु० 51,000/- एवं रु० 23,000/- दिये थे जो कि मैंने रजिस्ट्री में लगने वाले स्टाम्प ड्यूटी के पेटे जमा करवाकर रसीद संजय जैन को सौंप दी थी। इन रु० 10,00,000/- जो संजय जैन के खाते से गये हैं इसके बारे में मुझे जानकारी नहीं है।
- प्रश्न-35 इसी प्रकार पेज 14 पर दिनांक 09.02.2007 को To Sidh Raj Bhandari ICICI Bank Ltd. Chq. No. 791743 dated 06.02.2007 paid to catalysts towards cash amount of Plot No. 107 area 2152 @ 1800/- - 350/- cheq. Rs. Rs. 31, 20,400/- का पूरा विवरण दीजिये।  
उत्तर मैंने पेज 14 पर दर्ज एन्ट्री जो 31,20,400 की है, को मैंने देख लिया है चूंकि यह मैं पहले भी स्पष्ट कर चुका हूँ कि मेरे मामजी श्री सिद्धराज जी भंडारी का प्लॉट नं० 107 का सारा सौदा श्री संजय जैन ने स्वयं ही किया था इसलिए मुझे इस सौदे की कोई जानकारी नहीं है, पर इस मैं कहना चाहूंगा कि कंटेक्टिस्ट फर्म ने हमारी कम्पनी समस एगजीम प्रा० लि० की कोई भागीदारी नहीं थी। इस फर्म में संजय जैन पार्टनर था।
- प्रश्न-36 इसी प्रकार पेज 14 पर दिनांक 12.02.2007 को By Cash SUMS cash received from SJ 3 & UT 10 and aid to Dr. SRM Rs.3,00,00/- का पूर्ण विवरण दीजिये  
उत्तर मैंने पेज 14 पर दर्ज एन्ट्री को देख लिया है इसमें दर्ज नाम डा० एस.आर. एम. का अगर अभिप्राय मेरे पिताजी डा० शीतलराज जी मेहता से है तो यह एन्ट्री गलत है मेरे पिताजी का कभी इस कम्पनी समस एगजीम प्रा० लि० से कोई लेन-देन नहीं रहा। इसलिए उन्हें रु० 3,00,000/- जितनी बड़ी राशि देने का कोई भी औचित्य नहीं है। मुझे प्रतीत होता है कि ये एन्ट्री कोई कोड़ु मे है जिसका जवाब इस एन्ट्री को नैनटन करने वाले श्री संजय जैन व श्री भास्कर शर्मा ही दे सकते हैं।



- प्रश्न-37 इसी तरह पेज 14 पर दिनांक 23.03.2007 को By cash SUMS cash received from SJ 30 & 7 (7 paid to UT) Rs. 30,00,000/- का पूर्ण विवरण दीजिये।  
उत्तर इस पेज 14 को देख लिया है इस बारे में जानकारी मुझे नहीं है इस बारे में श्री उत्तम कुमार खटवानी एवं श्री संजय जैन ही बता सकते हैं।
- प्रश्न-38 इसी तरह पेज 12 पर दिनांक 18.04.2007 को By cash SUMS cash received from SJ 400000 by bs & 50 SM for GCB Interest Rs. 4,50,000/- का पूर्ण विवरण दीजिये।  
उत्तर मैंने यह पेज 12 पर दर्ज एन्ट्री देख ली है इसकी जानकारी नहीं है इसमें SM अर्थात् सुनील मेहता का नाम जरूर नाम लिखा हुआ है इसमें ना तो मैंने कमी पैसे लिये ना कमी दिये थे जिसके आगे जीसीबी लिखा हुआ है इसका मतलब मुझे पता नहीं है पर मेरे ससुर जी का नाम जरूर श्री गुलाब चन्द बाबेल है। जिसका शार्टफार्म भी जीसीबी होता है मैं यह स्पष्ट करना चाहूंगा कि उनका इस कम्पनी समस से कोई संबंध नहीं है। मेरे ससुर कोटा के ही रहने वाले हैं और कोटा में ही रहते हैं और एक रिटायर्ड जीवन व्यतीत कर रहे हैं इसकी पूरी जानकारी श्री संजय जैन एवं श्री भास्कर शर्मा ही बता सकते हैं।
- प्रश्न-39 इसी प्रकार पेज नं० 7 पर दिनांक 13.05.2008 को To (as per details) Supreme Polymers-Entry 29,50,000/- Dr. Sidarth Polysacks-Entry 89,75,000/-Dr., Harshad Mehta account 3,50,00,000/-Cr. DEBITED TO SJ AS DECIDED BY THE BOARD OF DIRECTORS Rs. 2,30,75,000 का पूर्ण विवरण दीजिये।  
उत्तर हाँ, मैंने इस पेज 7 पर इस एन्ट्री को देख लिया है एवं समझ लिया है इसमें जो "Harshad Mehta account 3,50,00,000/-Cr. DEBITED TO SJ AS DECIDED BY THE BOARD OF DIRECTORS Rs. 2,30,75,000" जो एन्ट्री है भास्कर शर्मा ने Tally account में दर्ज की है। यह Harshad Mehta कोड भाषा में संजय जैन ही है। यह एन्ट्री ₹0 3,50,00,000/- हमारी कम्पनी समस एगजीम प्रा० लि० को संजय जैन से लेना दर्शा रही है। यह एन्ट्री बिल्कुल सही है यह एन्ट्री श्री भास्कर शर्मा द्वारा की हुई है इसी एन्ट्री का नाम Harshad Mehta account इसलिए रखा गया है। क्योंकि श्री भास्कर शर्मा अक्सर कहते थे कि आप तो सुनील मेहता हैं और संजय जैन Harshad Mehta हैं क्योंकि संजय जैन अकाउंट्स की हेरा-फेरी करने में मास्टर आदमी हैं। यहाँ मैं यह भी कहना चाहता हूँ कि हम लोगों को अप्रैल, 2008 में यह पता चला कि संजय जैन ने हमारी कम्पनी समस एगजीम प्रा० लि० से गबन किया है तब हम यानि अकाउंट्स भास्कर शर्मा से तैयार कराया जिसमें हमें पता चला कि संजय जैन ने ₹0 3,50,00,000/- नकद में कम्पनी की प्राप्तियों से गबन किया है। यहाँ मैं यह भी कहना चाहता हूँ कि संजय जैन की दो कम्पनियों सुप्रीम पोलिमर्स एवं सिद्धार्थ पोलिसेक्स से जो Unsecured Loan आये थे उनको घटाने के बाद ₹0 2,30,75,000/- की जो एन्ट्री है यह संजय जैन से बाकी लेना दिखा रखी है। हमारी कम्पनी समस एगजीम प्रा० लि० के डायरेक्टर यानि सुनील मेहता, मनतोषदास और उत्तम कुमार खटवानी द्वारा Decided करने के बाद यह एन्ट्री भास्कर शर्मा ने डाली थी।
- प्रश्न-40 दिनांक 28.04.2011 को संजय जैन की कम्पनी श्रेयास इण्डिया प्रा० लि०, 57, झोटवाड़ा इण्डस्ट्रीयल एरिया, जयपुर में सर्वे की कार्यवाही के दौरान कुछ ल्यूज पेपर मिले जिसे एनेक्चर As एगजीबिट 1 नामित किया गया, जिसमें कुल 66 पेज हैं। उसमें पेज 43 व 44 दिखा रहा हूँ इसका विस्तृत ब्यौरा दीजिये।  
उत्तर मैंने यह पेज देख लिये हैं व समझ लिये हैं इसमें पेज 44 मेरे द्वारा उपरोक्त 39 के उत्तर में यह बताया गया है कि संजय जैन ने हमारी कम्पनी समस एगजीम प्रा० लि० से ₹0 3,50,00,000/- के गबन का जब पता चला तो हमारे कम्पनी समस एगजीम प्रा० लि० के बाकी बचे तीनों डायरेक्टरों सुनील मेहता, मनतोषदास एवं उत्तम खटवानी द्वारा एक Resolution पास किया गया उसकी कॉपी है इस Resolution में यह निर्णय लिया गया।  
1- a. संजय जैन लिखित में यह दें कि कोई भी रुपये या पैसों उनके या उनकी कम्पनियों सिद्धार्थ, सुप्रीम व कंटेलिस्ट से कोई भी रुपये बाकी नहीं है।  
b. सभी तीनों Unsecured Loan एन्ट्रीज (Not actual loans) समस या अन्य कम्पनियों WMCRL, SMD के कोई भी संबंधित नहीं है।  
c. कुल ₹0 1,43,98,486/- (The balance figure after deducting the unsecured loans and the balance payment due to his sister as mention at point no. 3) संजय जैन के शेयर में से समस एगजीम प्रा० लि० प्राप्त कर लिये जायेंगे।  
2. कि संजय जैन लिखित में यह देगे कि समस एगजीम प्रा० लि० से कोई भी लेना-देना नहीं होगा।

3. ₹ 3,50,00,000/- जो संजय जैन ने गवन किये है Unsecured loan हटाने के बाद संजय जैन हमारी कम्पनी समस एगजीम प्रा० लि० को देगा।

4. संजय जैन सुप्रीम/सिद्धार्थ के Letter Head पर समस एगजीम के जो भी देनदारीयाँ देने की जो बात कही है वह लिखित में संजय जैन द्वारा देनी होगी।  
तथा पेज नं० 43 पर जो हम तीनों सुनील मेहता, मनतोषदास एवं उत्तम खटवानी ने जो Resolution पास किये थे उसी के जवाब में संजय जैन द्वारा लिखित में दिये गये बोर्ड ऑफ डायरेक्टर को पत्र है।

प्रश्न-41 आपने ऊपर के प्रश्नों के जवाब में यह बताया है कि श्री संजय जैन ने ₹ 3,50,00,000/- गवन आपकी कम्पनी समस एगजीम प्रा० लि० से किया है यह आंकड़ा आपने कैसे पता किया। पूर्ण विवरण दीजिये?

उत्तर यह आंकड़ा ₹ 3,50,00,000/- का एक अनुमानित रूप में लगाया गया था जिसका आधार हमारे पास जो भी सौनित सूचना उपलब्ध थी। जो सूचना हमारे पास उपलब्ध थी वह निम्न है-

1. संजय जैन ने अपने Sole signatory का दुरुपयोग करते हुए करीबन ₹ 2,00,00,000/- की मशीने मरी कम्पनी समस एगजीम प्रा० लि० से आयात करी। यह मशीने संजय जैन की अन्य कम्पनी सिद्धार्थ पोलिमर्स एवं सुप्रीम पोलिमर्स में काम आने वाली मशीने थी। इन मशीनों का हमारी समस एगजीम प्रा० लि० में कोई जरूरत नहीं थी। इस आयात के बारे में संजय जैन ने हमें अंधेरे में रखा और गुपचुप में हमारी कम्पनी को नुकसान पहुँचाने के इरादे से एवं खुद की कम्पनीयों को अनुचित लाभ देने के इरादे से आयात की।
2. संजय जैन ने हमारी कम्पनी समस एगजीम प्रा० लि० द्वारा अपने खुद के नाम पर करीब 1.25 करोड़ ₹ की जीवन बीमा करवा ली। साथ ही में उन्होंने भास्कर शर्मा के नाम पर करीब 65 लाख ₹ की इन्शोरेंस करा ली। जबकि बाकी डायरेक्टरों की इन्शोरेंस इनसे कम कराई। संजय जैन ने यह सारा कार्य बाकी डायरेक्टरों से गुपचुप में करा और बाकी डायरेक्टरों को यह कहा कि उन्होंने खुद की इन्शोरेंस 50 लाख ₹ की कराई है और भास्कर शर्मा की इन्शोरेंस के बारे में बताया नहीं।
3. हमारे कम्पनी के प्रोजेक्ट नेचर फार्मस के कुछ प्लॉट्स गुपचुप में बेचकर सारा पैसा स्वयं के पास व अपनी कम्पनियों के पास ले लिया। इसका पता अन्य डायरेक्टरों को जब लगा तब कुछ लोग नेचर फार्मस प्रोजेक्ट में आये और कहा कि यहाँ पर हमने प्लॉट खरीदे है उस वक्त कम्पनी के रिकार्ड्स में इन प्लॉटों की सेल नहीं हुई थी। उन लोगों से पूछने पर उन्होंने यह बताया कि उन्होंने उक्त प्लॉट का भुगतान श्री संजय जैन को कर दिया है।
4. श्री संजय जैन ने अपने बहन श्रीमती नीलम गुप्ता के नाम पर गुपचुप में 10 बीघा जमीन खरीदकर कम्पनी के रिकार्ड्स में उन्हें नेचर फार्मस हिल रिट्रिट में उन्हें 10 प्रतिशत का भागीदार बनाने की कोशिश करी और बिना अन्य अन्य निदेशकों की अनुमति के अपनी बहन को हमारी कम्पनी समस एगजीम प्रा० लि० से भुगतान करने लगा।
5. इसी तरह संजय जैन ने एक फर्म दिग्विजय कन्स्ट्रक्शन को हमारी कम्पनी से गुपचुप में भुगतान कर दिया जबकि उक्त फर्म संजय जैन के अन्य फैंक्ट्रीयों जैसे कि उनकी निबाई में निर्मित हो रही फैंक्ट्री में काम किया था संजय जैन हमारी कम्पनी को नुकसान पहुँचाकर अपनी फैंक्ट्री को अनुचित लाभ पहुँचा रहे थे।  
उपरोक्त के आधार पर हम निदेशकों ने एक अनुमानित ₹ 3.50 करोड़ की राशि पर पहुँचे।  
इसके पश्चात् संजय जैन के और भी काफी जालसाजी व धोटालो का हमें पता लगा जिसके चलते हमारी कम्पनी ने संजय जैन के खिलाफ 6 एफआईआर पुलिस में दर्ज कराई। पुलिस अन्वेषण में उन्हें दोषी पाया गया। और कुछ एक एफआईआर में उनके खिलाफ कोर्ट में चालान भी पेश हो गया था। इसके पश्चात् माननीय उच्चन्यायालय ने हमें श्री संजय जैन से Out of Court Settlement के निर्देश दिये। इस settlement में संजय जैन ने हमें ₹ 3.50 करोड़ के पेटे करीबन ₹ 4.50 करोड़ की जमीन हमारे नाम पर स्थानान्तरित करी। इसके अलावा फर्जी हस्ताक्षर करके बेचे गये प्लॉट के पेटे हमें उन्होंने हमारी कम्पनी को ₹ 10 लाख का चेक भी दिया।

- 1.9.** Hence your honour the Ld. AO considered the submission made by the assessee that the seized document does not belong to the assessee and also discussed the statement of Shri Sanjay Jain, Shri Bhaskar Sharma and Shri Sunil Metha. Your honour kindly see paper book dated 30.06.2022 submitted by the department paper book page no. 7. Your honour this paper book page no. 7 is the part of Seized Document Annexure-A Exhibit-1. This Exhibit-1 is having page no. 1-169 and having details of purchases, sales, income and expenses. The Ld. AO also gave these findings on page no. 15 and 16 that page no. 127 which is paper book page no. 7 is showing summary of purchases, sales, income and expenses. Your honour this page no. 127 has not been disputed by the Ld. AO which shows that the net profit of the seized document is Rs. 2,24,87,607/-. Shri Sanjay Jain also surrendered Rs. 4 Crores.
- 1.10. On the basis of the facts of the case, statement recorded during the search and post search proceedings, submission of the assessee and on the basis of the seized record the Ld. AO stated facts emerged at Ld AO Order page no. 21-24 point no. 11.1. The relevant scanned portion is as under:-

**11.1** On the basis of facts of the case, statement recorded during the search and post search proceedings, submission of the assessee and on the basis of seized record following facts emerge:



- a) In the major part of his submission the assessee has challenged the authenticity of the documents seized by the department. All these seized documents, mostly in the shape of computer printouts of ledger accounts etc. were seized during the course of search at the business/residential premises related to Supreme Group of cases on 28.04.2011. These documents show the details of sale of various plots in the 'Nature Farm' scheme and 'Nature Farm Hill Retreat' scheme and the details of payments in both cheque and cash. The details of these documents clearly show that these documents pertain to M/s SUMS Exim Pvt. Ltd. and M/s SM Developers as suggested by the headings of these ledger accounts. The submission of the assessee that these documents were not written by the assessee and are only computer prints not signed and not handwritten does not carry much weight. The assessee is a company and all its documents will have to be prepared by its Accountants in the normal course of business on the specific or standing orders of the directors. Shri Bhaskar Sharma who admitted to have prepared these documents was the Accountant of the assessee, this fact has been admitted by the assessee also. Shri Bhaskar Sharma admitted these documents to be pertaining to the assessee and explained that these transactions were not recorded in the books of account and represented the undisclosed income of the assessee. In view of these facts the validity of these documents and nature of the transactions can not be brushed aside. It is also pertinent to mention that these documents were related to 'Nature Farm' and 'Nature Farm Hill Retreat' schemes, the schemes launched by the assessee itself.
- b) The other major issue raised by the assessee is that the documents seized were not related to it. It has further been alleged that Shri Sanjay Jain and Shri Bhaskar Sharma intentionally fabricated these documents to implicate the assessee. It has further been submitted that as the documents were not seized from the premises of the assessee it was the onus of the department to establish that the

documents pertained to assessee. In support of this contention, the assessee illustrated some differences in the size of plot and number mentioned in its books and that recorded in seized documents.

It is a fact that the documents were not seized from the premises of the assessee but the other fact is that these documents carry the name of the schemes launched by the assessee and details of sale of plots of land. It can not be accepted that any person will fabricate any document only to implicate the others. Even for the sake on argument it is once admitted that Shri Bhaskar Sharma fabricated the documents to implicate the assessee to settle personal score, it is beyond imagination that these persons knew about the search action or even managed it. In regard to difference in size and number of plots in both the schemes it is a known fact that many a times the number and size of plots in a scheme get changed due to less availability of land which was earlier anticipated by the group launching any scheme. Moreover, many similarities were also pointed out to the assessee in the show cause letter issued by this office.

Though, these seized loose papers/books of account/ documents were not found at the business premises of the assessee but the same were found at the business/residential premises related to one of its ex-directors Shri Sanjay Jain. During the course of search, Shri Sanjay Jain in his statement recorded u/s 132(4) of the IT Act, 1961 on 28/29.04.2011 admitted ₹ 4.00 crore as his unaccounted income from the sale of plots from Nature Farms/Nature Farm Hill Retreat. Shri Sanjay Jain has approached to the Hon'ble Settlement Commission and his petition has been accepted. The case is pending before the Hon'ble Commission at present.

In view of the above discussion, it is clear that the authenticity of the documents/papers seized from various premises in Supreme Group of ses related to M/s SUMS Exim Pvt. Ltd. and SM Developers can not be denied. It is also to point out that Shri Sanjay Jain admitted the

*Assessment Order U/s 153C r.w.s 143(3)  
M/s SUMS Exim., Jaipur  
Assessment Year 2006-07*

undisclosed income of ₹ 4 Cr. in his statement recorded during the course of search from sale of plots in these concerns. Thus, it proves that in the sale of plots in both the concerns unaccounted money was taken, but the question remains that who was the beneficiary of this unaccounted income on sales of plots. Since the documents have been seized from the premises of the concerns of Shri Sanjay Jain and Shri Sunil Mehta in his statement recorded during the post search enquiry u/s 131 of the IT Act, 1961, denied of having any relation with these documents & in absence of any concrete evidences it is held that both the concerns M/s SUMS Exim Pvt. Ltd and M/s SM Developers have earned (unaccounted money over and above the amount shown in this books of account) but this income was earned by Shri Sanjay Jain under the name of these concerns. **Hence it is held that addition of undisclosed income of ₹ 1,49,13,171/- determined in next para will be added on substantive basis in the hands of Shri Sanjay Jain/Supreme Polymers Pvt. Ltd./Shreyas India Pvt. Ltd. whose case is pending before Hon'ble Settlement Commission, but to protect the interest of revenue the same addition on protective basis, is made in the hands of the assessee.**

Hence Your honour the assessee submitted defence on each seized document as well as statement of Shri Sanjay Jain, Shri Bhaskar Sharma and Shri Sunil Metha and successfully with evidences that the seized documents does not belong to the assessee. The Ld. AO considered reply of the assessee and also verified/examined each seized page, evidences, statements of Shri Sanjay Jain, Shri Bhaskar Sharma and Shri Sunil Metha and held that On the basis of the facts of the case, statement recorded during the search and post search proceedings, submission of the assessee and on the basis of the seized record held that **in view of the above discussion, it is clear that the authenticity of the documents/papers seized from various premises in Supreme Group of cases related to M/s SUMS Exim Pvt. Ltd. and SM Developers cannot be denied. It is also to point out that Shri Sanjay Jain one of the ex-directors of its partner company admitted the undisclosed income Rs. 4.00 Crores in his statement recorded during the course of search from sale of plots in these projects. Thus, it proves that in sale of the plots in both the projects unaccounted money was taken, but the question remains that who was the beneficiary of this unaccounted income on sales of plots. Since the documents have been seized from the premises of the concerns of Shri Sanjay Jain and Shri Sunil Mehta in his statement recorded during the post search enquiry U/s 131 of the IT Act,1961 denied of having any relation with these documents and in absence of any concrete evidences it is held that both the concerns M/s SUMS Exim Pvt.Ltd. and M/s SM Developers have earned (unaccounted money over and above the amount**

shown in this books of account) but this income was earned by Shri Sanjay Jain under the name of these concerns. Hence, it is held that addition of undisclosed income of Rs. 1,49,13,171/- determined in the next paras will be added on substantive basis in the hands of Shri Sanjay Jain/Supreme Polymers Pvt. Ltd./Shreya's India Pvt. Ltd. whose case is pending before Hon'ble Settlement Commission, but to protect the interest of revenue same addition on protective basis, is made in the hands of the assessee.


**Being aggrieved with the protective order the assessee filed appeal with the Ld CIT (A) and the Ld CIT (A) Conducted Enquiry U/s 250(4) of the Act and the AR submits as under:-**

- A. Your honour kind attention is invited to the order of the Ld. CIT appeal page no. 12 to 24 wherein the Ld. CIT Appeal u/s 250(4) asked for submitting of factual report from the Ld. AO after conducting an investigation/enquiry u/s 250(4) of the Act on the incriminating materials, statement and reply of cross questioning of Shri Sunil Mehta, FIR, Tehsild report etc. The relevant scanned portion is as under:-

**[2.16] Enquiry conducted u/s 250(4) of the Act:-**

Finally, vide Letter dated 11.11.2016, AO was asked to carry out detailed investigation u/s 250(4) of the Act, ask for details of pending police case with IO, Sodala Police Station and also sake necessary details for ascertaining the ownership from the Tehsildaar /SDO Jamwaramgarh District Jaipur with regard to the list of Khata khesra No. of the land /plots appearing in the seized document. Here AO has also been asked to examine Sh Sanjay Jain on oath u/s 131 of the Act by confronting him with the seized documents (Supra) and also accord necessary opportunity to Sh Sunil Mehta to cross-examine Sh Sanjay Jain. Finally, AO concluded her enquiry submitted the report on 24.03.2017 on which assessee has also filed its rejoinder. It is pertinent to mentioned here that assessee has referred similar sets of facts and documents in the Paper Book filed along with written submissions made during the appellate proceeding, and rejoinder filed. Therefore, to avoid repetition of the same facts again and again, only the issues crystallized and duly mentioned in the letter dt 11.11.2016 are being discussed in paras below. For the sake of clarity, relevant extracts which, a scanned copy of the said letter are reproduced here as under:



  
**GOVERNMENT OF INDIA**  
**OFFICE OF THE COMMISSIONER OF INCOME-TAX (APPEALS) -4**  
**Central Revenue Building, Statue Circle, Jaipur**

F. No: CIT(A)-4/JPR/SUMS Exims /2016-17/ (01) Dated: 11/11/2016  
 To, The DCIT Central Circle-3, Jaipur

**Subject: Enquiry to be conducted u/s 250(4) of the Act in case of M/s SUMS Exims Pvt Ltd, Jaipur for ITA No. 232, 233 & 234/15-16 and M/s S M Developers for ITA No 239, 240 & 240/15-16 – respectively for AY 2006-07, 2007-08 & 2008-09-matter regarding.**

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 Please refer to the above and find enclosed herewith a copy of written submissions made by the assessee namely M/s SUMS Exims Pvt Ltd & M/s S M Developers .

**[2] Facts in brief of the case for: A.Ys. 2006-07 to 2008-09.**

a) **M/s SUMS Exims Pvt. Ltd.** was incorporated in 2005 by (i) Shri Sunil Mehta, (ii) Shri Uttam Kumar Khatwani, (iii) Shri Mantosh Das and (iv) Shri Sanjay Jain. **Aforementioned persons were directors in this appellant company holding 25% equity each.** The appellant company was involved in developing the real estate project under name and style of "Nature Farms". It is submitted that the Nature Farms is not a registered title and the evidence submitted during scrutiny assessment proceedings that Mr. Sanjay Jain and group (not including Sums Exim Pvt. Ltd. and S.M. Developers) was also doing the same business in the deceptively similar name of "Nature Farm Phase", reference: copy of the letter submitted to the A.O. on dated 27.02.2014 (a copy of the same is also enclosed at Page No. 1024-1038 of the written submission made on 28.09.2016).

b) **M/s S. M. Developers** is a partnership firm with 2 partners, i.e., M/s SUMS Exims Pvt. Ltd. and M/s Mammon Ispat Pvt. Ltd. represented by Shri Shashank Goyal. This firm was also involved in development of a Farm House scheme namely "Nature Farms Hill Retreat". It is also submitted that the Nature Farms Hill Retreat is not a registered title and the evidence submitted during scrutiny proceedings that Mr. Sanjay Jain and group (not including Sums Exim Pvt. Ltd. and S.M. Developers) was also doing the same business in the name of **Nature Farms Hill Retreat**, reference: copy of the letter submitted to A.O. on dated 27.02.2014 (a Copy of the same is enclosed at Page No.1024-103 of the written submission made on 28.09.2016).

c) It is also submitted that the assessee has neither ever evaded taxes not earned unaccounted incomes in any of its business enterprises, whereas Shri Sanjay Jain and group are serial tax evaders, by their own admission, for all years in all of their business enterprises. It is also important for your honour to consider that it was because of criminal conduct of Shri Sanjay Jain that the assessee was compelled to file several returns and prevented Shri Sanjay Jain, and his accomplices including Shri Bhaskar Sharma, from violating the provisions of the Income Tax Act including evasion of taxes which resulted into his resigning from the assessee company on April 4th, 2008.

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संयुक्त आयकर अधिकारी  
 प्राप्तकर्ता  
 15 NOV 2016  
 कर्मिक  
 जयपुर

प्रधान आयकर अधिकारी (कर्मिक)  
 15 NOV 2016  
 कर्मिक

कर्मिक  
 15 NOV 2016  
 हस्ताक्षर



d) It is also submitted that it was the obligation on the part of the A.O. to allow the appellant an opportunity to cross examine Shri Sanjay Jain and Shri Bhaskar Sharma in the interest of natural justice before embarking on a final view in this matter and in absence of the same, whole assessment proceedings become void and addition made thereof cannot be sustained in the eyes of law. AO has wrongly relied upon the statement of Sh. Bhaskar Sharma and Sh. Sanjay Jain, who both were co-accused in a case on the basis of FIR lodged by the assessee. Further, AO has not assigned any reason for dis-believing the statement of Sh. Sunil Mehta that all books of accounts were maintained always at the administrative and registered office of the company at A-1, Yamuna Path, Suraj Nagar Wets, Civil Lines, Jaipur-302006.

e) It is further submitted that the seized documents are different from the books of accounts of the assessee in following terms:

- i. In the seized documents sales appearing are in the nature of registered sales. The assessee furnished that sales made by the assessee is also through registered sale deed. (Reference Page No 36-813 & 963-1009). The assessee stated that since the sales made by the assessee are through registered sale deeds and therefore the sales as per the books of the assessee are correct and cannot be altered post execution of registered deed.
- ii. Also the seized documents are completely different in terms of sizes of the plots [Reference Page No. 1039 (A)], nature and type of land sold (the assessee sold as undeveloped agricultural land and as per seized documents the sales is made of non agricultural land (Reference Page No. 120-127 – to be read in descending order).
- iii. The seized documents show collection of conversion charges (Reference Page No. 120-127 – to be read in descending order) whereas the assessee has not collected any conversion charges.
- iv. The measuring unit applied for such sales (Reference Page No. 120-127 – Kindly read in descending order), the name of the purchasers (Kindly see Page No 128-131) are not matching,
- v. the cheque amounts (Reference Page No 814-818) are not matching
- vi. the total area sold (Reference Page No 814-818) are not matching
- vii. total cash payment received (Reference Page No 814-818) are not matching,
- viii. In the seized documents several plots have been shown as sold whereas those plots as per the books of accounts of the assessee remain unsold till date and the assessee is the owner of those plots till date (Reference Page No. 191).
- ix. The seized documents show the sale of plots which have neither been in the ownership of the assessee nor sold by the assessee (Reference Page No. 191).
- x. Even the total area which the assessee owned (Reference page no. )is less than half of seized document (Reference Page No127).

Hence, the seized documents are completely different from the accounts books of assessee.

f) During the assessment proceedings U/s 153C r.w.s. 153A of the Act, vide questionnaire dated 03-03-2014, assessee was asked to furnish complete details of each page of the following exhibits of the Annexure which were found and seized during the search:

- i. Pages 115 to 131, Exhibit-1 of the Annexure-A dated 29-04-2011 seized from the factory-cum-office of the M/s Supreme Polymers Pvt. Ltd., 137-138, Jhotwara Industrial Area, Jaipur
- ii. Pages 21 to 88, Exhibit-2 of Annexure-AS dated 28-04-2011 seized from the Residence of Sh. Lal Singh Sisodia, 5, Nemi Sagar Colony, Queen's Road, Jaipur



iii. Pages 1 to 66, Exhibit-1 of the Annexure-AS dated 28-04-2011 seized from the Factory-cum-office of M/s Shreya's India Pvt. Ltd., 57, Jhotwara Industrial Area, Jaipur

iv. Pages 1 to 75, Exhibit-2 of the Annexure-AS dated 28-04-2011 seized from the Factory-cum-office of M/s Shreya's India Pvt. Ltd., 57, Jhotwara Industrial Area, Jaipur

g) It is also submitted that the seized documents suffer from inherent contradictions as different figures were given at different pages, thereby putting a question on their reliability and authenticity as far as the assessee is concerned, unless otherwise these pages are a narration of different real estate businesses of Shri Sanjay Jain and Group.

h) For the sake of clarity, page no. 25 point no. 12 of the assessment order for AY 2006-07 is reproduced here as under:-

"12. The undisclosed income of the assessee is calculated in the following manner:

1. All the above mentioned seized papers documents books of account pertained to the period A.Y. 2006-07 to A. Y. 2009-10 (upto 31<sup>st</sup> May, 2008).

2. As per page No. 31 to 38 of the exhibit-1 of the Annexure-AS seized from M/s Shreyas India Pvt. Ltd. the total cheque and cash amount received on sale of various plot Nature Form Scheme are as under:-

Receipts	Amount (in Rs.)
Cheque received	2,42,16,053
Cash received	2,41,46,187
Cheque receivable	87,44,955
Cash receivable	43,72,848
Total	6,14,80,043

Total sale receipts of Rs. 6,14,80,043/- is related to land already booked/sold up to May 2008. The remaining land to be sold after May, 2008 as per the facts of the cases and material seized during the course of search....."

In view of aforementioned details, following need to be clarified before deciding the additions made by the AO for the Years. Accordingly, AO's comments on followings are required or necessary investigation/ enquiry to be conducted by the AO u/s 250(4) of the Act.

[2.1] It is submitted that on careful perusal of the seized documents it is very evident that the seized papers belong to the business activities of Shri Sanjay Jain and group and are not related with M/s SUMS EXIM Pvt Ltd & M/s S.M. Developers. Because most of the seized pages belong to either 1.SUMS PL or to SUMS PL. from the perusal of these pages it is evident that both these companies are under the ownership of Sh SANJAY JAIN & GR, which has nothing to do with the assessee. The concern "1. sums pl" carries a narration of the business transactions of Sanjay Jain & group upto the time of his departure from the assessee company, i.e., till 31<sup>st</sup> March, 2008. Further, the pages titled SUMS PL are a continued narration of the same business transactions with the same clients, as shown in the books of 1.SUMS PL, but from 1<sup>st</sup> April, 2008 onwards, which is after Sh Sanjay Jain's departure from the assessee company. Even if it was to be presumed, that the seized documents relate to the assessee, then the question would arise that how Shri Sanjay Jain could continued receiving payments much after his departure from the assessee company, and show sale of plots, many of such plots still remain unsold till date in the books of the assessee. Narration given in the books of SUMS PL is of the same period when the assessee company were filing FIRs against Shri Sanjay Jain & his accomplices. Several pages of the seized documents mention cheque transactions. Naturally, these cheque transactions can be easily verified either from the bank or from the books of accounts of Shri Sanjay Jain or his group company.



The assessee had already furnished a proof in the form of letters issued by M/s Supreme Polymers Pvt. Ltd., a group company of Shri Sanjay Jain (Reference: paper book submitted on 06th October, 2016 page no. 1 & 2) which clearly establishes that Shri Sanjay Jain and group (not belonging to the assessee and having no relationship with the assessee) were also running a real estate business under the name and style of "**Nature Farm Phase**". It is verifiable fact that a cheque of Rs. 9 Lakhs ( **Cheque No. 151263**), Rs. 9 Lakh ( **Cheque No. 786367**), Rs. 3 Lakh ( **Cheque no. 359861**) and Rs. 3 Lakhs ( **Cheque no. 359868**), were obtained by M/s Supreme Polymers Pvt. Ltd. against sale of plots belonging to their scheme "**Nature Farm Phase**" and receipt thereof were also issued by them. As per this letter, M/s Supreme Polymers Pvt. Ltd. have clearly stated that **Plot No. 113** is measuring 2214 Sq. Yard and is located to the east of the **Plot No. 114**, and to the west of park and south of 20 Feet road, and to the north of plot nos. **110,111,112**. They have further stated that said plot has been marked in red on the site map of the scheme of M/s Supreme Polymers Pvt. Ltd. In this letter, it has been clearly stated that they have not only sold the plots mentioned in these 2 letters submitted by the assessee but also are the complete owners of the scheme titled "**Nature Farms Phase**". Therefore, these cheques can be easily verified from the books of accounts of the M/s Supreme Polymers Pvt. Ltd. On perusal of assessment order, it is also seen that the AO had not given any finding on all these issues as well as issues mentioned below.

Accordingly, AO is required to offer his factual comments after conducting necessary inquiry on these issues. More specifically, enquiry is also required on following points:

a) Pages 67 & 68 OF ANNEXURE-AS, EXHIBIT -2

*These pages are clearly from the books of accounts of Shri Sanjay Jain showing "ledger account of Vikas" and "ledger account of Vikas Bhatia". The first entry dated 30.10.2006 shows a transfer of cheque of Sanjay Jain from J&K Bank account 2565 of Rs.800,000/-. The second entry shows a cheque issued from the same bank account of Rs.500,000/- an account of some Invention Digital Systems. These cheques are easily verifiable from J&K Bank, and from where it can be easily established that these payment are not related to the assessee but are a narration of Shri Sanjay Jain's own personal businesses. In order to verify these details, AO is required to examine Mr. Vikas Bhatia and Mr. Vikas u/s 131 of the Act.*

b) PAGE NO. 64 OF ANNEXURE-AS, EXHIBIT -2 :

*The second entry which shows cash received from SJ (Sanjay Jain) of Rs.900,000/-and a transfer cheque on Mohit amount. This can easily be verified from the bank that who is owner of this page. The AO had neither given any finding that this cheque entry is appearing in the books of accounts of the assessee nor had given any finding about this entry belonging to the specific bank account. Further, the said page is from the books of accounts of 1.SUMS PL showing the ledger account of Rajeev Gupta- Gunawata a/c. The first entry shows cash received by SJ (Sanjay Jain) from Rajeev Gupta Gunawata account of Rs.10,00,000/-. There is no ledger account in the books of M/s SUMS EXIM P. LTD. either in the name of Rajeev Gupta or in the name of Rajeev Gupta-Gunawata. Shri Rajeev Gupta is the husband of the real sister of Shri Sanjay Jain, along with his wife Neelam Gupta, is also a business partner with Shri Sanjay Jain in purchasing, developing , and selling plots near the assessee's properties of "Nature Farms" and "Nature Farms Hill Retreat". Page no. 16 of ANNEXURE -AS. EXHIBIT-1 also corroborates the same. Therefore, it proves that this page is related with the personal businesses of Shri Sanjay Jain with his family members, and which has no relation with the assessee. In view of this, AO is required to examine Mr. Mohit and Mr. Rajeev Gupta with their books of accounts for cross-verification u/s 131 of the Act.*

c) Page no. 53 OF ANNEXURE-AS, EXHIBIT -2:

*This page is from the books of accounts of SMD, showing Ledger Accounts titled " Neelam Gupta – Cash A/c". It is submitted that SMD is not related to the assessee, and no cash amount has been received by the assessee. The first*



entry shows cash received by SJ (Sanjay Jain) from some Sushil Kumar Wali for plot nos. 194,195, 196. The Assessee firm M/s S.M. Developers has not sold these plots to Sushil Kumar Wali. Further, this entry also shows that while one hand the cash is received by Sanjay Jain of Rs.18,00,000/-, Neelam Gupta be debited for the same amount on the other. The second entry dated 10-4-2008, that is after the resignation of Sanjay Jain from the assessee company on 04-04-2008, shows that some Rs. 9 lakhs was paid by SJ (Sanjay Jain to RG (Rajeev Gupta), and RG paid, 20 lakhs to some SB (Bhaskar Sharma). These are clearly cash transactions between Sanjay Jain and his sister Neelam Gupta and his brother-in-law Rajeev Gupta. Therefore, these entries have nothing to do with assessee firm M/s S.M. Developers. Further, third entry dated 16-04-2008 ( after the resignation of Sanjay Jain) shows an excess cash of Rs. 24,58,357.00 paid to Neelam Gupta but the amount is shown debited to Sanjay Jain's account in SUMS. **On this it submitted that how is it possible to make payment in one concern, and debit the same in the books of some other concern? How can Sanjay Jain after his departure from the Assessee Gr on 04-04-2008 debit any amount in the books of the assessee on 16-4-2008 which raises doubt that the terms SMD and SUMS used in these pages are not relatable the assessee concerns namely SUMS Exims Pvt Ltd or S M Developers because Sanjay Jain had already resigned and left the assessee concerns during this period. As these entries do not relate to the assessee concerns but the narration of cash transactions between Sanjay Jain, Neelam Gupta and Rajeev Gupta (all related to each other) suggest to be pertaining to the Sanjay Jain and his relatives. In view of this, AO is required to examine Shri Sanjay Jain, Smt. Neelam Gupta, Shri Rajeev Gupta and Sushil Kumar Wali with their books of accounts for cross examination & verification of these details u/s 131 of the Act.**

**d) Page no. 50 OF ANNEXURE-AS, EXHIBIT -2:**

The page is from the books of accounts of 1. SUMS PL showing the ledger account of Aruna Devi Jain. Aruna Devi Jain is the biological mother of Shri Sanjay Jain. The first entry shows receipt of cash of Rs.200,000/- from Aruna Devi Jain by Sanjay Jain (SJ). The second entry shows a cheque received by Sanjay Jain (SJ) from Aruna Devi. It is clear that the page does not belong to the assessee M/s SUMS Exim Pvt. Ltd as the cheques and cash have been paid directly to Sanjay Jain, and then would such payment be credited by some other company. Similarly, again the third and fourth entries show transactions between Sanjay Jain and his mother Aruna Devi Jain personally, and the amount is debited / credited to some company account. Hence, these documents do not relate to the assessee but show personal transactions of Shri Sanjay Jain with his family members. **In view of this, AO is required to examine Smt. Aruna Devi Jain with their books of accounts for cross examination u/s 131 of the Act.**

**e) Page no. 48 & 49 OF ANNEXURE-AS, EXHIBIT -2:**

As the assessee already furnished the details that the assessee is not belonging to Shri Sanjay Jain and group which is a third party as far as assessee is concerned. This page further proves that the assessee has no connection with Shri Sanjay Jain and group as there is no ledger account of SS Nathyal, Minakshi Sen and KHPL in the books of the assessee. The first entry shows that Rs.55,000/- was received by Sanjay Jain (SJ) from some KHPL and paid to some Minakshi Sen. This page shows that while this cash transaction has nothing to do either with SS Nathyal or the concern 1. SUMS PL, still the account of SS Nathyal is credited in the books of 1. SUMS PL. The rest of the entries show cash amounts received by Sanjay Jain (SJ) from SS Nathyal. While the entries two and three of this page shows that the cash received from SS Nathyal is with Sanjay Jain ( SJ), still the account of SS Nathyal is credited by the concern 1.SUMS PL. Clearly, this page shows the personal businesses of Shri Sanjay Jain and group which have nothing to do with the assessee. **In view of this, AO is required to examine Shri Sanjay Jain, Shri S.S Nathyal, Minakshi Sen, and office bearers of KHPL with books of accounts for cross examination u/s 131 of the Act.**

**f) Page no. 47 OF ANNEXURE-AS, EXHIBIT -2:**

This page is from the books of accounts of SUMS PL showing ledger account of S.S NATHYAL for the period 1<sup>st</sup> April, 2008 to 7<sup>th</sup> Jul-2008. This page is a continuation of the account details mentioned at page no. 48 & 49 of ANNEXURE-AS, EXHIBIT -2 showing same closing and opening balances. Hence, it is very important to note that previous page was mentioning the name 1. SUMS PL and next page shows SUMS PL hence, it is very clear that both the concerns 1. SUMS



PL and SUMS PL are belonging to Shri Sanjay Jain and group, not to the assessee M/s SUMS Exims Pvt Ltd. Further, the said page cannot be related to the assessee as it pertains to a period after the resignation and departure of Shri Sanjay Jain from the assessee company. This also suggests that Shri Sanjay Jain earned accounted money in the name of the assessee by using a deceptively similar name for his own personal businesses. **AO is required to offer factual comments on this.**

**g) Page no. 46 OF ANNEXURE-AS, EXHIBIT -2:**

This page is from the books of accounts of 1. SUMS PL showing the ledger accounts of Shri S. Ramesh. The first entry shows that Sanjay Jain received Rs.10,00,000/- as brokerage from Shri S. Ramesh, and Rs.875,000/- as brokerage from Laxmi Cement, and Rs.19,50,000/- from Vijay Mitra SMD a/c. Strangely, the S. Ramesh account is credited by only Rs.10,00,000/- in the books of 1. SUMS PL. The second entry shows that Rs.15 Lacs were received by Sanjay Jain (SJ) but only Rs.9,93,488/- were credited to S. Ramesh in the books of 1. SUMS PL while adjusting the full and rest in Laxmi. The entries in the page are clearly a narration of Sanjay Jain's cash dealings with S. Ramesh (Director, Laxmi Cements), Laxmi Cements, and Vijay Mitra (Director Finance, Jaypee Cements). It is important to note that Sanjay Jain and group is a major supplier of cement bags to both Laxmi cements and Jaypee Cements, and these entries show cross entries in the ledger account titled S RAMESH. The page carries a narration Sanjay Jain's unaccounted income earned from brokerage, and dealings with various directors of various cement companies. **In view of this, AO is required to examine of Shri Sanjay Jain, Shri S. Ramesh, Shri Vijay Mitra, and the Directors of Laxmi Cements and Jaypee Cements with books of accounts for cross examination u/s 131 of the Act.**

**h) Page no. 42 OF ANNEXURE-AS, EXHIBIT -2:**

This page appears to be from the books of S.M. Developers, but it does not match with the books of accounts of the assessee. At the first entry a sale has been shown to Rashmi & Vikas Bhatia of Plot. No. 176. However, as per the record of the assessee, the plot no. 176 is unsold till date. In the next entry a plot no. 175 is shown as sold. The plot no. 175 is in the ownership of Smt. Neelam Gupta, sister of Sanjay Jain. Hence, this is clear example of how the seized papers appear to be belonging to the assessee but are in fact not matching with the books of the assessee. **In order to verify these details, AO is required to examine Sh Vikash Bhatia & Rashmi Bhatia and Neelam Gupta, u/s 131 of the Act. AO is required to offer factual comments on this.**

**i) Page no. 41 OF ANNEXURE-AS, EXHIBIT -2:**

This page is from the books of accounts of SUMS PL showing the Ledger account of Mahesh Kanodia-SMD A/c for the period 1 Apr 2008 to 31-Mar-2009 and the account is for the period after the resignation and departure of Sanjay Jain from the assessee company. It is pertinent to mention here that the wife of Mahesh Kanodia, Smt Sulochna Kanodia, was one of the accomplices with Sanjay Jain against whom the FIRs were filed by the assessee. **In order to verify these details, AO is required to examine Sh Mahesh Kanodia and his wife Smt Sulochana Kanodia, u/s 131 of the Act. AO is required to offer factual comments on this.**

**j) Page no. 40 OF ANNEXURE-AS, EXHIBIT -2:**

This page is from the books of accounts of 1. SUMS PL showing the Ledger account of Mahesh Kanodia-SMD A/c. The first entry shows that was received from Nitu Chandoliya of 10.50 (Lacs.?) and Mahesh Kanodiya, and the account of Mahesh Kanodiya is credited by Rs.400,000/- in the books of 1. SUMS PL. No plot has been sold to anyone by the name of Nitu Chandoliya. In the second entry, an amount of Rs.333,600/- has been debited to the ledger account of Mahesh Kanodiya-SMD a/c in the books of 1. SUMS PL. In the realm of accounting it is not possible to debit one account in one concern on the basis of investment made in another concern. No such transactions have been made in S.M. Developers by 1. SUMS PL. In the third entry titled Current Account SJ, a cash has been shown of Rs.400,000/- as received from some MC of which Rs.100,000/- was of Sanjay Jain's (SJ) personal a/c, and a sum of Rs.100,000/- has been debited in the account of Mahesh Kanodiya-SMD a/c. This narration has no meaning as it shows only the personal amount



received by Sanjay Jain but this amount is debited to the Mahesh Kanodiya-SMD a/c in the books of 1. SUMS PL. There is no debit/credit shown of the amount received by Sanjay Jain.

*This is evidence which shows that these pages are only coded narration of the personal businesses of Shri Sanjay Jain unrelated with the assessee. In view of this, AO is required to examine Shri Sanjay Jain, Nitu Chandollya, and Mahesh Kanodiya with books of accounts for cross examination u/s 131 of the Act, and also to examine the identity of MC as shown in the seized papers.*

**k) Page no. 38 OF ANNEXURE-AS, EXHIBIT -2:**

*This page is from the books of accounts of SUMS PL showing the Ledger account of Sanjay Jain- Neelam Gupta a/c for the period 1 Apr-2008 to 7<sup>th</sup> Jul-2008. Neelam Gupta is the biological sister of Shri Sanjay Jain. The first entry is dated 20-5-2008, which is after the departure of Shri Sanjay Jain from the assessee company. This page is a yet another example that how Sanjay Jain carried on his personal business in the name resembling with that of the assessee. It also matches with the disclosure of the unaccounted income by Sanjay Jain before the ITSC for the period which is after his resignation and departure from the assessee company. Therefore, the said document may not belong to the assessee but is a narration of the personal businesses of Sanjay Jain and group. In view of this, AO is required to examine Shri Sanjay Jain, and Neelam Gupta with books of accounts for cross examination u/s 131 of the Act.*

**l) Page no. 33 OF ANNEXURE-AS, EXHIBIT -2:**

*This page is from the books of accounts of 1.SUMS PL showing the Ledger account of JK- Laxmi. The entry shows cash received by Sanjay Jain from JK Laxmi but no reason for the transaction has been shown. As shown in other pages, JK Laxmi paid brokerage to Sanjay Jain. Also, Sanjay Jain is one of the major suppliers of Cement bags to JK Laxmi from his other companies not related with the assessee. Hence, very clearly this page does not belong to the assessee but is a narration of the other businesses of Sanjay Jain and group not connected with the assessee. In view to verify these details, AO is required to examine Sh Sanjay Jain and the office bearer of Laxmi Cements u/s 131 of the Act o with books of accounts for cross examination.*

**m) Page nos. 32 OF ANNEXURE-AS, EXHIBIT -2:**

*This page is from the books of accounts of 1.SUMS PL showing the Ledger account of JK- Laxmi Plot no. 80, 81 for a period from 1-Apr-2008 to 31<sup>st</sup> March-2009. The entries show cash received by Sanjay Jain (SJ) from Laxmi cements for a period which is after his departure from the assessee company. In the second entry dated 10-4-2008, cash has been shown as received from Laxmi cements by Sanjay Jain of which 799456/- in SUMS and 550544/- in SMD. No such amount could have been received by the assessee company as Sanjay Jain had already resigned and left the assessee company. No such amount could have been received from Sanjay Jain by S.M. Developers on behalf of JK Laxmi as firstly, no plot was ever sold to JK Laxmi by S.M. Developers, and lastly Shri Sanjay Jain was a persona non grata as far as the assessee is concerned. This also confirms that 1. SUMS PL and SMD are not related with the assessee and is only a narration of the other incomes of Shri Sanjay Jain. . In view to verify these details, AO is required to examine Sh Sanjay Jain and the office bearer of Laxmi Cements u/s 131 of the Act with books of accounts for cross examination.*

**n) Page nos. 30 & 31 OF ANNEXURE-AS, EXHIBIT -2:**

*These pages are from the books of accounts of SUMS PL & 1.SUMS PL showing the Ledger account of "Vijay Mitra SMD A/c". Page 30 is from the books of accounts of 1.SUMS PL for a period 1-Apr-2005 to 31-Mar-2008, while page no.31 is a continuation of the same ledger account but in the books of SUMS PL belonging to the period 1-Apr-2008 to 7-Jul-2008. The first entry at page no 30 is exactly the same as the first entry at page no. 46 OF ANNEXURE-AS, EXHIBIT -2, and the account of "Vijay Mitra SMD A/c" has been credited by Rs.17,00,000/- in the books of 1.SUMS PL. No plot has been sold by SUMS Exim Pvt. Ltd. to Vijay Mitra, hence no amount was receivable by the assessee from Vijay Mitra. The second entry shows cash of Rs.10,00,000/- received from Sanjay Jain from Laxmi Cements, and further showing investment in S.M. Developers in Plot Nos. 109,110, and 111. No plots have been sold by S.M. Developers to Vijay Mitra till April, 2008. The plot sizes as shown in the page do not match with the books of the assessee. Further, the same*

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account of "Vijay Mitra SMD a/c" is shown belonging to SUMS PL with the same balance shown as carried forward. Hence, it is evident that this page has no relation with the assessee. Both these pages are a clear evidence of the fact that Sanjay Jain operated his own personal real estate and brokerage businesses under the name and title "1.SUMS PL" while he was working as a Director in the assessee company, and he carried on exactly the same business with exactly the same clients under the title of "SUMS PL" after his departure from the assessee company on 4<sup>th</sup> April, 2008. In order to verify these facts, AO is required to examine Shri Sanjay Jain, Shri Vijay Mitra, Shri S Ramesh, and the office bearers of Laxmi Cements with books of accounts u/s 131 of the Act for cross examination to verify the details.

**o) Page nos. 29 OF ANNEXURE-AS, EXHIBIT -2:**

This page is from the books of accounts of 1.SUMS PL showing the Ledger account of Sanjay Jain- Customer for the period 1 Apr-2005 to 31 Mar-2008. The first entry shows cash received of Rs.24,99,000/- against plot nos 119, 120. This very narration is a proof enough that these pages are a narration of personal businesses of Shri Sanjay Jain with no relation with the assessee. Plot 119 was in the personal ownership of Shri Sanjay Jain and was never in the ownership of the assessee. Plot no. 120 remained unsold during this period. No person from whom the cash was received has been shown. Further, the entries show some excess amount received from the sale and investment in SMD for plots nos. 105 -108 which was transferred to some loan account unrelated with the assessee. As far as S.M. Developers is concerned plot nos. 105, 106, 108 remain unsold till date. For plot No. 107, only a part of the plot measuring 9 biswa was sold to Ms. Parul Sharma, whose name does not figure in any of the seized documents. Hence, very clearly the page is not related to the assessee but is a narration of Sanjay Jain's own personal businesses. There is also an entry of Rs.500,000/- paid to Rakesh/ Mukesh with Re.10 note number given. This is a clear indication of Hawala transaction. Some cash amounts have been shown in the page as received from Shami Sharma and Modani (Devpura), but no name of the assessee's clients is there. Similarly, all these pages pertain to after the period when Sanjay Jain left the concern. In order to verify these facts, AO is required to examine Shri Sanjay Jain, Shami Sharma, Modani ( Devpura) with books of accounts u/s 131 of the Act for cross examination .

[2.2] The above referred page No. 31 to 38 of the exhibit-] of the Annexure -AS contain details pertaining to " Nature Farm Plot Status" which AO has also referred in the assessment order. It is submitted that AO's presumption is bad in law and facts as at one stage AO is stating that Nature farm is relating to M/s Sums Exim Pvt Ltd. and in this assessment order it has presumed that Nature Farm is relating M/s S.M. Developers. Also page No. 31 to 38 of the exhibit-1 of the Annexure -AS are almost similar to page No. 120 to 126 of the exhibit-1 of the Annexure -A. Accordingly, on the basis of page No. 120 to 126 of the exhibit-1 of the Annexure -A, AO had made the addition in the hands of M/s Sums Exim Private Limited. Further, AO had not applied his mind before presumption that there is neither any corroborative evidence is available nor is it possible that same persons can purchase same plots having similar numbers and sizes from two different concerns through registered documents as claimed and the same registered document is not available on records mentioning cheque amount. Therefore, AO has made same addition on two places on the basis of same documents which is bad in law and difficult to sustain in the eyes of law. On this, AO is required to give his factual comments on the above.

[2.3] It is also submitted that the seized document at page no. 127 clearly slate that the land was purchased and expenses of Rs. 1,92.781.502/= (with the heading as B) the name of NF Hill Retreat and sale of Rs. 2,15,269,109/= (with the heading as A) was made in the name of Nature Farms. Thereafter, Difference of Income & Expenditure (A-B) is appearing as 22.487,607/-. Hence it is undoubtedly clear from this page that Profit from whole project was Rs. 22.487.607/-. With this page several pages are having calculation of Sales amount (Page No. 120 to 126 of exhibit-1 of the Annexure -A as well as page No. 31 to 38 of the exhibit-1 of the Annexure -AS) Few pages shows he



collection of conversion charges also. **There is no paper seized showing sale of NF Hill Retreat.** AO though presumed the sales of **NF Hill Retreat** page No. **31 to 38 of the exhibit-1** of the **Annexure-AS** as sales of M/s S.M. Developers on the ground that the assessee is having the project in the name of **Nature Farms Hill Retreat**. It is very important the seized documents are having at two places the name Nature farms and at the time of purchase mentioned NF Hill Retreat. Hence this scheme name NF Hill Retreat is very different from the name of assessee's project Nature Farms Hill Retreat. Besides above the calculation of seized documents at **page no.127** clearly reveals that owner of these seized pages is purchasing in the name of **NF Hill Retreat and sales in the name of Nature farms**. Also volume of owned land as mentioned on this page in terms of area purchased and sold; is entirely different because in the seized documents, area saleable of M/s SUMS Exim Pvt Ltd is mentioned at **354,842,140 Sq. Yards** whereas the **saleable area** of " **Nature Farm**" ( owned by **M/s SUMS Exim Pvt Ltd**) is only of **259, 569.20 Sq. Yards**. Similarly area of purchase of " **N F Hill Retreat**" (Owned by **M/s S M Developers**) is of **481534.625 Sq. Yards (159.185 Bigha)** whereas the purchased area of the assessee is only of **160930 Sq. Yards (53.20 Bighas)**.

**For your reference, a copy of assessee's submission made on 26<sup>th</sup> September 2016 is enclosed herewith as per Annexure-A. On this, AO is required to give his factual comments on the above.**

**[2.4]** Further, the area sold in seized documents are in terms of non agricultural developed land after charging Conversion charges whereas the assessee sold as undeveloped agricultural land. Also in the sworn statement, Shri Sunil Mehta was very categorically stated that these papers do not belonging to the assessee. Assessee in the written submission has contended that AO in the assessment order has neither given any adverse finding nor has given any explanation for disbelieving the sworn statement of Shri Sunil Mehta which was backed with all the evidences as well as books of Accounts which vitiates the whole assessment proceedings & additions made for the years. Since most of the land was sold as agricultural land and conversion was done by the purchaser of the land after purchasing the land and getting mutation done in his/her own name. As no conversion was done by the assessee, hence it is submitted that no conversion charges have been collected by the assessee and in support of claim, have submitted copies of conversion orders which were obtained by the respective individual purchasers. Similarly, copies of challan of conversion charges deposited by respective individual purchasers have also been submitted in support of claim. These details can easily be verified from the tehsildar/SDO Jamwa Ramgarh. **Assessee have provided a list of khata Khesra No which is enclosed herewith as per Annexure E mentioned below. On this, AO is required to give his factual comments on the above.**

**[2.5]** It is submitted that AO has not rejected the books of accounts and without giving any finding against the evidence produced by the assessee, made addition in the hands of assessee simply on the basis of seized documents which was not seized from the assessee's premises. Apart from this, AO took the cognizance of the sworn statement recorded of **Shri Sanjay Jain / Bhaskar Sharma** without giving the assessee an opportunity for cross examination, which is bad in law and facts which has vitiates the whole assessment proceedings.

**In view of this, AO is hereby required to issue summons u/s 131 of the Act and examine them and then allow an opportunity of cross-examination to Sh Sunil Mehta.**

**[2.6]** It is also submitted that on careful perusal of the seized documents/paper, it is seen that Sale is done in Nature Farms and Purchase and Expenses is done in NF Hill Retreat. The said seized



paper does not match with assessee's records in any way in terms of land purchase. Land area sold, balance area, rate of purchase per bigha, purchase made as NF Hill Retreat but the AO has selectively taken only total sale amount of **Rs 22,99.18.429/-** and ignored all other details. Accordingly, AO cannot select few items of the seized documents which suits to him to make addition and ignored the other items of the seized documents unless the AO is justified that remaining items are not relevant. **On this, AO is required to give his factual comments on the above.**

[2.7] As per seized documents **page no. 127**, land purchased and expenses are made in the name of NF Hill Retreat but sales were made in the name of Nature Farms. In this regard, assessee contends that the land was purchased only in the name of the assessee, i.e., M/s S.M. Developers. The land sold by the assessee has only been purchased in the name of the assessee. It is beyond imagination that any person can purchase land as benami and then after that showing the land to be sold in his own name. If any person says about the benami transaction then as per various decisions of the Hon'ble Supreme court that person has to prove that this benami transaction has been made by the assessee. **On this, AO is required to give his factual comments on the above.**

[2.8] It is also submitted that the NF Hill Retreat does not belong to assessee and on this, AO is required to give his factual comments on the ownership of "NF Hill Retreat".

[2.9] It is further submitted that the assessee has neither ever evaded taxes not earned unaccounted incomes in any of its business enterprises, whereas Shri Sanjay Jain and group are serial tax evaders, by their own admission, for all years in all of their business enterprises. It is also important to note that because of criminal conduct of Shri Sanjay Jain that the assessee was compelled to file several FIR(s) and prevented Shri Sanjay Jain, and his accomplices including Shri Bhaskar Sharma, from violating the provisions of the Income-tax Act including evasion of taxes which resulted into his resigning from the assessee company on 4<sup>th</sup> April, 2008.

In view of above, AO is hereby directed to collect material evidences gathered u/s 131 of the Act from the IO, Police Station, Sodala with reference to FIR Lodged in Chandwaji Police Station). For your reference, a copy of FIR is enclosed herewith Annexure-B.

[2.10] AO is also required to give comments on the following discrepancies highlighted by the aforementioned assessee which were not duly taken into cognizance while framing the assessments for the year:

(1) The seized documents suffer from inherent contradictions as different figures are given at different pages, thereby putting a question on their reliability and authenticity as far as the assessee is concerned, unless otherwise these pages are a narration of different real estate businesses of Shri Sanjay Jain and Group.

a) Refer Annexure A, Exhibit 1 at pages 120 till 127 of the seized documents and Annexure AS, Exhibit 1 at pages 6- to 8 of the seized documents details of which is as under:

Details of nature farms plots status	Annexure a, exhibit 1 at pages 120 till 127 of the seized documents	Annexure as, exhibit 1 at pages 6-8 of the seized documents
Total sellable area	354,842.140	334,456.440
Area sold	214,783.070	206,457.480
Balance area	140,059.070	127,998.960



On this, AO is required to give his factual comments on the above.

b) Refer Annexure –A, Exhibit -1 and Annexure –AS, Exhibit -2 details of which are as under:

S. No.	Annexure –A, Exhibit -1 (pages 120-126) of the seized documents dated 28 April, 2011 (which are similar to pages 31 -38 of annexure –AS. Exhibit -1 dated April 28, 2011.)	Annexure –AS, Exhibit -2 of the seized documents (pages 85 -88)
1.	At page no. 125, cheque received against the plot no. 29 is of Rs.331,774/-	At page no. 88 cheque received for plot no. 29 from Rajeev Bhargava / Sanjeev Bhargava shown as Rs.331,950/-
2.	At page no. 125 for plot no. 28, a cheque amount received has been shown as Rs.240,176/-	At page no. 88, for plot no. 28 cheque amount received has been shown as Rs.246,200/-
3.	At page no. 126 plot nos. 2 & 3 are shown as sold to Visas Khurana	No sales for plot no. 2 & 3 shown in the pages 85-88 showing sales nature farms ledger account
4.	At page no. 126 plot nos. 5 & 5a shown as sold to Kanha Projects Pvt. Ltd.	At page no. 87 only plot no. 5 is shown as sold to Kanha Projects Pvt. Ltd.
5.	At page no. 126 plot no. 6 shown as sold to Dave Brooks	No such sale has been shown.
6.	No such sale shown as made to sanjay jain	Page no. 88 shows sale of 10 bigha & 4 biswa (44 biswa) to sanjay jain
7.	No such sale shown as made to Dinesh Gupta.	Page no 88 sale of 10 bigha 4 biswa shown as sold to Dinesh Gupta (brother of Sanjay Jain)
8.	At page no. 126 plot nos. 12a, 13a, 13, 14, 14a shown as sold to whispering meadows clubs & resorts pvt. Ltd of a total area of 10010.82 sq. Yards	At page no. 88 a sale of 1 bigha (3025 sq. Yards) of land shown as sold to whispering meadows clubs & resorts pvt. Ltd.
9.	At page no. 126 plot no. 19 shown as sold to Sanded Parasher.	No such sale has been shown.
10.	At page no. 125 plot no. 21 has been shown as sold to Evette.	No such sales have been shown.
11.	At page no. 125, plot nos. 20, 20, 21, 22, 22a, 22b have been shown as sold to Rashmi Karnani	No such sale has been shown
12.	At page no. 125, plot nos. 33, 34, 34a, 35, 36, 38 have been shown as sold to Nav Sthapana Builders Pvt. Ltd.	No such sale has been shown.
13.	At page no. 122 plot no 116 has been shown as sold to Sidh Raj Bhandari.	At page no. 87 the plot no. 116 has been shown as sold to Preeti Mehta
14.	At page no 122 plot no 133 has been shown as sold for cheque amount Rs.333,333/-	At page no. 85, plot no.133 shows receipt of cheque payment of Rs. 333,300/-
15.	At page no. 122, plot no. 134 for an area of 1878.000 sq. Yards shows a cheque payment of Rs.563,400/-	At page no. 85, plot no.134 for an area of 15 biswa shows receipt of cheque payment of Rs.544,500/-
16.	At page no. 121 plot no. 136 shows a receipt of Rs.288,792/-	At page no. 86 plot no. 136 shows a cheque receipt of Rs.288,880/-
17.	At page no. 121 plot no. 141 has been shown as sold to Anup Aggarwal	At page no. 85, plot no. 141 has been shown as sold to Brij Mohan Aggarwal.
18.	At page no. 121 plot no. 142 has been shown as sold to Brijmohan Aggarwal	At page no. 85, plot no. 142 has been shown as sold to Anup Aggarwal.
19.	At page no. 125, plot no. 31 has been shown as sold to Rajesh Bhatia/ Anita Bhatia.	At page no. 87, plot no. 31 has been shown as sold to Raja (Rajesh Bhatia)
20.	No sale of plot no. 32 has been shown as unsold.	The plot no. 32 is not mentioned as sold.
21.	At page no. 123 plot no. 112 has been shown as sold to Supreme Polymers/Aditya Mishra for a cheque amount of Rs.603,200/-	At page no. 86 plot no. 112 & 113 has been shown as sold to Supreme Polymers pvt. Ltd. For an amount of Rs.10,58,200/- no sale shown as made to Aditya Mishra.
22.	At page no. 123 plot no. 113 has been shown as sold to Supreme	No separate entry shown. No sale has been shown to

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S. No.	Annexure -A, Exhibit -1 (pages 120-126) of the seized documents dated 28 April, 2011 (which are similar to pages 31 -38 of annexure -AS. Exhibit -1 dated April 28, 2011.)	Annexure -AS, Exhibit -2 of the seized documents (pages 85 -88)
	Polymers/Aditya Mishra for a cheque amount of Rs.455,000/-	Kusum Verma.
23	At page no. 123 plot no. 109 has been sold to Urshine Developers/ Amit.	Plot no. 109 has been shown as sold to Sidharth Polysacks pvt. Ltd
24	Plot no. 103 shown as sold to Sidharth Polysacks / Mahesh Kanodia	Plot no. 103 shown as sold to Sidharth Polysacks pvt. Ltd
25	At page no. 123 plot no. 102 has been shown as sold to Amar Khurana / Vikash K	No sale of plot no. 102 has been shown.
26	At page no. 122 plot no. 119 has been shown as sold to Dr. Seema Mehta	No such sale has been shown. Infact, the sale of this plot matches with books of accounts of Sanjay Jain.
27	At page no. 122, the plot nos. 124, 125, 126 have shown to be sold to Dinesh Gupta through three separate registered deeds for Rs.274,000/-, Rs.212,000/ and Rs.464,400/- respectively adding up to Rs.950,400/-	The sale of plots no. 124,125, 126 have been made through a single registered deed for Rs.951,062/-

On this, AO is required to give his factual comments on the above.

c) AO's comments required on the detailed submission( Enclosed as per Annexure-C) regarding Annexure - A, EX. 1. Pages 115-131 because there are lots of discrepancies as per seized documents vis a vis with the bank statements and case records maintained by the assessee, details of which is enclosed herewith as per Annexure-D

d) For your reference, assessee's submission dt 06.10.2016 containing details of agricultural land sold/ unsold/ sold upto 31.03.2008 mentioning Khasara no etc is enclosed herewith as per Annexure-E. All these land plots are situated at Rajpurwas Tala Panchayat Village- Charanwas, Kalipahari. You are required to obtain Tehsildar ( Jamwa Ramgarh Dist Jaipur) & Patwari's report with regard to Khasara mentioned therein in order to examine assessee's contention. For your reference, a copy of paper book provided by the assessee is also enclosed herewith as per Annexure-E

[3] Further you may also furnish additional documentary evidences to rebut assessee contention. Please treat this as an urgent requirement u/s 250(4) of the Act, accordingly, you are required to carry out necessary investigation and submit your report by **28<sup>th</sup> Nov, 2016**. In these cases, assessees have also been asked to provide necessary as and when required. You must be aware that these **6 High Demand appeals** will have to be disposed of by Dec 2016 as they are pending for more than **2 years**. Therefore, your timely action will be a great help in deciding the critical issues in these cases.

Encl: As a stated above

*Ranjana Kumar*  
[ RANJANA KUMAR ]

CIT(Appeals)-4 Jaipur

Copy for forwarded to Information:

- 1) The Pr. Commissioner of Income-tax (Central), Jaipur( For his kind favour)
- 2) The Addl. Commissioner of Income-tax, Central Range, Jaipur :*(with a request to give necessary direction to the AO for submission of factual report within stipulated deadline)*

cc/c

*Ranjana Kumar*  
CIT(Appeals)-4 Jaipur

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B. In Compliance the Ld. AO submitted the report which is appearing at page no. 25 to 41. The relevant scanned portion is as under:

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[2.16.1] Incompliance, AO, DCIT Circle-3, Jaipur vide No. DCIT/CC-3/JPR/2016-17/1472 dt 24.03.2017, submitted the enquiry report through JCIT, Central Range, Jaipur vide letter No. 3676 dt 24.03.2017, relevant extracts of which is reproduced here as under:

".....Sub: - Enquiry to be conducted u/s 250(4) of the Act in case of M/s SUMS Exims Pvt. Ltd., Jaipur for ITA no. 232, 233 & 234/15-16 and M/s S.M. Developers for ITA No. 239, 240 & 241/15-16 - respectively for AY 2006-07, 2007-08 & 2008-09 - matter regarding:

Kindly refer to your office letter No. 601 dated 15.11.16 on the above mentioned subject. The point wise factual report in this regard is as under:

Para 2.1

a) Page 67 & 68 of Annexure-AS, Exhibit-2

In order to verify the details of this document, summons u/s 131 were issued to Sh. Vikas Bhatia and Smt. Rashmi Bhatia on 16.02.17 vide which they were required to attend the office of the undersigned on 23.02.17. The same was duly served through speed post. However, both of them failed to attend the hearing on the designated date and hence, the details on this document could not be verified.

No comments can therefore be offered on this document being unverified.

b) Page no.64 of Annexure-AS, Exhibit-2

In order to verify the details of this document, summons u/s 131 were issued to Sh. Rajeev Gupta on 16.02.17 vide which he was required to attend the office of the undersigned on 23.02.17. The same was duly served through speed post. Vide letter dated 21.02.17, Sh. Rajeev Gupta stated in his reply that he has no business or other relations with M/s SUMS Exims Pvt. Ltd. Thereafter, another summons u/s 131 dated 02.03.16 was issued to Sh. Rajeev Gupta in this regard. However, neither any further communication was received from him nor did he attend the hearing on the designated date.

No communication details could be determined with respect to Sh. Mohit from the seized records as well as otherwise and hence, the details on this document could not be verified.

No comments can therefore be offered on this document being unverified.

c) Page no.53 of Annexure-AS, Exhibit-2

In order to verify the details of this document, summons u/s 131 were issued to Sh. Sanjay Jain, Smt. Neelam Gupta, Sh. Rajeev Gupta and Sh. Sushil Kumar Wali on 16.02.17 vide which they were required to attend the office of the undersigned on 23.02.17. The same was duly served through speed post.

Vide letter dated 21.02.17, Sh. Rajeev Gupta stated in his reply that he has no business or other relations with M/s SUMS Exims Pvt. Ltd. Thereafter, another summons u/s 131 dated 02.03.16 was issued to Sh. Rajeev Gupta in this regard. However, neither any



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further communication was received from him nor did he attend the hearing on the designated date.

Vide letter dated 21.02.17, Smt. Neelam Gupta sought adjournment for one week. Thereafter, another summons u/s 131 dated 02.03.16 was issued to Smt. Neelam Gupta in this regard. However, neither any further communication was received from her nor did she attend the hearing on the designated date.

Vide letter dated 21.02.17, Sh. Sushil Kumar Wali submitted his bank account details. Thereafter, another summons u/s 131 dated 02.03.16 was issued to Sh. Sushil Kumar Wali in this regard. In his reply dated 14.03.17, it was stated that he purchased 2 plots from M/s SUMS Exim Pvt. Ltd. during FY 2007-08 for ₹9,07,600/- on 07.06.2007 for Khesra no. 34/6 Rakba 15 Biswa and for ₹6,05,000/- on 18.10.2007 for Khesra no. 34/7 Rakba 10 Biswa. It was also stated that the said deeds were executed by the director of the company Sh. Sunil Mehta. The entire payment of ₹15,12,600/- was made by cheque and the same was verifiable from the copy of bank statements submitted. The copy of the two purchase deeds and bank statements are enclosed as Annexure from Pg. no. 32 to 47. Further, Sh. Wali stated that he has no other relation with Sh. Sanjay Jain/SUMS Exim Pvt. Ltd. and that he has not paid or received any other sum from Sh. Sanjay Jain either through cash or cheque.

Statement of Sh. Sanjay Jain was recorded u/s 131 of the IT Act, 1961 on 19.03.17 wherein he was specifically asked to explain the entries recorded in this document. The copy of the said statement is enclosed as Annexure from Page no.1 to 5 for ready reference. In reply to Question no. 18 and 19, Sh. Sanjay Jain stated that he does not have any knowledge of the transactions recorded in the said document and that Sh. Rajeev Gupta and Smt. Neelam Gupta did not have any role to play in his business pursuits.

As such, no comments can be offered on this document being unverified.

**d) Page no.50 of Annexure-AS, Exhibit-2**

In order to verify the details of this document, summons u/s 131 were issued to Smt. Aruna Devi Jain on 16.02.17 vide which she was required to attend the office of the undersigned on 23.02.17. The same was duly served through speed post. However, she failed to attend the hearing on the designated date and hence, the details on this document could not be verified.

No comments can therefore be offered on this document being unverified.

**e) Page no.48 & 49 of Annexure-AS, Exhibit-2**

In order to verify the details of this document, summons u/s 131 were issued to Sh. Sanjay Jain and Sh. S.S. Nathyal on 16.02.17 vide which they were required to attend the office of the undersigned on 23.02.17. The same were duly served through speed post.

Sh. S.S. Nathyal failed to attend the hearing on the designated date. Vide letter dated 20.03.17, Sh. S.S. Nathyal stated in his reply that he was unaware about the summons as he was out of town. No other communication was received from him.

Statement of Sh. Sanjay Jain was recorded u/s 131 of the IT Act, 1961 on 19.03.17 wherein he was specifically asked to explain the entries recorded in this document. The copy of the said statement is enclosed as Annexure from Page no.1 to 5 for ready reference. In reply to Question no. 21, Sh. Sanjay Jain stated that he does not have any knowledge of the



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transactions recorded in the said document and that the same pertains to M/s SUMS Exims Pvt. Ltd. He also stated that he received these documents from the other directors of the company in FY 2009-10 at the time of out of court settlement with them.

No communication details could be determined with respect to Ms. Minakshi Sen and M/s KHPL from the seized records as well as otherwise and hence, the details on this document could not be verified.

No comments can therefore be offered on this document being unverified.

**f) Page no.47 of Annexure-AS, Exhibit-2**

The said documents are not fresh evidences, hence no further comments can be offered.

**g) Page no.46 of Annexure-AS, Exhibit-2**

In order to verify the details of this document, summons u/s 131 were issued to Sh. Sanjay Jain, Sh. S. Ramesh and Sh. Vijay Mitra on 16.02.17 vide which they were required to attend the office of the undersigned on 23.02.17. The same was duly served through speed post.

Statement of Sh. Vijay Mitra was recorded u/s 131 of the IT Act, 1961 on 01.03.17 wherein he was specifically asked to explain the entries recorded in this document. The copy of the said statement along with other documents submitted by him is enclosed as Annexure from Page no.22 to 31 for ready reference.

Statement of Sh. Sanjay Jain was recorded u/s 131 of the IT Act, 1961 on 19.03.17 wherein he was specifically asked to explain the entries recorded in this document. The copy of the said statement is enclosed as Annexure from Page no.1 to 5 for ready reference. In reply to Question no. 22, Sh. Sanjay Jain stated that he does not have any knowledge of the transactions recorded in the said document and that the same pertains to M/s SUMS Exims Pvt. Ltd. He also stated that he received these documents from the other directors of the company in FY 2009-10 at the time of out of court settlement with them.

No response was received from Sh. S. Ramesh with respect to the summons issued.

No communication details could be determined with respect to Ms. Minakshi Sen and M/s KHPL from the seized records as well as otherwise and hence, the details on this document could not be verified.

No comments can therefore be offered on this document being unverified.

**h) Page no.42 of Annexure-AS, Exhibit-2**

In order to verify the details of this document, summons u/s 131 were issued to Sh. Vikas Bhatia, Smt. Rashmi Bhatia and Smt. Neelam Gupta on 16.02.17 vide which they were required to attend the office of the undersigned on 23.02.17. The same were duly served through speed post.

However, Sh. Vikas Bhatia and Smt. Rashmi Bhatia failed to attend the hearing on the designated date.

Vide letter dated 21.02.17, Smt. Neelam Gupta sought adjournment for one week. Thereafter, another summons u/s 131 dated 02.03.16 was issued to Smt. Neelam Gupta in this regard. However, neither any further communication was received from her nor did she attend the hearing on the designated date.

No comments can therefore be offered on this document being unverified.



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i) Page no.41 of Annexure-AS, Exhibit-2

*In order to verify the details of this document, summons u/s 131 were issued to Sh. Mahesh Kanodia and Smt. Sulochana Kanodia on 16.02.17 vide which they were required to attend the office of the undersigned on 23.02.17. The same was duly served through speed post. Vide letters dated 08.03.17, Sh. Mahesh Kanodia and his wife Smt. Sulochana Kanodia expressed their inability to attend owing to adverse health conditions of Sh. Mahesh Kanodia.*

*No comments can therefore be offered on this document being unverified.*

j) Page no.40 of Annexure-AS, Exhibit-2

*In order to verify the details of this document, summons u/s 131 were issued to Sh. Mahesh Kanodia and Sh. Sanjay Jain on 16.02.17 vide which they were required to attend the office of the undersigned on 23.02.17. The same was duly served through speed post.*

*Vide letter dated 08.03.17, Sh. Mahesh Kanodia expressed his inability to attend owing to his adverse health conditions.*

*Statement of Sh. Sanjay Jain was recorded u/s 131 of the IT Act, 1961 on 19.03.17 wherein he was specifically asked to explain the entries recorded in this document. The copy of the said statement is enclosed as Annexure from Page no.1 to 5 for ready reference. In reply to Question no. 25, Sh. Sanjay Jain stated that he does not have any knowledge of the transactions recorded in the said document and that the same pertains to M/s SUMS Exims Pvt. Ltd. He also stated that he received these documents from the other directors of the company in FY 2009-10 at the time of out of court settlement with them.*

*No communication details could be determined with respect to Ms. Nitu Chandoliya and 'MC' from the seized records as well as otherwise and hence, the details on this document could not be verified.*

*No comments can therefore be offered on this document being unverified.*

k) Page no.38 of Annexure-AS, Exhibit-2

*In order to verify the details of this document, summons u/s 131 were issued to Sh. Sanjay Jain and Smt. Neelam Gupta on 16.02.17 vide which they were required to attend the office of the undersigned on 23.02.17. The same was duly served through speed post.*

*Vide letter dated 21.02.17, Smt. Neelam Gupta sought adjournment for one week. Thereafter, another summons u/s 131 dated 02.03.16 was issued to Smt. Neelam Gupta in this regard. However, neither any further communication was received from her nor did she attend the hearing on the designated date.*

*Statement of Sh. Sanjay Jain was recorded u/s 131 of the IT Act, 1961 on 19.03.17 wherein he was specifically asked to explain the entries recorded in this document. The copy of the said statement is enclosed as Annexure from Page no.1 to 5 for ready reference. In reply to Question no. 26, Sh. Sanjay Jain stated that he does not have any knowledge of the transactions recorded in the said document and that the same pertains to M/s SUMS Exims Pvt. Ltd. He also stated that he received these documents from the other directors of the company in FY 2009-10 at the time of out of court settlement with them.*

*No comments can therefore be offered on this document being unverified.*

l) Page no.33 of Annexure-AS, Exhibit-2



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*In order to verify the details of this document, summons u/s 131 were issued to Sh. Sanjay Jain on 16.02.17 vide which he was required to attend the office of the undersigned on 23.02.17. The same was duly served through speed post.*

*Statement of Sh. Sanjay Jain was recorded u/s 131 of the IT Act, 1961 on 19.03.17 wherein he was specifically asked to explain the entries recorded in this document. The copy of the said statement is enclosed as Annexure from Page no.1 to 5 for ready reference. In reply to Question no. 26, Sh. Sanjay Jain stated that he does not have any knowledge of the transactions recorded in the said document and that the same pertains to M/s SUMS Exims Pvt. Ltd. He also stated that he received these documents from the other directors of the company in FY 2009-10 at the time of out of court settlement with them. No comments can therefore be offered on this document being unverified.*

**m) Page no.32 of Annexure-AS, Exhibit-2**

*In order to verify the details of this document, summons u/s 131 were issued to Sh. Sanjay Jain on 16.02.17 vide which he was required to attend the office of the undersigned on 23.02.17. The same was duly served through speed post.*

*Statement of Sh. Sanjay Jain was recorded u/s 131 of the IT Act, 1961 on 19.03.17 wherein he was specifically asked to explain the entries recorded in this document. The copy of the said statement is enclosed as Annexure from Page no.1 to 5 for ready reference. In reply to Question no. 26, Sh. Sanjay Jain stated that he does not have any knowledge of the transactions recorded in the said document and that the same pertains to M/s SUMS Exims Pvt. Ltd. He also stated that he received these documents from the other directors of the company in FY 2009-10 at the time of out of court settlement with them. No comments can therefore be offered on this document being unverified.*

**n) Page no.30 & 31 of Annexure-AS, Exhibit-2**

*In order to verify the details of this document, summons u/s 131 were issued to Sh. Sanjay Jain, Sh. S. Ramesh and Sh. Vijay Mitra on 16.02.17 vide which they were required to attend the office of the undersigned on 23.02.17. The same was duly served through speed post.*

*Statement of Sh. Vijay Mitra was recorded u/s 131 of the IT Act, 1961 on 01.03.17 wherein he was specifically asked to explain the entries recorded in this document. The copy of the said statement is enclosed as Annexure from Page no.22 to 31 for ready reference.*

*Statement of Sh. Sanjay Jain was recorded u/s 131 of the IT Act, 1961 on 19.03.17 wherein he was specifically asked to explain the entries recorded in this document. The copy of the said statement is enclosed as Annexure from Page no.1 to 5 for ready reference. In reply to Question no. 26, Sh. Sanjay Jain stated that he does not have any knowledge of the transactions recorded in the said document and that the same pertains to M/s SUMS Exims Pvt. Ltd. He also stated that he received these documents from the other directors of the company in FY 2009-10 at the time of out of court settlement with them.*

*No response was received from Sh. S. Ramesh with respect to the summons issued.*

*No comments can therefore be offered on this document being unverified.*

**o) Page no.29 of Annexure-AS, Exhibit-2**



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*In order to verify the details of this document, summons u/s 131 were issued to Sh. Sanjay Jain on 16.02.17 vide which he was required to attend the office of the undersigned on 23.02.17. The same was duly served through speed post.*

*Statement of Sh. Sanjay Jain was recorded u/s 131 of the IT Act, 1961 on 19.03.17 wherein he was specifically asked to explain the entries recorded in this document. The copy of the said statement is enclosed as Annexure from Page no.1 to 5 for ready reference. In reply to Question no. 26, Sh. Sanjay Jain stated that he does not have any knowledge of the transactions recorded in the said document and that the same pertains to M/s SUMS Exims Pvt. Ltd. He also stated that he received these documents from the other directors of the company in FY 2009-10 at the time of out of court settlement with them.*

*No communication details could be determined with respect to Sh. Shami Sharma and Sh. Modani (Devpura) from the seized records as well as otherwise and hence, the details on this document could not be verified.*

*No comments can therefore be offered on this document being unverified.*

**Para 2.2- Para 2.3**

*The said documents are not fresh evidences, hence no further comments can be offered.*

**Para 2.4**

*A letter u/s 133(6) was issued to the Tehsildar, Jamwa Ramgarh, Jaipur on 16.02.17 to provide the details of ownership of properties as well as their sale and purchase in M/s SUMS Exim Pvt. Ltd. from 2005-06 onwards. The reply of the Tehsildar, Jamwa Ramgarh, Jaipur was received vide letter dated 22.03.17. The copy of the same is enclosed as Annexure from Pg. no.48 to 78 for ready reference.*

**Para 2.5**

*Statement of Sh. Sanjay Jain was recorded u/s 131 of the IT Act, 1961 on 19.03.17 and the copy of the said statement is enclosed as Annexure from Page no.1 to 5 for ready reference. Thereafter, Sh. Sunil Mehta was provided an opportunity to cross-examine Sh. Sanjay Jain. The copy of cross-examination of Sh. Sanjay Jain by Sh. Sunil Mehta on 19.03.17 is also enclosed as Annexure from Page no.6 to 14 for ready reference.*

**Para 2.6 - Para 2.8**

*The said documents are not fresh evidences, hence no further comments can be offered.*

**Para 2.9**

*A letter u/s 133(6) was issued to the IO, Police Station, Sodala, Jaipur (South) and IO, Police Station, Chandwaji, Jaipur (Rural) on 09.02.17 to provide the details of evidences collected on the basis of inquiry conducted on the FIRs filed by Sh. Sunil Mehta director M/s SUMS Exim Pvt. Ltd. against Sh. Sanjay Jain and Sh. Bhaskar Sharma. The reply of the IO, Police Station, Sodala, Jaipur (South) was received vide letter dated 20.02.17. The copy of the same is enclosed as Annexure from Pg. no.79 to 100 for ready reference. No reply was received from the IO, Police Station, Chandwaji, Jaipur (Rural).*

**Para 2.10**



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The said documents are not fresh evidences, hence no further comments can be offered. As required, a letter u/s 133(6) was issued to the Tehsildar, Jamwa Ramgarh, Dist. Jaipur on 16.02.17 to provide the details of ownership of properties as well as their sale and purchase in M/s SUMS Exim Pvt. Ltd. from 2005-06 onwards. The reply of the Tehsildar, Jamwa Ramgarh, Dist. Jaipur was received vide letter dated 22.03.17. The copy of the same is enclosed as Annexure from Pg. no.48 to 78 for ready reference.

**Para 2.11**

The statement of Sh. Sunil Mehta, director of M/s SUMS Exim Pvt. Ltd. was also recorded in this regard u/s 131 on 17.03.17. The copy of the same is enclosed as Annexure from Pg. no.15 to 21 for ready reference.

3. Report is submitted for your kind perusal and necessary action....."

**[2.16.2]** For the sake of clarity and reference , the sworn statement recorded of Sh Sanjay Jain and his cross-examination by Sh Sunil Mehta are reproduced here as under:

Statement of Sh. Sanjay Jain S/o Sh. Amarnath Jain, Resident of 46B, Keshav Path, Suraj Nagar West, Civil Lines, Jaipur recorded on 19.03.2017 at Room No. NA-102, Income tax Department, NCR Building, Statue Circle, Jaipur.	
आयकर अधिनियम की धारा 131 के अधीन बयान Statement u/s 131 of Income Tax Act, 1961	
1.	कृपया अपना पूर्ण परिचय?
उत्तर	मेरा नाम संजय जैन है पिता का नाम श्री अमर नाथ जैन निवास स्थान 46-बी, केशव पथ, सूरज नगर पश्चिम, सिविल लाईन, जयपुर । मेरी उम्र 49 वर्ष है मैं सुप्रीम पोलिमर्स प्रा. लि. सिद्धार्थ पोलिसेक प्रा. लि. एवं अलान्स पोलिसेक प्रा. लि. एवं स्टार ग्लोबल इनडुस्ट्री लिमिटेड के निदेशक पद पर काम करता हूँ ।
2.	कृपया बताएं SUMS Exims में आप निदेशक के पद पर कब तक रहे। साथ ही यह भी बताएं कि उस अवधि में कम्पनी की व्यावसायिक गतिविधियां किस प्रकार की थीं?
उत्तर	SUMS Exims में निदेशक के पद पर वर्ष 2008-09 तक कार्यरत रहा था । SUMS Exims मे सिलक आयात, लौहा स्केप आयात एवं जमीन का कारोबार होता था । इस सन्दर्भ में फॉर्म नम्बर 32 एवं Board Resolution की कॉपी, जो कि रजिस्टार ऑफ कम्पनी में फाईल किया गया है उसकी कॉपी दे रहे है ।
3.	Nature Farm, project को विकसित करने में आपकी भूमिका क्या रही?
उत्तर	Nature Farm, project को विकसित करने में मेरी सीमित भूमिका थी । क्योंकि मैं उपरोक्त कम्पनियों मे निदेशक होने के कारण वहाँ का मुख्य कार्य देखता था । इसलिए SUMS Exims पर बहुत कम समय दे पाता था । project विकसित होने के बाद अपने जानकार लोगो project के बारे में बताने तक सीमित था । इसके अलावा इस कम्पनी के बैंक से संबंधित कार्य मैं देखता था ।
4.	कृपया बताएं कि 1. SUMS PL अथवा SUMS PL कौनसी कम्पनी है तथा इनमें क्या काम होता था । आपकी इनमें क्या भूमिका थी ।
उत्तर	मेरी जानकारी में 1. SUMS PL अथवा SUMS PL इस नाम से कोई कम्पनी नहीं थी । यह SUMS Exims Pvt. Ltd. का Short form हो सकता है ।
5.	कृपया Nature Farms, Nature Farm Phase & Nature Farms Hill Retreat के बारे में विस्तार से बताएं?
उत्तर	Nature Farms यह एक बड़ा फॉर्महाउस स्कीम दिल्ली रोड पर विकसित किया था इसमें जमीन खरीद कर उसका कृषि भूमि से रूपान्तरण करा कर छोटे-छोटे प्लॉट बनाकर बेचते थे । Nature Farm Phase के बारे में जानकारी नहीं है Nature Farms Hill Retreat यह एक बड़ा फॉर्महाउस स्कीम अचरोल गॉव पर विकसित किया था इसमें जमीन खरीद कर उसका कृषि भूमि से रूपान्तरण करा कर छोटे-छोटे प्लॉट बनाकर बेचते थे ।
6.	SUMS Exims को छोड़ने का कारण विस्तार से बताएं।
उत्तर	SUMS Exims को छोड़ने का मुख्य कारण यह है कि SUMS Exims में मेरी उपरोक्त कम्पनियों से काफी रूपए का उधार हो गया था जिसको वापस चुकाने के विषय में मतभेद हो गया था ।



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7.	आपके विरुद्ध श्री सुनिल मेहता द्वारा दर्ज करवाही गई प्राथमिकी के अनुसार पुलिस अनुसंधान में प्रथम दृष्टया आपको दोषी माना गया था। इस बारे में आपको क्या कहना है?
उत्तर	मेरे विरुद्ध श्री सुनिल मेहता द्वारा दर्ज करवाही गई FIR कभी सही नहीं पाई गई और अन्त में सुनिल मेहता ने SUMS Exims के तरफ से FIR को वापस ले लिया। हमारे आपसी समझौते के बाद राजस्थान उच्च न्यायालय के आदेश पर FIR को निरस्त कर दिया।
8.	SUMS Exims में आपके निदेशक पद पर आसीन रहने के दौरान क्या आप किसी अन्य कम्पनी/फर्म के माध्यम से व्यावसायिक गतिविधि संचालित किया करते थे?
उत्तर	हाँ, उस समय मैं मुख्यतः सुप्रीम पॉलीमर्स एवं सिद्धार्थ पॉलीसेक का कार्य देखता था।
9.	आपके या आपकी कम्पनीयों के सीमेन्ट कम्पनियों से किस प्रकार व्यापारिक संबंध रहे हैं?
उत्तर	यह दोनों कम्पनियाँ मुख्यतः सीमेन्ट फर्टीलाइजर एवं गेहूँ भरने के काम में आने वाले प्लास्टिक की बोरे बनाती है। इन दोनों कम्पनियों के जिन सीमेन्ट एवं फर्टीलाइजर कम्पनियों में बोरे बेचते थे उनसे व्यापारिक संबंध थे।
10.	SUMS Exims में आपकी मौजूदगी के दौरान बेची गई जमीनों के पेटे प्राप्त राशि किस बैंक खाते में जमा करवाई जाती थी। उन बैंक खातों का पूर्ण विवरण दीजिए।
उत्तर	SUMS Exims में मेरी मौजूदगी के दौरान बेची गई जमीनों के पेटे प्राप्त राशि जम्मू एण्ड कश्मीर बैंक में SUMS Exims के खाते में जमा करवाई जाती थी इससे ज्यादा इस समय मेरे पास जानकारी नहीं है।
11.	कृपया बताएं कि सीमेन्ट कम्पनियों के प्राप्त कार्यादेश के बदले किसी प्रकार का कमीशन दिया जाता था या नहीं?
उत्तर	नहीं, कोई कमीशन नहीं दिया जाता था।
12.	कृपया बताएं SUMS Exims में कोई बेची गई जमीन के पेटे नकद राशि भी प्राप्त की जाती थी या नहीं?
उत्तर	नहीं, ऐसी मेरे पास कोई जानकारी नहीं है।
13.	आपके यहां तलाशी की कार्रवाई के दौरान जब कागजातों से ज्ञात होता है कि आपके द्वारा प्राप्त नकद राशि को SUMS Exims एवं S.M. Developers में निवेश दर्शाया जाता था। इस बारे में आपको क्या कहना है?
उत्तर	तलाशी की कार्रवाई के दौरान जब कागजात मेरे SUMS Exims एवं S.M. Developers छोड़ने के बाद आपस में झगड़ों के दौरान 2009-10 में SUMS Exims एवं S.M. Developers निदेशकों द्वारा बनाए गए थे तथा समझौते के समय आपसी हिसाब के लिए उनके द्वारा दिए गए थे।
14.	आपके द्वारा विभिन्न व्यक्तियों से जमीन बेचान के बदले नकद राशि प्राप्त की गई थी लेकिन जब कागजातों से आप द्वारा उन व्यक्तियों को किसी प्रकार की जमीन बेचने का प्रमाण नहीं मिलती है। इस बारे में विस्तार से बताइये?
उत्तर	जैसा कि मैंने पहले बताया तलाशी के दौरान जब कागज मेरे SUMS Exims एवं S.M. Developers छोड़ने के बाद आपस में झगड़ों के दौरान 2009-10 में SUMS Exims एवं S.M. Developers निदेशकों द्वारा बनाए गए थे तथा समझौते के समय आपसी हिसाब के लिए उनके द्वारा दिए गए थे। इसके अलावा मेरे पास कोई जानकारी नहीं है।
15.	आपके यहां से जब कागजातों एवं उस समय के SUMS Exims के खातों में काफी विभेद हैं। कृपया इसका कारण बताइये?
उत्तर	जैसा कि मैंने पहले बताया तलाशी के दौरान जब कागज मेरे SUMS Exims एवं S.M. Developers छोड़ने के बाद आपस में झगड़ों के दौरान 2009-10 में SUMS Exims एवं S.M. Developers निदेशकों द्वारा बनाए गए थे तथा समझौते के समय आपसी हिसाब के लिए उनके द्वारा दिए गए थे। इसलिए इस विभेद की जानकारी SUMS Exims से ही प्राप्त की जा सकती है।
16.	आपके यहां तैनात रहे लेखाकार श्री भास्कर शर्मा के बयानों के अनुसार आप द्वारा नकद राशि में जमीन बेचना ज्ञात होता है। इस बारे में आप क्या कहेंगे?
उत्तर	मुझे इस बारे में कोई जानकारी नहीं है।
17.	तलाशी के दौरान जब किये गये Annexure-AS, Exhibit-2 के पृष्ठ सं. 67 और 68 की प्रति आपके अवलोकनार्थ प्रस्तुत है। इनके अनुसार आप द्वारा रुपये 8 व 5 लाख के चैक श्री विकास भाटिया से प्राप्त किये हैं। कृपया बताएं ये राशि आप द्वारा किस प्रयोजन से ली गई एवं किस बैंक खाते में जमा करवाई गई?
उत्तर	यह मुझे इस समय ध्यान नहीं है। मैं अपनी कम्पनी के व अपने खाते देख कर बता सकता हूँ।
18.	तलाशी के दौरान जब किये गये Annexure-AS, Exhibit-2 के पृष्ठ सं. 64 की प्रति आपके अवलोकनार्थ प्रस्तुत है। इनके अनुसार आप द्वारा रुपये 9 लाख की राशि प्राप्त की है जो किसी मोहित को transfer भी की है। साथ ही एक अन्य प्रविष्टी के अनुसार आप द्वारा श्री राजीव गुप्ता से 10 लाख रुपये की नकद राशि प्राप्त की है। इस transactions का प्रयोजन विस्तारपूर्वक बताइये। यह भी बताइये कि श्री राजीव गुप्ता एवं श्रीमती नीलम गुप्ता का आपके व्यापारिक कार्यकलापों में किस प्रकार का योगदान रहा है।
उत्तर	यह SUMS Exims के खाते है मुझे इस तरह के transactions की जानकारी नहीं है। यह सारे कागजात हमें बाकी निदेशकों ने समझौते के दौरान वर्ष 2009-10 में दिए थे तथा समझौते के समय आपसी हिसाब के लिए उनके द्वारा दिए गए थे। श्री राजीव गुप्ता एवं श्रीमती नीलम गुप्ता का मेरे व्यापारिक कार्यकलापों में कोई योगदान नहीं है।
19.	तलाशी के दौरान जब किये गये Annexure-AS, Exhibit-2 के पृष्ठ सं. 53 की प्रति आपके अवलोकनार्थ प्रस्तुत है। इनके अनुसार आप द्वारा श्री सुशील कुमार वाली, श्री राजीव गुप्ता एवं श्रीमती नीलम गुप्ता से Cash transactions किये गये हैं। इन transactions के बारे में बताइये?
उत्तर	मुझे इस तरह के किसी cash transactions के बारे में कोई जानकारी नहीं है।
20.	तलाशी के दौरान जब किये गये Annexure-AS, Exhibit-2 के पृष्ठ सं. 50 की प्रति आपके अवलोकनार्थ प्रस्तुत है। इनके अनुसार



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	आप द्वारा श्रीमती अरुणा देवी जैन से नकद 2 लाख रुपये एवं एक अन्य बैंक प्राप्त किया गया है। इनके बारे में बताइये?
उत्तर	मेरे द्वारा कोई बैंक नहीं प्राप्त किया है अगर कोई बैंक प्राप्त किया गया होगा तो वह कम्पनी द्वारा प्राप्त किया गया होगा तथा SUMS Exims के खाते में जमा किया गया होगा।
21.	तलाशी के दौरान जब्त किये गये Annexure-AS, Exhibit-2 के पृष्ठ सं. 48 और 49 की प्रति आपके अवलोकनार्थ प्रस्तुत है। इनके अनुसार आप द्वारा Shri Nathyal, Smt. Minakshi Sen and office bearer of KHPL से cash transactions किये गये हैं। इनके बारे में आपको क्या कहना है?
उत्तर	यह SUMS Exims के खाते है मुझे इस तरह के transactions की जानकारी नहीं है। यह सारे कागजात हमें बाकी निदेशकों ने समझौते के दौरान वर्ष 2009-10 में दिए थे तथा समझौते के समय आपसी हिसाब के लिए उनके द्वारा दिए गए थे।
22.	तलाशी के दौरान जब्त किये गये Annexure-AS, Exhibit-2 के पृष्ठ सं. 46 की प्रति आपके अवलोकनार्थ प्रस्तुत है। इनके अनुसार आप द्वारा श्री विजय मित्रा, श्री एस. रमेश एवं Lakshmi Cement & Jaypee Cement के निदेशकों से cash transactions किये गये हैं इनके बारे में बताइये?
उत्तर	यह SUMS Exims के खाते है मुझे इस तरह के transactions की जानकारी नहीं है। यह सारे कागजात हमें बाकी निदेशकों ने समझौते के दौरान वर्ष 2009-10 में दिए थे तथा समझौते के समय आपसी हिसाब के लिए उनके द्वारा दिए गए थे।
23.	तलाशी के दौरान जब्त किये गये Annexure-AS, Exhibit-2 के पृष्ठ सं. 42 की प्रति आपके अवलोकनार्थ प्रस्तुत है। इनके अनुसार आप द्वारा श्री विकास भाटिया, रश्मि भाटिया एवं नीलम गुप्ता से cash transactions किये गये इनके बारे में बताइये?
उत्तर	यह SUMS Exims के खाते है मुझे इस तरह के transactions की जानकारी नहीं है। यह सारे कागजात हमें बाकी निदेशकों ने समझौते के दौरान वर्ष 2009-10 में दिए थे तथा समझौते के समय आपसी हिसाब के लिए उनके द्वारा दिए गए थे।
24.	तलाशी के दौरान जब्त किये गये Annexure-AS, Exhibit-2 के पृष्ठ सं. 41 की प्रति आपके अवलोकनार्थ प्रस्तुत है। इनके अनुसार से महेश कनौडिया एवं सुलोचना कनौडिया के खातों की प्रतियां हैं जिनकी समयावधि आपके SUMS Exims छोड़ने के बाद हैं। इनके बारे में आपको क्या कहना है?
उत्तर	यह SUMS Exims के खाते है मुझे इस तरह के transactions की जानकारी नहीं है। यह सारे कागजात हमें बाकी निदेशकों ने समझौते के दौरान वर्ष 2009-10 में दिए थे तथा समझौते के समय आपसी हिसाब के लिए उनके द्वारा दिए गए थे।
25.	तलाशी के दौरान जब्त किये गये Annexure-AS, Exhibit-2 के पृष्ठ सं. 40 की प्रति आपके अवलोकनार्थ प्रस्तुत है। इनके अनुसार आपके खातों में नीतू चंदोलिया एवं महेश कनौडिया के ledger a/c हैं ये किनसे संबन्धित हैं?
उत्तर	यह SUMS Exims के खाते है मुझे इस तरह के transactions की जानकारी नहीं है। यह सारे कागजात हमें बाकी निदेशकों ने समझौते के दौरान वर्ष 2009-10 में दिए थे तथा समझौते के समय आपसी हिसाब के लिए उनके द्वारा दिए गए थे।
26.	तलाशी के दौरान जब्त किये गये Annexure-AS, Exhibit-2 के पृष्ठ सं. 29 से 38 की प्रति आपके अवलोकनार्थ प्रस्तुत है। इनके अनुसार श्रीमती नीलम गुप्ता, श्री विजय मिश्रा, श्री एस. रमेश, शमी शर्मा, मोदानी एवं Cement Companies के कर्मचारी एवं निदेशकों के साथ किये गये transactions हैं इनके बारे में आपको क्या कहना है?
उत्तर	यह SUMS Exims के खाते है मुझे इस तरह के transactions की जानकारी नहीं है। यह सारे कागजात हमें बाकी निदेशकों ने समझौते के दौरान वर्ष 2009-10 में दिए थे तथा समझौते के समय आपसी हिसाब के लिए उनके द्वारा दिए गए थे।
27.	उपरोक्त प्रश्नों में जो नाम हैं, उन सबको आप किसी प्रकार जानते हैं।
उत्तर	उपरोक्त नामों में नीलम गुप्ता, राजीव गुप्ता एवं अरुणा देवी जैन मेरे relatives है तथा श्री एस. रमेश एवं श्री एस. के. वाली, विकास भाटिया, रश्मि भाटिया, Shri Nathyal, Smt. Minakshi Sen मेरे परिचित थे। बाकी के बारे में मुझे जानकारी नहीं है।
28.	प्रश्न सं. 16 से 24 के द्वारा आपको अवलोकनार्थ कागजात को देखने एवं वर्णित transactions को देखकर कृपया यह भी बताइये कि उक्त transactions SUMS Exims या S.M. Developers से संबन्धित हैं या किसी अन्य company से। यदि किसी अन्य company से हैं तो उसका विवरण दीजिए।
उत्तर	जैसा कि मैं पहले बता चुका हूँ कि यह SUMS Exims, S.M. Developers से संबन्धित खाते है। यह सारे कागजात हमें बाकी निदेशकों ने समझौते के दौरान वर्ष 2009-10 में दिए थे तथा समझौते के समय आपसी हिसाब के लिए उनके द्वारा दिए गए थे।
29.	आपके यहां से जब्त कागजातों से ज्ञात होता है कि SUMS Exims में Nature Farms के क्षेत्रफल, प्रकृति एवं खरीद बेचान में काफी अंतर है। इस बारे में आपको क्या कहना है?
उत्तर	यह SUMS Exims, S.M. Developers से संबन्धित कागजात है। यह सारे कागजात हमें बाकी निदेशकों ने समझौते के दौरान वर्ष 2009-10 में दिए थे तथा समझौते के समय आपसी हिसाब के लिए उनके द्वारा दिए गए थे। अन्तर के बारे में कम्पनी ही बता सकती है।
30.	आपके अवलोकनार्थ Annexure-A, Exhibit-1 एवं Annexure-AS, Exhibit-2 की प्रतियां प्रस्तुत हैं। इन्हें देखकर क्या आप यह बता सकते हैं कि इनमें से कौनसी जमीन बेची जा चुकी है और कौनसी जमीन नहीं बेची गई?
उत्तर	जैसा कि मैं पहले बता चुका हूँ कि यह SUMS Exims, S.M. Developers से संबन्धित कागजात है। यह सारे कागजात हमें बाकी निदेशकों ने समझौते के दौरान वर्ष 2009-10 में दिए थे तथा समझौते के समय आपसी हिसाब के लिए उनके द्वारा दिए गए थे। इसके बारे में कम्पनी के बाकी निदेशक ही बता सकते हैं।
31.	कृपया बताएं क्या आप द्वारा जमीन बेचान के पेटे किसी प्रकार का रूपान्तरण शुल्क वसूला जाता था या नहीं, साथ ही यह भी बताएं आप द्वारा बेची गई जमीन कृषि भूमि थी या गैर कृषि भूमि?



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उत्तर	जो भी जमीन बेची गई थी वे कम्पनी SUMS Exims, S.M. Developers द्वारा बेची गई थी, यदि कोई शुल्क वसूला गया है, वो कम्पनी द्वारा वसूला गया होगा तथा बेची गई जमीन कृषि भूमि थी या गैर कृषि भूमि इसके बारे में कम्पनी द्वारा ही बताया जा सकता है।
32.	कृपया बताएं आप द्वारा आयकर समझौता आयोग के सम्मुख अघोषित आय समर्पित/surrender की थी? यदि हाँ तो यह भी बताएं यह किस मद में की थी?
उत्तर	समझौता आयोग के सम्मुख समर्पित की गई अतिरिक्त आय का विवरण अभी मेरे पास उपलब्ध नहीं है जो कि आयकर समझौता आयोग के आदेश में दिया गया है जिसकी प्रतिलिपि मैं आपके समक्ष कल प्रस्तुत कर दूँगा।
33.	You are aware that during the course of search operation, the impugned seized documents were found, inventorized and seized from your possession and in your sworn statements recorded earlier and today, you have said that the seized documents pertain to SUMS Exims and SM Developers . Are you still sticking to this stand ?
उत्तर	Yes.
34.	Sh. Sunil Mehta in the sworn statement recorded on oath u/s 131 of the Act on 17.03.2017 has categorically denied that the impugned documents belong & pertain to him and his concerns. I am showing you relevant extracts of his sworn statement. Your comments and would you like to cross examine him in this regards?
उत्तर	As already submitted that documents found from the our premises related to Sums Exim Pvt. Ltd and S.M. Developers , were given by other directors of the company at the time of compromise/settlement. These seized documents belong to Sums Exim Pvt. Ltd and S.M. Developers. I do not want to cross examine in this regard.
35.	You should be aware that since the impugned documents are found and seized from your possession, therefore, as per the provisions of Sec. 132(4)A rws 292C you are required to explain the notings/ transactions recorded in the seized documents. Since, Sh. Sunil Mehta has categorically stated that these transactions pertain to Sh. Sanjay Jain and his entities. Your comments.
उत्तर	Hon'ble Income Tax Settlement Commission has already passed the order u/s 245 D (4) in my case and the Hon'ble ITSC has already given finding in the matter.
36.	क्या आपको इसके अतिरिक्त कुछ कहना है?
उत्तर	नहीं,

**Cross Examination of Sh. Sanjay Jain by Sh. Sunil Mehta in the case of  
M/s SUMS Exim Pvt. Ltd. and M/s SM Developers Pvt. Ltd.**

प्रश्न:- 1.श्री सुनिल मेहता द्वारा : मैं आपके समक्ष निम्न seized documents, जो कि आपके कार्यालयों एवं निवास से प्राप्त हुये हैं, प्रस्तुत कर रहा हूँ।

Documents seized during the search:-

- i. Pages 115 to 131, Exhibit - 1 of the Annexure-A dated 29-04-2011 seized from the factory-cum-office of the M/s Supreme Polymers Pvt. Ltd., 137-138, Jhotwara Industrial Area, Jaipur.
- ii. Pages 21 to 88, Exhibit - 2 of Annexure - AS dated 28-04-2011 seized from the Residence of Sh. Lal Singh Sisodia, 5, Nemi Sagar Colony, Queen's Road, Jaipur.
- iii. Pages 1 to 66, Exhibit-1 of the Annexure-AS dated 28-04-2011 seized from the Factory-cum-office of M/s Shrey's India Pvt. Ltd., 57, Jhotwara Industrial Area, Jaipur



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iv. Pages 1 to 75, Exhibit-2 of the Annexure-AS dated 28-04-2011 seized from the Factory-cum-office of M/s Shrey's India Pvt.Ltd., 57, Jhotwara Industrial Area, Jaipur.

यह Seized Documents किसके हैं? यह Seized Documents किसके द्वारा तैयार किये गये हैं? उपरोक्त Seized Documents कब तैयार किये हैं? उपरोक्त Seized Documents कहाँ तैयार किये गये हैं? क्या उपरोक्त Seized Documents आपकी नज़र से एकदम सही है? इनको आपकी नज़र में, Last Update कब किया गया था?

उत्तर:- श्री संजय जैन द्वारा:- i. Pages 115 to 131, Exhibit - 1 of the Annexure-A dated 29-04-2011 seized from the factory-cum-office of the M/s Supreme Polymers Pvt. Ltd., 137-138, Jhotwara Industrial Area, Jaipur यह कागजात M/s Sums Exims Pvt. Ltd. / S.M. Developers से संबंधित कागजात है जो मुझे अन्य निदेशकों द्वारा मनमुटाव/समझौते के समय दिए गए थे ।

ii. Pages 21 to 88, Exhibit - 2 of Annexure - AS dated 28-04-2011 seized from the Residence of Sh. Lal Singh Sisodia, 5, Nemi Sagar Colony, Queen's Road, Jaipur यह कागजात M/s Sums Exims Pvt. Ltd. / S.M. Developers से संबंधित कागजात है जो मुझे अन्य निदेशकों द्वारा मनमुटाव/समझौते के समय दिए गए थे ।

iii. Pages 1 to 66, Exhibit - 1 of the Annexure-AS dated 28-04-2011 seized from the Factory-cum-office of M/s Shrey's India Pvt. Ltd., 57, Jhotwara Industrial Area, Jaipur यह कागजात M/s Sums Exims Pvt. Ltd. / S.M. Developers से संबंधित कागजात है जो मुझे अन्य निदेशकों द्वारा मनमुटाव/समझौते के समय दिए गए थे ।

iv. Pages 1 to 75, Exhibit-2 of the Annexure-AS dated 28-04-2011 seized from the Factory-cum-office of M/s Shrey's India Pvt.Ltd., 57, Jhotwara Industrial Area, Jaipur. यह कागजात M/s Sums Exims Pvt. Ltd. / S.M. Developers से संबंधित कागजात है जो मुझे अन्य निदेशकों द्वारा मनमुटाव/समझौते के समय दिए गए थे ।

मेरे लिए यह बताना सम्भव नहीं है कि उपरोक्त कागजात कहाँ तैयार किए गए हैं तथा यह सही है कि नहीं । मुझे इस बार में कोई जानकारी नहीं है कि यह लास्ट कब अपडेट किए गए हैं । उपरोक्त कागजातों में से कुछ कागजात सम्मस एकजीम की बैलेंस शीट से संबंधित हैं जो मेरी जानकारी में हैं तथा यह सम्मस एकजीम कम्पनी के कार्यालय में बनाए गए हैं ।

प्रश्न:-2. श्री सुनिल मेहता द्वारा : आपने किस, दिन से SUMS EXIM PVT. LTD. के कार्यालय में कार्य करना बन्द कर दिया था?

उत्तर:- श्री संजय जैन द्वारा:- मुझे SUMS EXIM PVT. LTD के कार्यालय में जाना कब बन्द किया यह तारीख ध्यान नहीं है हालांकि कम्पनी से मेरे निदेशक पद से त्याग पत्र की तारीख ROC के कार्यालय से प्राप्त की जा सकती है । इस सन्दर्भ में कम्पनी द्वारा फाईल किया हुआ फॉर्म नम्बर 32 एव Board resolution की कापी मैंने अपने बयानों के दौरान पेश कर दी थी ।



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प्रश्न:-3. श्री सुनिल मेहता द्वारा : Lal Singh Sisodia का SUMS Exim Pvt. Ltd. & S.M. Developer से क्या Business सम्बन्ध है?

उत्तर:- श्री संजय जैन द्वारा:- श्री लाल सिंह सिसोदिया का SUMS Exim Pvt. Ltd. & S.M. Developer से कोई Business सम्बन्ध नहीं है । वो मेरी अन्य कम्पनियों में निदेशक है ।

प्रश्न:-4. श्री सुनिल मेहता द्वारा : Shrey's India Pvt. Ltd. के SUMS Exim Pvt. Ltd. एवं S.M. Developers से क्या business relations है?

उत्तर:- श्री संजय जैन द्वारा:- Shrey's India Pvt. Ltd. के SUMS Exim Pvt. Ltd. एवं S.M. Developers से financial transactions हो सकते हैं जो कि मैं खाते देख कर बता सकता हूँ ।

प्रश्न:-5. श्री सुनिल मेहता द्वारा : अब मैं आपके समक्ष Company Master Data, जो कि Ministry Of Company Law Affairs की site पर उपलब्ध है, प्रस्तुत कर रहा हूँ। इसके अनुसार Sanjay Jain 03/02/2014 को Shrey's India Pvt. Ltd., में director बनें, उससे पहले निदेशक थे या नहीं।

उत्तर:- श्री संजय जैन द्वारा:- मैं 3.2.2014 से पहले Shrey's India Pvt. Ltd., में director नहीं था।

प्रश्न:-6. श्री सुनिल मेहता द्वारा : आप ने अपने बयान दिनांक 16/05/2011 के पृष्ठ सं. 13 पर के लास्ट पेरा में बयान दिया है कि पेज नम्बर 127 annexure-A - exhibit-1 पर सम्म एकिजम प्रा. लि. कम्पनी द्वारा Nature Farm project में कुल खरीदी जमीन का क्षेत्रफल, कुल खरीद का कुल मूल्य बताया है जबकि उपरोक्त पेज में ऐसा कोई विवरण नहीं है । कृपया पेज नम्बर 127 देख कर इसका जवाब देवे ।

उत्तर:- श्री संजय जैन द्वारा:- इस संबंध में मैं अपना बयान पूर्व में दे चुका हूँ । वो कागजात मनमुटाव या समझौते के दौरान आपके द्वारा दिए गए थे ।

प्रश्न:-7. श्री सुनिल मेहता द्वारा : क्या आप यह कहना चाहते हैं कि यह कागजात आपके त्याग पत्र के बाद में या पहले दिए गए हैं ?

उत्तर:- श्री संजय जैन द्वारा:- यह अभी मुझे ध्यान नहीं है ।

प्रश्न:-8. श्री सुनिल मेहता द्वारा : आप ने अपने बयान (पृष्ठ सं. 274) दिनांक 16/05/2011 में seized documents के पृष्ठ सं. 127 of annexure-A - exhibit-1 में बताया कि जमीन की खरीद एवं बेचान व development के प्रत्यक्ष एवं अप्रत्यक्ष खर्च इत्यादि लिखे गये हैं। आपने expense of NF Hill Retreat में बताया है कि कुल land purchases 159.185 bigha खरीदी है, जबकि आप जबतक company में रहे कुल जमीन Nature Farms Hill Retreat मालिकाना S.M. Developers में कृषि भूमि कुल 53.2 बीघा ही खरीदी गयी थी। अगर आप यह claim करते हो कि यह seized documents, S.M. Developer के हैं, तो कृपया बताईये कि बाकी जमीन कहाँ से आयी और कहाँ गयी?

उत्तर:- श्री संजय जैन द्वारा:- यह कागजात मुझे आप व अन्य निदेशकों द्वारा मनमुटाव/समझौते के दौरान दिए गए थे । इसकी सत्यता के बारे में मुझे जानकारी नहीं है ।



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प्रश्न:-9. श्री सुनिल मेहता द्वारा : इसी क्रम में Page No. 127 पर Income Of Nature Farms, में Nature Farm Area Sold 214,783.070 बताया है, और कुल Sellable Area 354,842.140 बताया है। क्या इतनी जमीन Nature Farms मालिकाना Sums Exim Pvt. Ltd. में आपके कार्यालय के दौरान थी क्या?

उत्तर:- श्री संजय जैन द्वारा:- यह कागजात मुझे आप व अन्य निदेशकों द्वारा मनमुटाव/समझौते के दौरान दिए गए थे। इसकी सत्यता के बारे में मुझे जानकारी नहीं है।

प्रश्न:-10. श्री सुनिल मेहता द्वारा : आपने अपने बयान दिनांक 16/05/2011, Page No. 113 of the Seized Documents, में बताया कि पृष्ठ सं. 127 पर SUMS Exim Pvt. Ltd. द्वारा Nature Farms में कुल खरीदी गयी जमीन का क्षेत्रफल, कुल खरीद Value है, जबकि पृष्ठ सं. 127 पर Nature Farms की न यह खरीद Value है, और न ही खरीदी जमीन का यह क्षेत्रफल है। कृपया बताये पेज न. 127 में कहाँ पर है यह?

उत्तर:- श्री संजय जैन द्वारा:- यह कागजात मुझे आप व अन्य निदेशकों द्वारा मनमुटाव/समझौते के दौरान दिए गए थे। इसकी सत्यता के बारे में मुझे जानकारी नहीं है।

प्रश्न:-11. श्री सुनिल मेहता द्वारा : आपने पृष्ठ सं. 127 में Nature Farms में Sale बताया है एवं सारी खरीद एवं खर्च NF Hill Retreat में बताये हैं। तो क्या आप जिस तरह से Claim कर रहे हैं, SM Developer सिर्फ जमीन खरीदती थी, एवं SUMS Exim Pvt. Ltd. केवल जमीन बेचती थी?

उत्तर:- श्री संजय जैन द्वारा:- SUMS Exim Pvt. Ltd. एवं SM Developer दोनों ही जमीन खरीदने एवं बेचने का काम करती थी।

प्रश्न:-12. श्री सुनिल मेहता द्वारा : Page No. 127 पर दिये गये हिसाब से कुल लाभ रुपये 2,24,87,607/- हुआ है, तो आपने 4.00 Crore किस हिसाब से Surrender किये हैं? क्या आपके पास 4.00 Crore का कोई हिसाब या details है?

उत्तर:- श्री संजय जैन द्वारा:- उपरोक्त 4 करोड़ के सरेण्डर के बारे में अपने बयानों में बता रखा है।

प्रश्न:-13. श्री सुनिल मेहता द्वारा : आपके द्वारा 4 करोड़ की अघोषित आय का विवरण किन बयानों में और कब बताया गया था क्योंकि हमारे को आप द्वारा दिए गए बयानों की प्रतिलिपि इस बात का कहीं उल्लेख नहीं है। इस बात का उल्लेख अवश्य है कि आपने कहा कि इस का विवरण बाद में देंगे ?

उत्तर:- श्री संजय जैन द्वारा:- इसके बारे में हमारा जवाब हम माननीय समझौता आयोग के सम्मुख पेश कर चुके हैं।

प्रश्न:-14. श्री सुनिल मेहता द्वारा : मैं आपके समक्ष दो रसीदें प्रस्तुत कर रहा हूँ। क्या यह जमीन Aditya Mishra एवं Anil Verma या उनके परिचितों को Supreme Polymers Pvt. Ltd. ने बेची है?

उत्तर:- श्री संजय जैन द्वारा:- यह दोनों जमीनें Supreme Polymers Pvt. Ltd. ने सम्स एग्जिम से खरीद कर रिसेल में बेची है।

प्रश्न:-15. श्री सुनिल मेहता द्वारा : Neelam Gupta एवं Rajiv Gupta से आपके क्या सम्बन्ध है? क्या वह भी 2011 से पहले SUMS Exim Pvt. Ltd. एवं SM Developer की जमीनों के आसपास जमीनों की खरीद-बेचान का काम करते थे?



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उत्तर:- श्री संजय जैन द्वारा:- Neelam Gupta एवं Rajiv Gupta मेरे रिलेटिव हैं। हॉ, मेरी जानकारी में उन्होंने Sums Exim Pvt. Ltd. एवं SM Developer से जमीनों की खरीद-बेचान का काम किया था। इसके अलावा 2009 से पहले कुछ जमीन दूसरों से भी खरीद-बेचान किया हो सकता है।

प्रश्न:-16. श्री सुनिल मेहता द्वारा : आप द्वारा यह बताया है कि उपरोक्त प्रश्न संख्या 1 एवं अन्य कई प्रश्नों के उत्तर में यह बताया है कि उपरोक्त Seized Documents आपको मनमुटाव/समझौते के दौरान दिए गए थे। क्या आपके यहाँ या सुप्रीम पॉलीमर्स में उपरोक्त Seized Documents तैयार नहीं हुए ?

उत्तर:- श्री संजय जैन द्वारा:- नहीं, यह कागजात सुप्रीम पॉलीमर्स में तैयार नहीं हुए।

प्रश्न:-17. श्री सुनिल मेहता द्वारा : हम आपको annexure-A - exhibit-1 का पेज नम्बर 131 में 2.12.2006 में वर्णीत प्लॉट नम्बर 112 एवं प्लॉट नम्बर 113 का विवरण दिखा रहे हैं। जिसमें कि सुप्रीम पॉलीमर्स / गौरी मिश्रा एवं सुप्रीम पॉलीमर्स / कुसुम वर्मा लिखा है। कृपया बताएं यह कैसे सम्भव है।

उत्तर:- श्री संजय जैन द्वारा:- इस उपरोक्त प्रश्न के बारे में मैंने कोई बयान सर्च की कार्यवाही के दौरान नहीं दिया है अतः यह सवाल क्रॉस एग्जामिनेशन में नहीं पूछ सकते हैं।

प्रश्न:- 18. श्री सुनिल मेहता द्वारा : कृपया यह बताइये कि ऐसी कितनी Nature Farms के Plots को Sales है जिसका भुगतान सीधा आपके निजी खातों में गया है, जो कि Seized Documents में SUMS Exim को Sales दर्शायी गयी हैं।

उत्तर:- श्री संजय जैन द्वारा:- इस उपरोक्त प्रश्न के बारे में मैंने कोई बयान सर्च की कार्यवाही के दौरान नहीं दिया है अतः यह सवाल क्रॉस एग्जामिनेशन में नहीं पूछ सकते हैं।

प्रश्न:- 19. श्री सुनिल मेहता द्वारा : कृपया यह बताइये कि ऐसी कितनी Nature Farms Hill Retreat के Plots को Sales है जिसका भुगतान सीधा आपके निजी खातों में गया है, जो कि Seized Documents में S.M. Developer को Sales दर्शायी गयी हैं।

उत्तर:- श्री संजय जैन द्वारा:- इस उपरोक्त प्रश्न के बारे में मैंने कोई बयान सर्च की कार्यवाही के दौरान नहीं दिया है अतः यह सवाल क्रॉस एग्जामिनेशन में नहीं पूछ सकते हैं।

प्रश्न:- 20. श्री सुनिल मेहता द्वारा : इसी क्रम में यह बताइये कि ऐसे Nature Farms के कितने Plots की Sales है जिसका भुगतान सीधा आपकी अन्य कम्पनियों (जैसे कि Supreme Polymers Pvt. Ltd. एवं Siddarth Polysacks Pvt. Ltd.) में हुआ है, और Seized Documents में SUMS Exim को दर्शायी गयी है?

उत्तर:- श्री संजय जैन द्वारा:- इस उपरोक्त प्रश्न के बारे में मैंने कोई बयान सर्च की कार्यवाही के दौरान नहीं दिया है अतः यह सवाल क्रॉस एग्जामिनेशन में नहीं पूछ सकते हैं।

प्रश्न:- 21. श्री सुनिल मेहता द्वारा : आपने अपने 19/05/2011 के प्रश्न सं. 3 के जवाब में यह बताया कि Shrey's India Pvt. Ltd. में जब्त Soft Copy Sums Exim Pvt. Ltd. के तीनों Directors द्वारा बना कर भेजी गयी थी। आप बताये की तीनों Directors ने आपको Soft Copy या किसने आपको Soft Copy भेजी। क्योंकि हम तीनों Directors का यह कहना है कि May, 2008 से पहले तक सारा हिसाब-किताब आपके द्वारा एवं आपके Accountant Bhaskar Sharma द्वारा ही Supreme Polymers के पते पर किया जा रहा था। कृपया अपना स्पष्टीकरण दीजिये।



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उत्तर:- श्री संजय जैन द्वारा:- यह मुझे ध्यान नहीं है कि इन तीनों निदेशकों में से मुझे किसने Soft Copy भेजी थी । परन्तु सम्स एग्जिम / S.M. Developer का सारा हिसाब किताब सम्स एग्जिम / S.M. Developer के कार्यालय ए-1, यमुना पथ, सूरज नगर, पश्चिम में अकाउन्ट्स कार्यालय द्वारा बनाया जाता था ।

प्रश्न:- 22. श्री सुनिल मेहता द्वारा :आपके यहाँ से Seized Documents पर जगह-जगह अलग-अलग विवरण दिये है। Annexure-A, Exhibit-1 के पृष्ठ सं. 120-127 तक आपने Total Sellable Area कुल 354, 842. 140 बताया है, वही Annexure-AS, Exhibit-1, पृष्ठ सं. 6-8 पर आपने Total Sellable Area 334, 456.440 बताया है। जबकि Annexure-AS, Exhibit-1 में आपने Area Sold - 206, 457.480 बताया है। इसी प्रकार Annexure-A, Exhibit-1 में Balance Area 140, 059.070 बताया है जबकि Annexure-AS, Exhibit-1 में Balance Area 127, 998.660 बताया है। क्या यह कोई अलग-अलग Companies की Details है? अगर हाँ, तो किसके है? अगर नहीं, तो यह फर्क क्यों है?

उत्तर:- श्री संजय जैन द्वारा:-यह कागजात मुझे आप व अन्य निदेशकों द्वारा मनमुटाव/समझौते के दौरान दिए गए थे । इसकी सत्यता के बारे में मुझे जानकारी नहीं है ।

प्रश्न:- 23. श्री सुनिल मेहता द्वारा : आपने धारा 132(4) के तहत दिये गये Statement जैसे कि 29/4/2011 को दिये गये Statement में प्रश्न नं. 5 के जवाब में एवं धारा 131 में 2/5/2011 को दिये बयान को प्रश्न सं. 4 के जवाब में अपने प्रत्येक जगह यही कहा है कि अपने 4.00 करोड़ अधोषित आय कमाई है एवं Surrender की है। यह सही है?

उत्तर:- श्री संजय जैन द्वारा:- जी हाँ, मैंने यह बयानों में कहा है ।

प्रश्न:- 24. श्री सुनिल मेहता द्वारा : क्या इसी प्रकार आपने Settlement Commission को दी गयी Application में भी धारा 132 (4) में दिये गये Statement को दोहराया है। आपने Rule 9 की रिपोर्ट जो CIT ने दी थी। उसके जवाब में भी आपने द्वारा अर्जित अधोषित आय 4.00 करोड़ का Surrender का विवरण दिया है। आपने कहीं भी यह नहीं कहा है कि SUMS Exim Pvt. Ltd. या S.M. Developers ने कोई अधोषित आय अर्जित करी है। केवल जब ITSC में बहस के दौरान आपके द्वारा अधिकृत वकील/C.A. ने कहा कि कुल 16.00 करोड़ रूपयें कमाये है जिसमें से आपका 25 प्रतिशत हिस्सा 4.00 करोड़ होता है। क्या आप सही है या आपका वकील सही है?

उत्तर:- श्री संजय जैन द्वारा:- इस उपरोक्त प्रश्न के बारे में मैंने कोई बयान सर्च की कार्यवाही के दौरान नहीं दिया है अतः यह सवाल कोस एग्जामिनशन में नहीं पूछ सकते है ।

प्रश्न:- 25. श्री सुनिल मेहता द्वारा : क्या आपके पास या अधिकृत वकील/C.A. के पास अपने कथन के समर्थन में Detail है? (अगर आपका वकील/C.A. सही है तो क्या कारण है कि आपने 28/04/2011 में पड़े छापे के बाद से 2015 तक आप चुप रहे एवं चार वर्ष से ज्यादा समय गुजरने के बाद Aug./Sept. 2015 में आपने अपना बयान बदला है?

उत्तर:- श्री संजय जैन द्वारा:- इस उपरोक्त प्रश्न के बारे में मैंने कोई बयान सर्च की कार्यवाही के दौरान नहीं दिया है अतः यह सवाल कोस एग्जामिनशन में नहीं पूछ सकते है ।

प्रश्न:- 26. श्री सुनिल मेहता द्वारा : क्या आपके पास 2804/2011 के बाद अगस्त/सितम्बर 2015 के आसपास नयी जानकारी प्राप्त हुयी जिस कारण आपने अपना बयान बदला है? क्योंकि पहले सभी जगह अपने बयानों में और ITSC



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की Application में और Rule-9 की रिपोर्ट के जवाब तक में आपने कहा कि 4.00 करोड़ की अघोषित आय आपने स्वयं कमाई है। अगस्त/सितम्बर 2015 के बाद आपके अधिकृत वकील/C.A. ने बयान को बदल कर कहा कि SUMS EXIM PVT. LTD. & S.M. DEVELOPERS में कमाये गये अघोषित आय के 16.00 करोड़ में 25 प्रतिशत हिस्सा 4.00 करोड़ आपका है?

उत्तर:- श्री संजय जैन द्वारा:- इस उपरोक्त प्रश्न के बारे में मैंने कोई बयान सर्च की कार्यवाही के दौरान नहीं दिया है अतः यह सवाल कोस एग्जामिनशन में नहीं पूछ सकते है ।

प्रश्न:- 27. श्री सुनिल मेहता द्वारा : आपने उपरोक्त 4.00 करोड़ की अघोषित आय कब-कब कमाई है? आपने उपरोक्त 4.00 करोड़ की अघोषित आय कैसे-कैसे कमाई है?

उत्तर:- श्री संजय जैन द्वारा:- इस उपरोक्त प्रश्न के बारे में मैंने कोई बयान सर्च की कार्यवाही के दौरान नहीं दिया है अतः यह सवाल कोस एग्जामिनशन में नहीं पूछ सकते है । हालाकि यह जानकारी माननीय समझौता आयोग के समक्ष दी जा चुकी है ।

प्रश्न:- 28. श्री सुनिल मेहता द्वारा :ऐसे लगता है कि आपके आयकर रिटर्न के हिसाब से आप Mercantile System से Accounts Maintain करते है एवं आय घोषित करते हैं। क्या आप Mercantile System से Accounts Maintain करते है या Cash System से?

उत्तर:- श्री संजय जैन द्वारा:- इस उपरोक्त प्रश्न के बारे में मैंने कोई बयान सर्च की कार्यवाही के दौरान नहीं दिया है अतः यह सवाल कोस एग्जामिनशन में नहीं पूछ सकते है ।

प्रश्न:- 29. श्री सुनिल मेहता द्वारा :Seized Document के Annexure-A, Exhibit-1 के पृष्ठ सं. 123 पर Urshine Developers/Amit को Plot No 109 को Nature Farm Plot Status से बेचना बताया है जबकि हम एक Registry की Copy dated 21/02/2007 को प्रस्तुत कर रहे हैं जिसके अनुसार Siddharth Polysacks Pvt. Ltd. ने Urshine Developers को बेची है। क्या इस विक्रय का Urshine Developers द्वारा किया भुगतान रूपयें 17,02,400/- का Siddharth Polysacks Pvt. Ltd. को गया है या SUMS Exim Pvt. Ltd. को गया है? कृपया स्पष्ट करें।

उत्तर:- श्री संजय जैन द्वारा:- इस उपरोक्त प्रश्न के बारे में मैंने कोई बयान सर्च की कार्यवाही के दौरान नहीं दिया है अतः यह सवाल कोस एग्जामिनशन में नहीं पूछ सकते है ।

प्रश्न:- 30. श्री सुनिल मेहता द्वारा :आपके यहाँ से Seized Document Annexure-A, Exhibit-1, के पृष्ठ सं. -123 पर प्लॉट सं. 109 Urshine Developers को बेचने का जब यह सिद्ध हो गया कि Siddharth Polysacks Pvt. Ltd. ने बेचा है जो कि Registered Document से प्रमाणित भी होता है तो बताइये कि उपरोक्त Seized Document Siddharth Polysacks Pvt.Ltd. से सम्बन्धित है या नहीं? और नहीं है तो किस प्रकार से नहीं है?

उत्तर:- श्री संजय जैन द्वारा:- इस उपरोक्त प्रश्न के बारे में मैंने कोई बयान सर्च की कार्यवाही के दौरान नहीं दिया है अतः यह सवाल कोस एग्जामिनशन में नहीं पूछ सकते है ।

प्रश्न:- 31. श्री सुनिल मेहता द्वारा : क्या Siddharth Polysacks Pvt. Ltd. ने Plot 109 को विक्रय होने वाले लाभ पर Income Tax चुकाया है?



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उत्तर:- श्री संजय जैन द्वारा:- इस उपरोक्त प्रश्न के बारे में मैंने कोई बयान सर्च की कार्यवाही के दौरान नहीं दिया है अतः यह सवाल क्रोस एग्जामिनशन में नहीं पूछ सकते हैं ।

प्रश्न:- 32. श्री सुनिल मेहता द्वारा : आपने 29/04/2011 के दिये गये बयान को प्रश्न सं. 5 के जवाब में कहा कि आपको कुल 4.00 करोड़ का Profit हुआ है जिसकी Details देने का आपने धारा 132(4) में वादा किया था। क्या आपने वह Details आयकर विभाग को दी है? क्या वह Details आपके पास है? क्या आप बतायेंगे कि आपने या Supreme Polymers Pvt. Ltd. या Siddharth Polysacks Pvt. Ltd. के द्वारा बहुत सारे प्लॉट बेचना प्रमाणित होता है, और जिसका विवरण Seized Documents में भी है। क्या उपरोक्त 4.00 करोड़ के Surrender में वह उनकी अघोषित आय भी शामिल है?

उत्तर:- श्री संजय जैन द्वारा:- 4.00 करोड़ के Surrender बारे में हमारा जवाब हम माननीय समझौता आयोग के सम्मुख पेश कर चुके हैं । Supreme Polymers Pvt. Ltd. या Siddharth Polysacks Pvt. Ltd. के द्वारा रिसेल में बेचे हुए प्लॉटों के बेचान के बारे में सवाल क्रोस एग्जामिनशन में नहीं पूछ सकते हैं ।

**2.16.3 Dy Registrar/ Tehsildar Jamwa Ramgarh Dist Jaipur** vide letter dt 22/03/2017 has also submitted the detailed report pertaining to Khata Khesra No as mentioned in **Annexure-E** of the letter dt **11/11/2016**. Compliance made by the Tehsildar is summarized as under:

SUBJECT	As per Page No 127 SEIZED FROM THE PREMISES OF SANJAY JAIN	AS PER OUR RECORDS and accounts books and finding of the Ld. AO (SQ. YARDS)	AS PER REPORT OF THE TEHSILDAR
TOTAL SALE ABLE AREA SQ. YARDS	354,842.140	259,569.20	
SOLD AREA SQ. YARDS ON WHICH CONVERSION CHARGES CHARGED AND ALSO SOLD IN SQ. YARDS	214,783.070	Nil	Nil
SOLD AREA SQ. YARDS ON WHICH NO CONVERSION CHARGES CHARGED AND ALSO SOLD IN BIGHA/ BISWA (converted into sq yards for the sake of convenience of the deptt. only)	Nil	156,284.50	156284.50
BALANCE STOCK SQ. YARDS	140,059.070	103,284.70	

**2.16.4** A copy of the above factual reports has also been provided to the assessee through AR for giving a rejoinder to the report. **Shri B.P. Mundra, CA & AR** of the assessee submitted a rejoinder on **28.03.2017** with respect to specific Grounds of appeal. Relevant extracts of the rejoinder is reproduced here as under:

*".....With reference to above the assessee requested in connection with ground no. 1 & 2 that the seized documents belong to the business activities of Shri Sanjay Jain and group and are not related with the assessee. The Assessee submitted evidences also on dated 28.9.2016 earmarking as Annexure 1 to Annexure 35 (Total pages 448). In addition to the previous submissions made including on 28.09.2016, the assessee further submits as under.*

1. Ground No. 1 is as under :-

*Initiations of proceeding U/s 153A r.w.s. 153C of IT Act, 1961 is bad in law & facts.*



Your honour kindly note that the Hon'ble CIT Appeal sent the above Enquiry on dated 11.11.2016 (Kindly see page no. 13 of the Ld. CIT Appeal order wherein the above date is appearing.) and the Ld. AO submitted the Enquiry report after more than 4 months, i.e; on dated 24.03.2017 with detailed examination (Kindly see page no. 25 **POINT NO. 2.16.1** of the Ld. CIT Appeal order wherein the above date is appearing.). The brief of the same is as under:-

- 1) **Your honour kindly refer Ld. CIT Appeal order page no. 15- 20 point no. 2.1 wherein the Ld. AO was asked to furnish his factual comments on the issue of , AO is required lo offer his factual comments after conducting necessary inquiry on seized documents. YOUR HONOUR KINDLY SEE LD. CIT APPEAL ORDER PAGE NO. 25-30 POINT NO. 2.16.1 WHEREIN THE FACTUAL REPORT OF THE LD. AO ON SEIZED DOCUMENTS IS APPEARING. Your honour the Ld. AO conducted enquiry as well as issued summon u/s 131 of the IT Act and gave his report on each document that the documents could not be verified and therefore gave factual comments that no comments can therefore be offered on this documents being unverified. The Ld. CIT Appeals provided an opportunity to the Ld. AO that the Ld. AO may furnish additional documentary evidences to rebut assessee contention but the Ld. AO failed to rebut any contention of the assessee.**
- 2) Your Honour Kindly refer Ld. CIT Appeal order page no. 20 point no. 2.2 wherein the Ld. AO was asked to furnish his factual comments on the issue of to whom nature farm is relating? Whether to Sums Exim Pvt. Ltd. or SM Developers? Further page no. 31 to 38 of the Exhibit 1 of the Annexure AS are almost similar to page no. 120 to 126 and same addition on two places on the basis of same documents which is bad in law. Similarly Ld. CIT Appeal order page no. 20 point no. 2.3 wherein the Ld. AO was asked to furnish his factual comments on the issue of seized documents which are very different from the records of the assessee. The order of the Ld. AO was silent on both the issue. Hence, the Ld. CIT Appeals asked for factual comments u/s 250(4) of the act. Your Honour Kindly refer Ld. CIT Appeal order page no. 30 point no. 2.2 wherein the Ld. AO gave his finding that the said documents are not fresh evidences, Hence no further comments can be offered. Your honour these seized documents were not seized from the premises of the assessee rather they were seized from 3<sup>rd</sup> parties, since, the Ld. AO failed to discharge the primary obligation to prove that the seized documents are belonging to the assessee.
- 3) Your Honour, Kindly refer Ld CIT(A) order page no. 30 wherein point no. 2.4 regarding Kindly refer Ld CIT(A) order page no. 54-64 wherein point no. D regarding submitting of Tehsildar report. The relevant scanned portion is as under:-

**D. THE REPORT OF THE TEHSILDAR REGARDING THE PLOTS SOLD BY THE ASSESSEE CONFIRMS THE FACT THAT THE SEIZED DOCUMENTS DO NOT BELONG TO THE ASSESSEE.**

- i. *The Report of the Tehsildar is based on irrefutable facts which show that mostly all sales made by the Assessee during the period were of Agricultural land only and were through Registered Sale documents. The assessee also sold a very few residential plots which were bought by the assessee as Residential plots only and hence conversion charges were not applicable to the buyer. On the other hand, the seized documents show that all the sales made were of Converted Non- agricultural land sold through registered sale documents for which conversion charges were charged/collected.*
- ii. *The Report of the Tehsildar clearly shows that all agricultural land sold by the assessee was directly converted by the purchaser much after the purchase of the land, and the assessee never got any land converted for sale. The Conversion charges were directly paid by the purchaser to the relevant Government authorities in which the assessee had no role. On the other hand, the seized documents show the collection of Conversion charges. Your honour's kind attention is drawn towards the statement of Shri Sanjay Jain dated 19.5.2011 in reply to question no. 1 had stated that the documents [ Annexure -A, Exhibit-1 page no. 116] stated the following:*

“ हॉ , यह पेज संख्या 116 सर्च कार्यवाही के दौरान मेरे ही कार्यालय के कंप्यूटर से बरामद / जब्त किया गया है . इस पेज पैर जो विवरण दर्शाया गया है उसमे एक सारणी है , जिसके कॉलम मे क्रमशः जो विवरण लिखा है उसका क्रमानुसार विवरण – प्रथम कॉलम मे पार्टी / व्यक्ति का नाम जिसने मै0 सम्मस एक्सिम प्रा. लि. से प्लाट खरीदे हैं, दुसरे कॉलम मे प्लाट संख्या , तीसरे कॉलम मे प्लाट का क्षेत्रफल , चौथे कॉलम मे बेची गयी जमीन का क्षेत्रफल , पांचवे कॉलम मे बेची गयी भूमि की रेट , छठे कॉलम कॉलम मे कन्वर्शन चार्ज रेट प्रति वर्ग गज , सातवे कॉलम मे कुल रकम जिस पर भूमि बेची गयी, आठवे कॉलम मे कन्वर्शन चार्ज , नवे कॉलम मे भूमि बेचने के पेटे प्राप्त की गयी राशी, दशवे कॉलम मे कन्वर्शन से प्राप्त राशी ,इग्यरावे कॉलम मे बैलेंस, बारवे कॉलम मे कन्वर्शन बैलेंस दर्शाया गया है”

*It is clearly evident in the seized documents, as admitted by Shri Sanjay Jain in his aforesaid statement, that Conversion charges was collected from the buyers of the plots. From the report of the Tehsildar it is evident that the Assessee mostly sold AGRICULTURAL unconverted land or sold very few converted land which was purchased by the Assessee as a converted land only. Hence, the seized documents do not pertain to the Assessee but are a narration of the businesses of Shri Sanjay Jain and group who sold land after getting it converted. This is further confirmed by Shri Sanjay Jain, in his statement u/s section 131 dated 19.3.2017, where in reply to question no. 5 at Page No. 1 of 6, he categorically stated that:*

**Nature Farms** यह एक बड़ा फॉर्महाउस स्कीम दिल्ली रोड पर विकसित किया था इसमें जमीन खरीद कर उसका कृषि भूमि से रूपान्तरण करा कर छोटे-छोटे प्लॉट बनाकर बेचते थे ।

**Nature Farm Phase** के बारे में जानकारी नहीं है “

**Nature Farms Hill Retreat** यह एक बड़ा फॉर्महाउस स्कीम अचरोल गाँव पर विकसित किया था इसमें जमीन खरीद कर उसका कृषि भूमि से रूपान्तरण करा कर छोटे-छोटे प्लॉट बनाकर बेचते थे ।

*Hence, the seized papers are only a narration of the real estate businesses of Shri Sanjay Jain and Group as described by him in his various statements made u/s 131 of the I. T. Act. The Assessee never sold land after getting getting it converted.*

**MORE IMPORTANTLY, THE ASSESSEE OWNED “NATURE FARMS HILL RETREAT” IS SITUATED IN “ VILLAGE CHARANWAS A.K.A KALI PAHADI” FALLING UNDER TEHSIL JAMWA RAMGARH, JAIPUR RURAL, UNDER THE**



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**JURISDICTION OF JAIPUR COLLECTOR.** AS STATED BY SHRI SANJAY JAIN IN HIS STATEMENT MADE U/S 131 OF THE I.T. ACT ON 19.3.2017., THE "NATURE FARM HILL RETREAT" IS LOCATED IN ACHROL VILLAGE" WHICH COMES UNDER TEHSIL AMER, AND IS UNDER J.D.A. JURISDICTION AS URBAN AREA. VILLAGE ACHROL IS OVER 8 KMS AWAY FROM THE ASSESSEE OWNED "NATURE FARMS HILL RETREAT".

HENCE, THE "NATURE FARM HILL RETREAT" OF SHRI SANJAY JAIN & GROUP IS DIFFERENT AND DISTINCT FROM THE "NATURE FARMS HILL RETREAT" OF THE ASSESSEE. IT IS, THEREFORE, EVIDENT THAT REAL ESTATE OF SHRI SANJAY JAIN AND GROUP WAS DIFFERENT FROM THAT OF THE ASSESSEE, AND THE SEIZED DOCUMENTS PERTAIN TO THE BUSINESSES OF SHRI SANJAY JAIN & GROUP ONLY AS THE STATEMENTS OF SHRI SANJAY JAIN U/S 131 MATCHES WITH THE DOCUMENTS SEIZED FROM THE PREMISES OF SANJAY JAIN & GROUP, BUT DOES NOT AT ALL MATCH WITH THE BOOKS OF THE ASSESSEE.

- iii. That the Tehsildar report categorically shows that all land sold by the Assessee was Agricultural land with the measurement unit applicable was Biswa/ Bigha which is the legally applicable measurement unit for agricultural land. This exactly matches with sales made vide registered documents by the Assessee, copies of which have already been submitted by the assessee before your kind self. The books of the assessee are matching with the Tehsildar report, while not matching with the seized documents. This clearly implies that the seized documents do not pertain to the assessee.
- iv. Your kind attention is drawn to the following chart which clearly shows that all the conversions were done much after the sale, by the purchasers themselves.

## FOR VILLAGE CHAK CHARANWAS

S. No. in Tehsildar Report	date of sale/ Mutation	Nature /Type of land	sold to	Date of conversion	Our submission
1.	22.02.2006/ 8/5/2006	Agri./Barani 2	Monisha Khatwani	23.02.2010	Tehsildar's report is matching with the assessee's books but does not match with the seized documents in terms of nature of land, measurement unit applied, size of the plot, and the person to whom sold.
2.	20.02.2006/ 08.05.2006	Agri./ Barani 2	Priti Mehta	23.02.2010	Tehsildar's report is matching with the assessee's books but does not match with the seized documents in terms of nature of land, measurement unit applied, size of the plot, and the person to whom sold.
3.	20.02.2006/ 05.05.2007	Agri./Barani2	Chandraraj Bhandari	Not Specified	Tehsildar's report is matching with the assessee's books but does not match with the seized documents in terms of nature of land, measurement unit applied, size of the plot, and the person to whom sold.
4.	SALES NOT MADE BY THE ASSESSEE BUT BY SHRI DINESH GUPTA				Shri Dinesh Gupta is the real brother of Shri Sanjay Jain.



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S. No. in Tehsildar Report	date of sale/ Mutation	Nature /Type of land	sold to	Date of conversion	Our submission
5.	DETAILS OF PURCHASE MADE BY WHISPERING MEADOWS				
6.	20.03.2006/ 20.06.2006	Agri./Barani2	Amarnath Jain	2.12.2006	<i>Shri Amarnath Jain is the father of Shri Sanjay Jain.</i>
7.	N.S.	Agri./Barani2	Manisha Khatri	N.S.	<i>Tehsildar's report is matching with the assessee's books but does not match with the seized documents in terms of nature of land, measurement unit applied, size of the plot, and the person to whom sold.</i>
8.	20.03.2006/20.06.2006	Agri./Barani2	Chandraraj Bhanari	22.6.2007	<i>Tehsildar's report is matching with the assessee's books but does not match with the seized documents in terms of nature of land, measurement unit applied, size of the plot, and the person to whom sold.</i>
9.	Not related to the assessee(NRA)				
10.	NRA				THIS IS OF SALES MADE BY SHRI DINESH GUPTA, BROTHER OF SHRI SANJAY JAIN.
11.	NRA				
12.	15.04.2006/ 20.06.2006	Agri./Barani2	Rajiv, Sanjiv Bhargava	11.6.2006	<i>Tehsildar's report is matching with the assessee's books but does not match with the seized documents in terms of nature of land, measurement unit applied, &amp; the size of the plot.</i>
13.	NRA				
14.	15.4.2006/ 20.06.2006	Agri./Barani2	Urmila Singh	2.12.2006	<i>Tehsildar's report is matching with the assessee's books but does not match with the seized documents in terms of nature of land, measurement unit applied, size of the plot.</i>
15.	10.05.2006/ 20.06.2006	Agri./Barani2	Amarnath Khurana	2.12.2006	<i>Tehsildar's report is matching with the assessee's books but does not match with the seized documents in terms of nature of land, measurement unit applied, size of the plot, and the person to whom sold.</i>
16.	<b>NOT RELATED WITH ASSESSEE. (NRA)</b>				SALES MADE BY SHRI DINESH GUPTA, BROTHER OF SHRI SANJAY JAIN.
17.	NRA				SALES MADE BY SHRI DINESH GUPTA, BROTHER OF SHRI SANJAY JAIN.



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S. No. in Tehsildar Report	date of sale/ Mutation	Nature /Type of land	sold to	Date of conversion	Our submission
18.	NRA				
19.	10.07.2006/ 20.07.2006	Agri./Barani2	Sanjeev Maini	STILL NOT CONVERTED	<i>Tehsildar's report is matching with the assessee's books but does not match with the seized documents in terms of nature of land, measurement unit applied, size of the plot, and the person to whom sold.</i>
20.	NRA				
21.	NRA				
22.	22.07.2007/ 20.09.2007	Agri./Barani2	Whispering Meadows	23.2.2010	<i>Tehsildar's report is matching with the assessee's books but ..does not match with the seized documents in terms of nature of land, measurement unit applied, size of the plot, and the person to whom sold.</i>
23.	27.08.2007/ 20.9.2007	Agri./Barani2	Whispering Meadows	23.2.2010	<b>NOT RELATED WITH THE ASSESSEE</b>
24.	NRA				
25.	N.S.	Agri./Barani2	K.L. Bishnoi	STILL NOT CONVERTED	<b>NOT RELATED WITH THE ASSESSMENT YEARS.</b>
26.	4.11.2008	Agri./Barani2	Radha Rani	STILL NOT CONVERTED	<b>NOT RELATED WITH THE ASSESSMENT YEARS.</b>
27.	3.02.2012/ 07.05.2012	Agri./Barani2	Whispering Meadows	08.06.2015	<i>Tehsildar's report is matching with the assessee's books but does not match with the seized documents in terms of nature of land, measurement unit applied, size of the plot. SALES MADE TO SISTER COMPANY IN WHICH ALL DIRECTORS ARE COMMON.</i>
28.	NRA				
29.	4.11.2008/ 22.12.2008	Agri./Barani2	Pooja Rajput	STILL NOT CONVERTED	<i>Tehsildar's report is matching with the assessee's books but does not match with the seized documents in terms of nature of land, measurement unit applied, size of the plot, and the person to whom sold.</i> <b>ALSO NOT PART OF THE ASSESSMENT YEARS.</b>
30.	18.05.2006/ 20.07.2006	Agri./Dahari2	Chandrani Basu	11.04.2007	<i>Tehsildar's report is matching with the assessee's books but does not match with the seized documents in terms of nature of land, measurement unit applied, size of the plot.</i>
31.	16.10.2006/ 20.11.2006	Agri./Dahari 2	Sharda Bhandari	21.03.2007	<i>Tehsildar's report is matching with the assessee's books but does not match with the seized documents in terms of nature of land, measurement unit applied, size of the plot.</i>



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S. No. in Tehsildar Report	date of sale/ Mutation	Nature /Type of land	sold to	Date of conversion	Our submission
32.	16.10.2006/ 20.11.2006	Agri./Dahari 2	Surendra Singh	21.03.2007	<i>Tehsildar's report is matching with the assessee's books but does not match with the seized documents in terms of nature of land, measurement unit applied, size of the plot.</i>
33.	26.10.2006/ 20.11.2006	Agri./Dahari 2	Ritu Goyal	21.03.2007	<i>Tehsildar's report is matching with the assessee's books but does not match with the seized documents in terms of nature of land, measurement unit applied, size of the plot.</i>
34.	26.10.2006/ 20.11.2006	Agri./Dahari 2	Sukhveer Chug	21.03.2007	<i>Tehsildar's report is matching with the assessee's books but does not match with the seized documents in terms of nature of land, measurement unit applied, size of the plot, and the person to whom sold.</i>
35.	26.10.2006/ 20.11.2006	Agri./Dahari 2	Sukhveer Chug	STILL NOT CONVERTED	<i>Tehsildar's report is matching with the assessee's books but ..does not match with the seized documents in terms of nature of land, measurement unit applied, size of the plot, and the person to whom sold.</i>
36.	26.10.2006/ 10.11.2006	Agri./Dahari 2	Vaijanti Mala	21.03.2007	<i>Tehsildar's report is matching with the assessee's books but does not match with the seized documents in terms of nature of land, measurement unit applied, size of the plot.</i>
37.	13.11.2006/ 20.01.2007	Agri./Dahari 2	Manoj Kumar	21.3.2007	<i>Tehsildar's report is matching with the assessee's books but ..does not match with the seized documents in terms of nature of land, measurement unit applied, size of the plot, and the person to whom sold.</i>
38.	13.11.2006/ 20.01.2007	Agri./Dahari 2	Manoj Kumar	STILL NOT CONVERTED	<i>Tehsildar's report is matching with the assessee's books but ..does not match with the seized documents in terms of nature of land, measurement unit applied, size of the plot, and the person to whom sold.</i>
39.	13.11.2006/ 20.01.2007	Agri./Dahari 2	Sarita Aggarwal	11.04.2007	<i>Tehsildar's report is matching with the assessee's books but ..does not match with the seized documents in terms of nature of land, measurement unit applied, size of the plot.</i>
40.	13.11.2006/ 20.01.2007	Agri./Dahari 2	Sarita Aggarwal	11.04.2007	<i>Tehsildar's report is matching with the assessee's books but ..does not match with the seized documents in terms of nature of land, measurement unit applied, size of the plot.</i>
41.	02.12.2006/ 7.01.2007	Agri./Dahari 2	DeepMala	11.04.2007	<i>Tehsildar's report is matching with the assessee's books but does not match with the seized documents in terms of nature of land, measurement unit</i>



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S. No. in Tehsildar Report	date of sale/ Mutation	Nature /Type of land	sold to	Date of conversion	Our submission
					<i>applied, size of the plot.</i>
42.	02.02.2007/ 07.1.2007	Agri./Dahari 2	Manorma Gupta	11.04.2007	<i>Tehsildar's report is matching with the assessee's books but does not match with the seized documents in terms of nature of land, measurement unit applied, size of the plot.</i>
43.	8.3.2007/ 20.4.2007	Agri./Dahari 2	Anjul Gupta	21.10.2009	<i>Tehsildar's report is matching with the assessee's books but does not match with the seized documents in terms of nature of land, measurement unit applied, size of the plot.</i>
44.	31.01.2007/ 20.4.2007	Agri./Dahari 2	Bhaskar Sharma	STILL NOT CONVERTED	
45.	31.1.2007/ 20.2.2007	Agri./Dahari 2	Anup Aggarwal	STILL NOT CONVERTED	
46.	31.1.2007/ 20.2.2007	Agri./Dahari2	Brijmohan Aggarwal	22.12.2008	
47.	17.04.2007/ 20.4.2007	Agri./Dahari2	Neelam Saxena	STILL NOT CONVERTED	
48.	6.9.2012/ 5.10.2012	Agri./Dahari2	Malvika Kamath	STILL NOT CONVERTED	
49.	8.6.2014/ 21.7.2014	Agri./Dahari2	Balkrishna Khatwani	STILL NOT CONVERTED	
50.	26.07.2011/ 5.10.2011	Agri./Dahari2	Aryanish Patel	STILL NOT CONVERTED	
51.	26.7.2011/ 5.10.2011	Agri./Dahari2	Mukta Patel	STILL NOT CONVERTED	
52.	6.09.2012/ 5.10.2012	Agri./Dahari2	Pronoti Roy	STILL NOT CONVERTED	
53.	NRA	Agri./Dahari2			
54.	27.5.2006/ 8.05.2006	Agri./Dahari2	Suneil Sikka	01.3.2007	
55.	16.10.2002/ 20.11.2006	Agri./Dahari2	Dinesh Gupta	STILL NOT CONVERTED	
56.	2.12.2006/ 27.1.2007	Agri./Dahari2	Krishna devi	STILL NOT CONVERTED	
57.	8.3.2007/ 20.4.2007	Agri./Dahari2	GB Panda	STILL NOT CONVERTED	
58.	10.7.2006/ 5.9.2006	Agri./Chahi2	Akhil Babel	11.4.2007	
59.	10.7.2007/ 5.9.2006	Agri./Chahi 2	Krishna Nirvan	11.4.2007	
60.	2.12.2006/ 5.9.2006	Agri./Dahari2	Asha	STILL NOT	



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	5.7.2007		Maini	CONVERTED	
61.	NRA			STILL NOT CONVERTED	
62.	NRA			<b>PLOT SOLD BY SHRI DINESH GUPTA, BROTHER OF SHRI SANJAY JAIN</b>	
63.	24.8.2006/ 5.9.2006	Agri./Dahari2	Priti Mehta	STILL NOT CONVERTED	
64.	24.8.2006/ 5.9.2006	Agri./Dahari2	pawan Bansal	21.3.2007	
65.	24.8.2006/ 5.9.2006	Agri./Dahari2	Om Bansal	21.3.2007	
66.	16.10.2006/ 20.11.2006	Agri./Dahari2	Dinesh Gupta	STILL NOT CONVERTED	
67.	5.8.2007/ 5.7.2007	Agri./Barani2	Asha maini	NS	
68.	NRA	<b>SOLD BY SUPREME POLYMERS PVT. LTD</b>			<b><i>MATCHES WITH THE SEIZED DOCUMENTS as sales has been as converted land with measurement unit is Sq. Yards</i></b>
69.	NRA	sold by supreme polymers			<b><i>-Do-</i></b>
70.	NRA	<b>SOLD BY SIDDHARTH POLYSACKS</b>			<b><i>-DO-</i></b>
71.	13.12.2007/ 1.10.2008	Agri./Dahari2	R. SILE	STILL NOT CONVERTED	
72.	NRA	<b>SOLD BY SANJAY JAIN</b>			
73.	8.3.2007/ 20.4.2007	Agri./Dahari2	POOJA MITRA	STILL NOT CONVERTED	
74.	15.10.2007/ 21.11.2007	Agri./Dahari2	SUBHASH MATHUR	STILL NOT CONVERTED	
75.	20.10.2007/ 20.11.2007	Agri./Dahari2	Pushpa Saraogi	21.10.2009	
76.	NRA	Agri./Barani2			
77.	UNSOLD	Agri./Dahari2			
78.	UNSOLD	Agri./Dahari2			



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79.	UNSOLD	Agri./Dahari2			
80.	UNSOLD	Agri./Dahari2			
81.	20.6.2006/ 20.7.2006	Agri./Dahari2	SANJAY JAIN	STILL NOT CONVERTED	
82.	SOLD BY SANJAY JAIN				
83.	NRA	Agri./Dahari2			
84.	4.2.2012/ 7.5.102	Agri./Dahari2	JHUMA BHUMIK LODHA	STILL NOT CONVERTED	
85.	4.2.2012/ 7.5.2012	Agri./Dahari2	JHUMA BHUMIK LODHA	STILL NOT CONVERTED	
86.	NRA (MATTER OF FIR & COURT ORDERS)	Agri./Dahari2			
87.	27.10.2008/ 7.1.2009	Agri./Dahari2	ANIRUDH AGGARWAL	STILL NOT CONVERTED	

## FOR VILLAGE RAJPURWAS TALA

S.No. in Tehsildar Report	date of sale/Mutation	Nature/Type of land	sold to	Date of Conversion	Our Submission
1.	24.8.2006/ 27.1.2007	Agri./Barani2	Rajesh Gordan	Still Not converted	
2.	5.6.2007/ 5.7.2007	Agri./Barani2	Varsha Chajlani	Still Not converted	
3.	5.06.2007/ 05.07.2007	RESIDENTIAL	Neha duggar		Purchased by Assessee as converted Land & Sold as Converted Land. Hence, the assessee did not require to get any conversion done or take any conversion charges.
4.	23.07.2007/ 20.09.2007	RESIDENTIAL	Dolli Duggar		Purchased by Assessee as converted Land & Sold as Converted Land. Hence, the assessee did not require to get any conversion done or take any conversion charges.
5.	20.10.2007/ 20.11.2007	RESIDENTIAL	Ashok Kumar		Purchased by ssessee as converted Land & Sold as Converted Land. Hence, the assessee did not require to get any conversion done or take any conversion charges.
6.	20.10.2007/ 20.11.2007	RESIDENTIAL	Sushil Kumar Wali		Purchased by Assessee as converted Land & Sold as Converted Land. Hence, the



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S.No. in Tehsildar Report	date of sale/Mutation	Nature/Type of land	sold to	Date of Conversion	Our Submission
					assessee did not require to get any conversion done or take any conversion charges.
7.	18.09.2006/ 2.12.2006	RESIDENTIAL	NRA		These are purchase details of the assessee.
8.	18.09.2006/ 2.12.2006	Agri./Barani2	NRA		These are purchase details of the assessee.
9.	18.09.2006/ 2.12.2006	Agri./Barani2	NRA		These are purchase details of the assessee.
10.	09.09.2010/ 20.10.2010		Sold by Sanjay Jain to the assessee.		
11.	09.09.2010/ 20.10.2010		Sold by Sanjay Jain to Assessee.		
12.	23.05.2012/ 05.07.2012	Agri./Barani2	Ghanshyam Khatri	STILL NOT CONVERTED.	
13.	07.05.2005/ 26.08.2005	Agri./Dahari2	NOT RELATED WITH ASSESSEE.		
14	07.05.2005/ 26.08.2005	Agri./Dahari2	NOT RELATED WITH ASSESSEE		
15.	07.05.2005/ 26.08.2005	Agri./Dahari2	NOT RELATED WITH ASSESSEE		
16.	09.02.2011/ 05.08.2011	Agri./Barani2	Dr.Sudarshan Kumari	STILL NOT CONVERTED	
17.	07.05.2005/ 26.08.2005	Agri./ Barani2	NRA		
18.	07.05.2005/ 26.08.2005	Agri./ Barani2	RELATES TO THE ASSESSEE'S PURCHASE.		
19.	07.05.2005/ 26.08.2005	Agri./ Barani2	RELATES TO THE ASSESSEE'S PURCHASE		
20	22.10.2010/ 13.12.2010	Agri./Dahari2	Dr.Sudarshan Kumari	STILL NOT CONVERTED.	
21.	10.01.2011/ 05.10.2011	Agri./Dahari2	Surjit Kumar Jairath	STILL NOT CONVERTED.	
22.	17.04.2007/ 05.05.2007	Agri./Dahari2	RELATES TO THE PURCHASE MADE BY THE ASSESSEE.		



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S.No. in Tehsildar Report	date of sale/Mutation	Nature/Type of land	sold to	Date of Conversion	Our Submission
22.	07.06.2007/05.07.2007	Agri./ Barani2	Sushil Kumar Wali		Purchased by Assessee as converted Land & Sold as Converted Land. Hence, the assessee did not require to get any conversion done or take any conversion charges.
23.	17.04.2007/05.05.2007	Agri./ Barani2	RELATES TO THE PURCHASE MADE BY THE ASSESSEE.		
24.	17.04.2007/05.05.2007	Agri./ Barani2	RELATES TO THE PURCHASE MADE BY THE ASSESSEE.		
25.	22.10.2010/13.12.2010	RESIDENTIAL	Geeta Ahluwalia		Purchased by Assessee as converted Land & Sold as Converted Land. Hence, the assessee did not require to get any conversion done or take any conversion charges.
26.	04.12.2014/22.12.2014	Agri./ Banjad2	Pushpa Bhandari	STILL NOT CONVERTED.	
27.	05.06.2013/05.07.2013	Agri./ Banjad2	Shalini Khatri	STILL NOT CONVERTED.	
28.	29.07.2009/8.10.2009	Agri./ Banjad2	Vipin Sharma	STILL NOT CONVERTED.	
29.	05.08.2008/20.09.2008	Agri./ Banjad2	Rekha Gupta	STILL NOT CONVERTED.	
30.	19.07.2008/20.08.2008	Agri./ Banjad2	Rakesh Gupta	STILL NOT CONVERTED.	
30.	12.06.2013/05.07.2013		NOT RELATED WITH THE ASSESSEE.		
31.	05.08.2008/20.08.2008	Agri./Banjad2	Rekha Gupta	23.02.2009	
32 (i)	29.6.2009/8.10.2009	RESIDENTIAL	RITA CHARURVED I		Purchased by Assessee as converted Land & Sold as Converted Land. Hence, the assessee did not require to get any conversion done or take any conversion charges.
32(ii)	19.08.2010/13.12.2010	Agri./Banjad2	Jaspal Sigh Babra	Still not converted.	
33.	19.08.2010/13.12.2010	Agri./ Banjad2	Jaspal Singh Babra	Still not converted.	
34.	16.01.2006/20.02.2006	Agri./ Banjad2	Relates with the purchase of		



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S.No. in Tehsildar Report	date of sale/Mutation	Nature/Type of land	sold to	Date of Conversion	Our Submission
			the assessee.		
35.	03.03.2011/ 05.08.2011	Agri./ Banjad2	Shewta Agarwal	Still not converted.	
36.	07.06.2007/ 05.07.2007	Agri./ Banjad2	Rekha Rani Ojha	Still not converted.	
37.	07.06.2007/ 05.07.2007	Agri./ Banjad2	Rekha Rani Ojha	Still not converted.	
38.	05.06.2007/ 05.07.2007	Agri./ Banjad2	Relates with the purchase of the Assessee.		
39.	05.06.2007/05.0 7.2007	Agri./ Banjad2	Relates with the purchase of the Assessee.		
40	31.10.2008/05.0 2.2009	Agri./ Banjad2	Mantosh Das	Still Not Converted.	
41.	30.05.2005/25.0 8.2005	Agri./ Banjad2	Relates with the purchase of the Assessee.		
42.		Agri./ Banjad2	NRA.		

THE ASSESSEE HAS SUBMITTED A DETAILED CHART IN ITS WRITTEN SUBMISSION DATED 26/28. 09.2016 BEFORE YOUR GOOD SELF WHICH SHOWS HOW EACH ENTRY IN THE SEIZED DOCUMENTS IS VASTLY DIFFERENT FROM THE BOOKS AND THE REGISTERED DOCUMENTS OF THE ASSESSEE. THE SAME NOW STANDS CONFIRMED WITH THE REPORT OF THE TEHSILDAR, WHICH MATCHES WITH THE REGISTERED DOCUMENTS OF THE ASSESSEE BUT DOES NOT MATCH THE SEIZED DCOUMENTS. HENCE, THE SEIZED DCOUMENTS DO NOT MATCH WITH THE BOOKS OF THE ASSESSEE WHICH MATCH WITH THE RECORDS OF THE TEHSILDAR.

- v. That the report of the Tehsildar is completely different from the seized documents in terms of nature of the land sold, size of the plot sold, measurement unit applied, etc.. The report of the Tehsildar is matching with the books of the assessee wherever the sale made by the assessee has been shown. There is no evidence in the tehsildar report which shows that the Assessee purchased Agriculture land, then converted it for non-agricultural use, and then sold as small-small plots to the buyers as stated by Shri Sanjay Jain in his statement dated 19.3.2017 u/s 131 of the Act. The name of the assessee is appearing in various places of the Tehsildar Report. All details relating to the assessee is matching with the books of the accounts of the assessee. In the case of the assessee, the Tehsildar report clearly shows that all conversions happened after the land was sold, and after the mutation was opened in the government records in the name of the purchaser. The assessee never got any conversions done prior to or during making any sales. The assessee only sold Converted land which it had purchased as converted land only, which is in very few numbers. **The Ld. AO had not given any adverse finding thereon neither during assessment proceedings nor during the proceedings u/s 250(4).** On the other hand, in the parallel real estate business run by Shri Sanjay Jain and Group, (as admitted and confirmed by Shri Sanjay Jain in his various statements u/s 132(4), and 131 of the Act), they bought agriculture land, and then got it converted ("इसमें जमीन खरीद कर उसका कृषि भूमि से रूपांतरण करा कर छोटे-छोटे प्लॉट बनाकर बेचते थे") from agriculture land and sold it as small- small plots. This matches with the seized documents which show conversion charges on each sale. Hence, while the seized documents do not pertain to the assessee, and they are clearly a narration of the real estate business of Sanjay Jain and group only. The report of the Tehsildar also confirms this fact.



- 4) Your Honour, Kindly refer Ld CIT(A) order page no. 30 wherein point no. 2.5 regarding Kindly refer Ld CIT(A) order page no. 66-74 wherein point no. F & G regarding Shri Sanjay Jain statement and reply of questioning in cross examination by Shri Sunil Mehta. The relevant scanned portion is as under:-

*F. THAT SANJAY JAIN AND GROUP HAVE OBTAINED ORDERS FROM HON. INCOME TAX SETTLEMENT COMMISSION (ITSC) BY MISREPRESENTATION & FRAUD.*

- a) *That nowhere in the Application of Shri Sanjay Jain & Group there was a " full and Complete disclosure".*
- i) *Shri Sanjay Jain & Group did not show anywhere in his application with the ITSC as to how, when, and from whom was the unaccounted of Rs.4.00 crore earned. No details of the unaccounted income of Rs. 4.00 crore has been provided in the application.*
- ii) *That Shri Sanjay Jain has shown NIL income during the AY 2006-07, 2007-08 and 2008-09- the time when he was the Director in the Assessee company from where he had to resign and flee in April, 2008 when he found to have committed gross financial irregularities, fraud, and forgery. It was only in the year AY 2009-10 when he has declared to have earned the accounted income, a period when he was not a part of the assessee company. Hence, the ITSC seriously erred in treating the unaccounted income earned by a former Director to be belonging to the assessee company.*

*Your honour's kind attention is drawn towards the statement of Shri sanjay Jain made on 19.05.2011 u/s 131 of the I.T. Act where in had stated in response to question no.3 at Page no. 4:*

*" इस कंपनी से जनवरी 2009 से अपनी शेयर होल्डिंग कंपनी के बाकी निदेशकों को दे दी थी परन्तु मैंने कंपनी में काम करना मई 2008 से ही बंद कर दिया था " .*

- iii) *That during the Cross Examination of Shri Sanjay Jain on 19.03.2017, your honour's kind attention is drawn towards the question no. 27 and the reply given by Shri Sanjay Jain:*

*"प्रश्न- 27. श्री सुनिल मेहता द्वारा : आपने उपरोक्त 4.00 करोड़ की अधोषिक्त आय कब-कब कमाई है? आपने उपरोक्त 4.00 करोड़ की अधोषिक्त आय कैसे-कैसे कमाई है?*

*उत्तर- श्री संजय जैन द्वारा- इस उपरोक्त प्रश्न के बारे में मैंने कोई बयान सर्च की कार्यवाही के दौरान नहीं दिया है अतः यह सवाल कोस एग्जामिनशन में नहीं पूछ सकते हैं । हालांकि यह जानकारी माननीय समझौता आयोग के सम्मक्ष दी जा चुकी है ।*

**And in reply to cross examination question no. 32, Shri Sanjay Jain replied:**

*उत्तर- श्री संजय जैन द्वारा- 4.00 करोड़ के Surrender बारे में हमारा जवाब हम माननीय समझौता आयोग के सम्मुख पेश कर चुके हैं । Supreme Polymers Pvt. Ltd. या Siddharth Polysacks Pvt. Ltd. के द्वारा रिसेल में बेचे हुए प्लॉटों के बेचान के बारे में सवाल कोस एग्जामिनशन में नहीं पूछ सकते हैं ।*

*Your honour, Shri Sanjay Jain's statement that he has given the details to the Hon. ITSC which is a blatant lie. Your honour can examine for your kind self that no such details, as to how, from whom, and the manner in which the unaccounted income of Rs4.00 crore has been earned, have been provided before the Hon. ITSC by Shri Sanjay Jain. NO DETAILS OF THE MANNER IN WHICH THE UNACCOUNTED RS.4.00 CRORES HAVE BEEN EARNED BY SHRI SANJAY JAIN HAS PROVIDED BEFORE THE HON. ITSC Hence, evidently the order was obtained by Shri Sanjay Jain through "fraud and misrepresentation" before the ITSC, and in gross violation of the I.T. Act.*

- iv) *That on all occasions from day of the search and seizure operations carried out at his premises till his written statement before the Hon. ITSC, nowhere has Shri Sanjay Jain stated that the Assessee has earned any unaccounted income. Shri Sanjay Jain has only stated that he has earned an unaccounted income of Rs. 4.00 crores. The following statements of Shri Sanjay Jain given u/s 132 (4) and 131 of the I.T. Act, are reproduced as under:*



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- i. In the statement dated 29.4.2011 under section 132(4) of the I.T. Act wherein in response to question no. 5, Shri Sanjay Jain stated:

"यह जमीन बेचते समय sale amount का कुछ हिस्सा नकद में लिया गया था। इस नकद राशि को further जमीन खरीदने के लिए use किया गया था। फिर भी मेरे हिसाब से इन projects से मुझे चार करोड़ का लाभ हुआ और इसे मैंने आगे जमीन खरीद के लिए अग्रिम दे रखे हैं। इसकी details मैं आपको प्रस्तुत कर दूंगा।"

In the aforesaid statement given u/s 132(4) Shri Sanjay Jain has admitted of his earning of Rs.4.00 crore which he has paid advance for purchase of land. Nowhere, has Shri Sanjay Jain stated that the money was earned by the assessee. Infact, Shri Sanjay Jain has categorically stated that "मेरे हिसाब से इन projects से मुझे चार करोड़ का लाभ हुआ" which shows that money was earned by Shri Sanjay Jain in the name of the Assessee's projects. No details have been provided by Shri Sanjay Jain as to whom he has paid advance to, and for purchase of which land. This is also the finding of the Ld. A.O. in its Assessment Order.

- ii. In the statement dated 2.05.2011 under section 131 of the I.T. Act wherein in response to question no. 4, Shri Sanjay Jain stated:

"जी हाँ, मैंने नेचर फार्म , दिल्ली रोड पर डुवलप एवं प्रोमोट की गयी जमीन से कुल लाभ रूपए 4.00 करोड़ अघोषित आय मानते हुवे इसे नियमानुसार करारोपण हेतु आज भी वचनबद हूँ तथा भविष्य में भी उक्त तथ्य पर कायम रहूँगा ."

In the aforesaid statement, Shri Sanjay Jain has nowhere stated that the assessee has earned any unaccounted income. In fact, he has admitted that he has earned the unaccounted income of Rs.4.00 crores in the name of the assessee's projects. The Ld. A.O. in its Assessment Order has given a similar finding.

- iii. Your honour's kind attention towards the application of Shri Sanjay Jain & Group before the Hon. ITSC, wherein it has been stated as under on page 9 at para no. 3 of the said application:

"The manner of earning such income as already explained in my statement u/s 132(4) of the Act is activity of sale of plots of Sums Exim Pvt. Ltd., and other undisclosed activity undertaken in individual hands as per loose papers/documents. Such activity in the individual hands related to dealing with scrap etc. it may be mentioned that I have owned up all the incriminating loose papers and also undisclosed activity as well as undisclosed income appearing in the documents in respect of search survey at my residence, residence of Lal Singh Sisodia, Sunil Aggarwal, and at factory premises of Supreme Polymers Pvt. Ltd. and survey at the factory cum office premises of our group company namely:

- i. M/s Shreys India Pvt. Ltd.
- ii. M/s Aliance Polysacks Pvt. Ltd.
- iii. M/S Star Global Endura Limited
- iv. M/S Sidharth Polysacks Private Limited.

Such income has been utilized in the above mentioned applications and therefore such income from the seized documents is not required to be considered separately."

Your honour, in the aforesaid application of Shri Sanjay Jain before the Hon. ITSC, he has nowhere stated that any undisclosed income was earned by the Assessee. However, Shri Sanjay Jain has owned up the responsibility of all the incriminating documents, loose papers, etc which he shown as invested in his enterprises unrelated with the assessee. Hence, it is abundantly clear that the seized documents pertained to Shri Sanjay Jain & group, and did not pertain to the assessee.

- G. THE STATEMENTS GIVEN BY SHRI SANJAY JAIN U/S 132(4), 131, AND DURING THE CROSS EXAMINATION BY SHRI SUNIL MEHTA, ARE SELF CONTRADICTING, EVASIVE, UNTRUTHFUL, AND MISLEADING. HENCE, THEREFORE, THE STATEMENTS MADE BY SHRI SANJAY JAIN ARE NOT CREDIBLE AND NO RELAINCE CAN BE PLACED UPON THEM.



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The assessee would like to draw your honour's kind attentions towards the various statements made by Shri Sanjay Jain which are evidently untrue, contradicting, and evasive.

- i. *In the statements given by Shri Sanjay Jain under section 131 of the Act on 19.3.2017, the assessee submits as under.*

Question no.3. u/s 131 dated 19.3.2017.	Nature Farm, project को विकसित करने में आपकी भूमिका क्या रही?
उत्तर	Nature Farm, project को विकसित करने में मेरी सीमित भूमिका थी। क्योंकि मैं उपरोक्त कम्पनियों में निदेशक होने के कारण वहाँ का मुख्य कार्य देखता था। इसलिए नैडै मॉपुं पर बहुत कम समय दे पाता था। चतवरमबज विकसित होने के बाद अपने जानकार लोगों चतवरमबज के बारे में बताने तक सीमित था। इसके अलावा इस कम्पनी के बैंक से संबंधित कार्य मैं देखता था।
Our Submission	With reference to the reply of Shri Sanjay Jain, your honour's attention is drawn towards the fact that Sanjay Jain was a Whole time director drawing remuneration, and was the sole signatory to all bank accounts of the assessee, and who was exclusively handling all financial matters, and a key person till his unceremonious exit from the assessee company in April,2008. The finding of the department also confirms our contention that Shri Sanjay Jain was a key person and a Director in the Assessee company.  Your honour may note that Shri Sanjay Jain has deliberately and knowingly misled the department.
Question no.4. u/s 131 dated 19.3.2017	कृपया बताए कि 1. SUMS PL अथवा SUMS PL कौनसी कम्पनी है तथा इनमें क्या काम होता था। आपकी इनमें क्या भूमिका थी।
उत्तर	मेरी जानकारी में 1. SUMS PL अथवा SUMS PL इस नाम से कोई कम्पनी नहीं थी। यह SUMS Exims Pvt. Ltd. का Short form हो सकता है।
Our Submission	Your honour's kind attention is drawn to the order of the Ld. AO in which the Ld. AO clearly stated that the income has been earned by Sanjay Jain and had not given any finding that the assessee was using short forms of the name of the assessee like 1. SUMS PL अथवा SUMS PL. In his application before the Hon. ITSC, Shri Sanjay Jain has owned all documents seized from his premises as his own. Hence, the statement of Shri Sanjay Jain is once again contradicting his own written statement.  In the course of this submission, it has been proven that the seized documents did not pertain to the assessee but in fact belonged to the Sanjay Jain and Group. Your honour may note that Shri Sanjay Jain has deliberately and knowingly misled the department.
Question no.5. u/s 131 dated 19.3.2017	कृपया Nature Farms, Nature Farm Phase & Nature Farms Hill Retreat के बारे में विस्तार से बताएं?
उत्तर	Nature Farms यह एक बड़ा फॉर्महाउस स्कीम दिल्ली रोड़ पर विकसित किया था इसमें जमीन खरीद कर उसका कृषि भूमि



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	<p>से रुपान्तरण करा कर छोटे-छोटे प्लॉट बनाकर बेचते थे ।</p> <p>Nature Farm Phase के बारे में जानकारी नहीं है</p> <p>Nature Farms Hill Retreat यह एक बड़ा फॉर्महाउस स्कीम अचरोल गाँव पर विकसित किया था इसमें जमीन खरीद कर उसका कृषि भूमि से रुपान्तरण करा कर छोटे-छोटे प्लॉट बनाकर बेचते थे ।</p>
Our Submission	<p>Your honour the report of the Tehsildar confirms the contention of Shri Sanjay Jain that whatever Shri Sanjay Jain or his group sold was only as converted land. Mr. Sanjay Jain and his group were also using the name "Nature Farms", "Nature Farm Phase", "Nature Farms Hill Retreat", and "NF Hill Retreat".</p> <p>Your honour's attention is drawn to the reply of Shri Sanjay Jain wherein he has stated that his group sold land after getting it converted. The seized documents also contain narration of sale of converted plots only. The Assessee company only sold unconverted land as is evident from the books of accounts of the Assessee Company, the copies of the registered sale Deeds already submitted with your honour, and which can also be further verified and confirmed from the land records from the Office of the Tehsildar, Jamwa Ramgarh, Jaipur.</p> <p>The Assessee never got land converted to Non Agricultural use. The land sold by the assessee was of the same nature in which the Assessee had purchased the land. If the assessee had purchased agricultural land, then the land was sold as Agricultural land only. If the assessee had purchased residential land, then the land was sold as residential land only.</p> <p>While the land sold as per the seized documents show that the land was converted prior to the sale and for which conversion charges were charged from the purchasers. This has been confirmed by Shri Sanjay Jain in his statement dated 19/03/2017 taken u/s 131 of the I.T. Act wherein he has categorically stated against question No. 5 that his company bought land and sold it as small plots only after getting it converted. Infact, the documents seized from the premises of Sanjay Jain also clearly show that the sold plots shown in the seized documents were of converted plots for which Conversion Charges were charged from the buyers of the plots.</p> <p>Shri Sanjay Jain, in his statement dated 19.5.2011 in reply to question no. 1 had stated that the documents ( Annexure –A, Exhibit-1 page no. 116) seized from his premises contained in Column No. 6 "Conversion charges rate per sq. yard"; at Column No.8 " Conversion Charges"; at Column No.10 "Conversion Amount Received"; and at Column No.12 " Conversion Amount Balance".</p> <p>The Assessee company bought and sold UNCONVERTED LAND only. Hence, the documents seized from the premises of Shri Sanjay Jain do not pertain to the Assessee Company.</p> <p>In the case of the Assessee Company only some buyers who had purchased Agricultural land, had directly and in their own name, later obtained the conversion orders much after the purchase of the land, and for which made the payment of the requisite conversion charges directly to the relevant authority.</p> <p>Hence, it is abundantly clear that the documents seized from the premises of Sanjay Jain and others do not pertain to the Assessee Company, but are a narration of the businesses of Shri sanjay Jain and Group.</p>
Question no.12. u/s 131 dated 19.3.2017	कृपया बताएं <b>SUMS Exims</b> में कोई बेची गई जमीन के पेटे नकद राशि भी प्राप्त की जाती थी या नहीं?
उत्तर	नहीं, ऐसी मेरे पास कोई जानकारी नहीं है ।
Our Submission	<b>Shri Sanjay Jain has once again given misleading and evasive answers. Your honour's kind attention is drawn towards the following statements given by Shri Sanjay Jain:</b>



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	<p>i) Statement dated 29.4.2011 under section 132(4) of the I.T.Act wherein in response to question no. 5, Shri Sanjay Jain stated: "यह जमीन बेचते समय sale amount का कुछ हिस्सा नकद में लिया गया था। इस नकद राशि को further जमीन खरीदने के लिए use किया गया था। फिर भी मेरे हिसाब से इन projects से मुझे चार करोड़ का लाभ हुआ और इसे मैंने आगे जमीन खरीद के लिए अग्रिम दे रखे हैं। इसकी details मैं आपको प्रस्तुत कर दूंगा।"</p> <p>ii) Statement dated 2.5.2011 u/s 131 of the I.T. Act, wherein Shri Sanjay Jain stated in response to question no.5: " जी हां, मैं आज दिनांक 2.05.2011 को भी विभिन्न परिसर्स / प्रीमिसेस पर सर्च / सर्वे की कार्यवाही के दौरान बहुत सारे ऐसे लेन देन एवं दस्तावेज पाये गए हैं, जिसका स्पष्टीकरण देने में मैं असमर्थ रहा हूँ। इन दस्तावेजों में कई प्रकार की नकद प्राप्ति , नकद खर्च जैसे लेन देन भी दर्ज हैं...."।</p> <p>iii) Statement dated 19.5.2011 u/s 131 of the I.T. Act, wherein Shri Sanjay Jain stated in response to question no.5: " मैंने उक्त पेज संख्या 29 से 54, 55 से 62, 63 व 64 अच्छी तरह देख लिए हैं इन पेजों पर मैं 0 समस् कंपनी में विभिन्न व्यक्तियों/पार्टियों द्वारा प्लॉटों के पेटे नकद एवं बैंक किये गए भुगतान व प्राप्तियों का विवरण है। जिसमें कुछ लोग मेरे परिचित भी हैं।"</p> <p>Your honour it is abundantly clear from the statements given by Shri Sanjay Jain u/s 132(4) and 131 of the I.T. Act that he took cash payments against sale of plots. Shri Sanjay Jain is now deliberately giving misleading statements which proves that the credibility of Shri Sanjay Jain's statement is highly doubtful.</p>
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<p>Question no.13. u/s 131 dated 19.3.2017</p>	<p>आपके यहां तलाशी की कार्यवाही के दौरान जब कागजातों से ज्ञात होता है कि आपके द्वारा प्राप्त नकद राशि को SUMS Exims एवं S.M. Developers में निवेश दर्शाया जाता था। इस बारे में आपको क्या कहना है?</p>
<p>उत्तर</p>	<p>तलाशी की कार्यवाही के दौरान जब कागजात मेरे SUMS Exims एवं S.M. Developers छोड़ने के बाद आपस में झगड़ों के दौरान 2009-10 में SUMS Exims एवं S.M. Developers निदेशकों द्वारा बनाए गए थे तथा समझौते के समय आपसी हिसाब के लिए उनके द्वारा दिए गए थे ।</p>
<p>Our Submission</p>	<p>We would like to draw your honour's kind attention to the fact that Shri Sanjay Jain has, while making evasive replies, tried to give false and misleading information. The reply of Sanjay Jain is in contradiction with his earlier statements given u/s 132(4) and 131 of the I.T. Act. The Assessee would like to furnish several proofs in this regard. Your kind attention is drawn towards the following:</p> <p>i) Statement dated 29.4.2011 under section 132(4) of the I.T.Act wherein in response to question no. 5, Shri Sanjay Jain stated: "यह जमीन बेचते समय sale amount का कुछ हिस्सा नकद में लिया गया था। इस नकद राशि को further जमीन खरीदने के लिए use किया गया था। फिर भी मेरे हिसाब से इन projects से मुझे चार करोड़ का लाभ हुआ और इसे मैंने आगे जमीन खरीद के लिए अग्रिम दे रखे हैं। इसकी details मैं आपको प्रस्तुत कर दूंगा।"</p> <p>Further, the statement made by Shri Sanjay Jain that the seized documents were received by him by the Directors of SUMS Exim &amp; S.M. Developers wherein he has stated "तलाशी की कार्यवाही के दौरान जब कागजात मेरे SUMS Exims एवं S.M. Developers छोड़ने के बाद आपस में झगड़ों के दौरान 2009-10 में SUMS Exims एवं S.M. Developers निदेशकों द्वारा बनाए गए थे तथा समझौते के समय आपसी हिसाब के लिए उनके द्वारा दिए गए थे" , are nothing but a bunch of lies and misinformation which runs contrary to his own admissions and statements. Furthermore, he states the date as 2009-10 of receiving the documents, and also further states that the documents were received by him during the MOU which was signed on 9.9.2010 ( FY 2010-11). This shows an inherent</p>



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	<p>contradiction in his own reply. The Assessee would like to furnish statements of Sanjay Jain which are in contradiction of the replies given by him.</p> <p>ii) Statement dated 19.5.2011 under section 131 of the I.T.Act wherein in response to question no. 2, Shri Sanjay Jain stated:</p> <p>" मुझे उक्त संदर्भित पेपर्स कंपनी से उस समय प्राप्त हुए जब मेरा और कंपनी के अन्य निदेशकों का आपस में मनमुटाव व मतभेद चल रहा था यह करीब सितम्बर 2008 के समय की बात है "</p> <p>The untruthfulness of the statements of Shri Sanjay Jain is very apparent simply because at the time of मनमुटाव व मतभेद, especially when the other Directors of the company were filing FIRs against him for fraud and cheating, there was no plausible reason as to why the other Directors would send the documents to him. Further, Sanjay Jain and Bhaskar Sharma have themselves stated that the account was maintained by Bhaskar Sharma in the office of Supreme Polymers. There is not a shred of evidence in support of the false statements made by Sanjay Jain. In the Memorandum of Understanding (MOU) there is no mention of giving documents whatsoever.</p> <p>Furthermore, nowhere in his other statements dated under section 132(4) and 131 of the I.T.Act, Sanjay Jain has mentioned anything about receiving documents from the other Directors of SUMS Exim Pvt.Ltd. Hence, it is an afterthought to shift the onus of his own documents, which carried the details of his own unaccounted income and which were seized from his own premises, to Directors of SUMS Exim P. Ltd.. The Ld. AO in its Assessment Order also gave a finding that Shri Sanjay Jain earned the unaccounted income in the name of the Assessee.</p> <p><b>YOUR HONOUR IS REQUESTED TO KINDLY SEE THE PARA NO. 1.1 OF THIS SUBMISSION WHERE IN THIS MATTER HAS BEEN EXPLAINED IN DETAIL.</b></p>
Question no.18. u/s 131 dated 19.3.2017	<p>तलाशी के दौरान जब किये गये Annexure-AS, Exhibit-2 के पृष्ठ सं. 64 की प्रति आपके अवलोकनार्थ प्रस्तुत है। इनके अनुसार आप द्वारा रुपये 9 लाख की राशि प्राप्त की है जो किती मोहित को transfer भी की है। साथ ही एक अन्य प्रविष्टी के अनुसार आप द्वारा श्री राजीव गुप्ता से 10 लाख रुपये की नकद राशि प्राप्त की है। इस जतदंबजपवदे का प्रयोजन विस्तारपूर्वक बताइये। यह भी बताइये कि श्री राजीव गुप्ता एवं श्रीमती नीलम गुप्ता का आपके व्यापारिक कार्यकलापों में किस प्रकार का योगदान रहा है।</p>
SHRI SANJAY JAIN'S REPLY	<p>यह SUMS Exims के खाते हैं गुझे इस तरह के transactions की जानकारी नहीं है। यह सारे कागजात हमें बाकी निदेशकों ने समझौते के दौरान वर्ष 2009-10 में दिए थे तथा समझौते के समय आपसी हिसाब के लिए उनके द्वारा दिए गए थे। श्री राजीव गुप्ता एवं श्रीमती नीलम गुप्ता का मेरे व्यापारिक कार्यकलापों में कोई योगदान नहीं है।</p>
Our Submission	<p>Your honour's kind attention is drawn towards the fact that Neelam Gupta is the biological sister of Shri Sanjay Jain, and Shri Rajiv Gupta is her husband. Neelam Gupta and Rajiv Gupta did real estate business of purchasing and selling land near the Assessee owned "Nature Farms" and "Nature Farms Hill Retreat". Sanjay Jain's biological brother, Shri Dinesh Gupta also did the business of Purchase and sale of plots near the Assessee owned "Nature Farms" and "Nature Farms Hill Retreat", as well as in the Sanjay Jain &amp; Group's real estate projects.</p> <p>That Shri Sanjay Jain and his relatives carried out business of buying and selling land in and around the Assessee owned "Nature Farms" &amp; "Nature Farms Hill Retreat". This fact was reconfirmed by Shri Sanjay Jain during his cross questioning on the 19/03/2017. Please see the following documents in support of the fact that businesses were infact the BENAMI transactions of Shri Sanjay Jain himself. The seized documents are replete with details where cash and cheques have exchanged hands between Shri Sanjay Jain, on one hand and his relatives on the other, and for which no rationale has been provided for such transactions.</p> <p>i) Registered Purchase Deed dated 12/12/2005 wherein Smt. Neelam Gupta has purchased 5 BIGHAS of land in Village Chak Charanwas for Rs.200,000/- in the area adjoining S.M. developers owned "Nature Farms Hill Retreat".(Please see ANNEXURE ).</p> <p>ii) That in one Registered sale deed dated 16.10.2006 of Shri Dinesh Gupta (biological real brother of Shri Sanjay Jain) has been shown as son of Shri Nandan Gupta resident of S.A. 98, Shashtri Nagar, Ghaziabad (UP), while in other Registered sale deed dated 25.04.2008 of Smt. Aruna Devi ( Biological and real mother of Shri Sanjay Jain, has been shown as wife of Shri Nandan Jain, resident of S.A. 98, Shashtri Nagar, Ghaziabad (UP). Hence, in one registered document Shri Sanjay Jain's biological father has been shown as Shri Nandan Gupta while in the other it has been shown as Shri Nandan Jain, both having the same residential address. This clearly implies that Shri Sanjay Jain wanted to conceal the true identity of the buyer simply for the reason that he was the BENAMI buyer. (Please see ANNEXURES &amp; ).</p>



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Q. No. 20 u/s 131 dated 19.3.2017	तलाशी के दौरान जब्त किये गये Annexure-AS, Exhibit-2 के पृष्ठ सं 50 की प्रति आपके अवलोकनार्थ प्रस्तुत है। इनके अनुसार आप द्वारा श्रीमती अरुणा देवी जैन से नकद 2 लाख रुपये एवं एक अन्य चैक प्राप्त किया गया है। इनके बारे में बताइये?
उत्तर	मेरे द्वारा कोई चैक नहीं प्राप्त किया है अगर कोई चैक प्राप्त किया गया होगा तो वह कम्पनी द्वारा प्राप्त किया गया होगा तथा Sums Exims के खाते में जमा किया गया होगा।
Our Submission	Your honours kind attention is drawn towards the evasive reply by Shri Sanjay Jain in response to the query related to cash receipts from Smt. Aruna Devi Jain. Shri Sanjay Jain has stated that if any cheque was received it would have been deposited in the account of the Assessee. However, Shri Sanjay Jain has deliberately remained silent on the question of Rs.2.00 lakh received in cash from Aruna Devi Jain. Incidentally, Smt. Aruna Devi Jain is the biological mother of Shri Sanjay Jain, and the seized document actually carry a narration of the businesses of his family and his own, and have no relation with the assessee.

The balance questions as asked by Shri Sanjay Jain u/s 131 of the Act have already been dealt with in this submission in the earlier paras.

Your honour's kind attention is drawn towards the Cross Examination of Shri Sanjay Jain by Shri Sunil Mehta on 19.3.2017, where again Shri Sanjay Jain gave evasive, self contradicting, misleading, and untruthful replies. The assessee submits as under:

- i. That in response to query regarding the ownership of the seized documents, Shri Sanjay Jain contradicted in his own statements made u/s 131 by stating that 'इस संबंध में मैं अपना बयान पूर्व में दे चुका हूँ। वो कागजात मनमुटाव या समझौते के दौरान आपके द्वारा दिए गए थे

*We would like to draw your honour's kind attention to the fact that Shri Sanjay Jain has, while making evasive replies, tried to give false and misleading information. The reply of Sanjay Jain is in contradiction with his earlier statements given u/s 132(4) and 131 of the I.T. Act. The Assessee would like to furnish several proofs in this regard. Your kind attention is drawn towards the following:*

Your honour's kind attention is drawn to the fact it was for the first time on 19.05.2011 that Shri Sanjay Jain mentioned that the papers were received from the remaining Directors around September, 2008 when " मेरा और कंपनी के अन्य निदेशकों का आपस में मनमुटाव व मतभेद चल रहा था" .

Your honour can very well imagine that if there was a dispute going on, then there was no reason for the other Directors to send any papers to a Director who had made an unceremonious exit from Company after he was caught indulging in cheating and fraud.

Your honour's kind attention is drawn towards the fact that Shri sanjay Jain continued to give contradictory and fabricated statements. He further changed his statement on 19.03.2017 which was made under section 131 of the I.T. Act, wherein he stated in response to question nos. 14, 15, 18, 21, 22, 23, 24, 25, 26, 28, 29, & 30 that he received the documents sometime in the year 2009-10, during time of the Memorandum of Understanding (MOU) (समझौते के दौरान). The statement is reproduced as under for your kind information:

" यह सारे कागजात हमें बाकी निदेशकों ने समझौते के दौरान वर्ष 2009-10 में दिये थे तथा समझौते के समय आपसी हिसाब के लिए उनके द्वारा दिए गए थे ."

Hence, Shri Sanjay Jain once again fabricated a new story and a new date. The lies stated by Shri Sanjay Jain are clearly apparent as the MOU was signed on 9.9.2010 ( year 2010-11), whereas Shri Sanjay Jain, in his statement on 19.5.2011 u/s 131, stated that he had received the documents sometime in September, 2008 during the on going dispute. In his statement given on 19.3. 2017, he has changed the narration sometime during the time of समझौते which was in September, 2010.

Your honour's kind attention is further drawn towards the Cross Examination of Shri Sanjay Jain on 19.03.2017 in response to question nos. 7 at page No. 8 of 14, to the query of Shri Sunil Mehta – " क्या आप यह कहना चाहते हैं की यह कागजात आपको त्याग पत्र के बाद या पहले दिए गए थे "

to which Shri Sanjay Jain replied that:

"यह अभी मुझे ध्यान नहीं ."



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Hence, Sanjay Jain has repeatedly given either misleading or evasive replies to this question, thereby pointing to the fact that the statement of Shri Sanjay Jain that he received the documents from the remaining directors, is a fabricated statement to conceal the real truth.

Your honour's kind attention is further drawn towards the Cross Examination of Shri Sanjay Jain on 19.03.2017 in response to question nos. 21 at page No. 11 of 14, where Shri Sanjay Jain stated that:

"मुझे ध्यान नहीं की इन तीनों निदेशकों में से मुझे किसने Soft Copy भेजी थी."

This is a yet another example of Shri Sanjay Jain feigning memory lapse to conceal the truth. Hence, Shri Sanjay Jain has not only stood by his own statement but has also given contradicting and evasive replies which shows that the statement given by Shri Sanjay Jain is nothing but a fabrication of lies.

Furthermore, nowhere in the said MOU there is any mention of giving of any documents to Shri Sanjay Jain by the remaining Directors. The MOU was primarily done at the behest of common business associates to amicably resolve the differences and bitterness, and the method suggested was of withdrawal of the FIRs filed earlier ( Copy of the MOU enclosed and marked as Annexure .... ).

Your honour's kind attention is further drawn towards the Cross Examination of Shri Sanjay Jain on 19.03.2017 in response to question nos. 6,8,9 &10, Shri Sanjay Jain stated that:

"यह कागजात मुझे आप व अन्य निदेशकों द्वारा मनमुटाव / समझौते के दौरान दिए गए थे . इसकी सत्यता के बारे में मुझे जानकारी नहीं है."

Your honour, Shri Sanjay Jain has once changed his statement and left it open for a very large period beginning April, 2008 ( when the मनमुटाव began to September 2010 ( when the MOU was signed). This clearly indicates that the entire statement given by Shri Sanjay Jain are not only self contradictory but clearly fabricated to mislead the department.

Furthermore, it is surprising that while Shri Sanjay Jain remembers all other dates and period accurately, it is regarding those most important documents that his memory has failed him. Obviously, no such documents were ever handed over to Shri Sanjay Jain by the remaining directors.

ii. To various questions asked during the cross examination, Sanjay Jain gave evasive and misleading replies. Your honour's kind attention is drawn towards the following extract from the cross questioning which are reproduced as under:

प्रश्न- 29. श्री सुनिल मेहता द्वारा **Seized Document के Annexure-A, Exhibit-1** के पृष्ठ सं. 123 पर **Urshine Developers/Amit** को **Plot No 109** को **Nature Farm Plot Status** से बेचना बताया है जबकि हम एक **Registry की Copy dated 21/02/2007** को प्रस्तुत कर रहे हैं जिसके अनुसार **Siddharth Polysacks Pvt. Ltd.** ने **Urshine Developers** को बेची है। क्या इस विक्रय का **Urshine Developers** द्वारा किया भुगतान रूपयें 17,02,400/- का **Siddharth Polysacks Pvt. Ltd.** को गया है या **SUMS Exim Pvt. Ltd.** को गया है? कृपया स्पष्ट करें।

उत्तर- श्री संजय जैन द्वारा- इस उपरोक्त प्रश्न के बारे में मैंने कोई बयान सर्च की कार्यवाही के दौरान नहीं दिया है अतः यह सवाल कोस एग्जामिनशन में नहीं पूछ सकते हैं।

प्रश्न- 30. श्री सुनिल मेहता द्वारा आपके यहाँ से **Seized Document Annexure-A, Exhibit-1**, के पृष्ठ सं-123 पर प्लॉट सं 109 **Urshine Developers** को बेचने का जब यह सिद्ध हो गया कि **Siddharth Polysacks Pvt. Ltd.** ने बेचा है जो कि **Registered Document** से प्रमाणित भी होता है तो बताइये कि उपरोक्त **Seized Document Siddharth Polysacks Pvt.Ltd.** से सम्बन्धित है या नहीं? और नहीं है तो किस प्रकार से नहीं है?

उत्तर- श्री संजय जैन द्वारा- इस उपरोक्त प्रश्न के बारे में मैंने कोई बयान सर्च की कार्यवाही के दौरान नहीं दिया है अतः यह सवाल कोस एग्जामिनशन में नहीं पूछ सकते हैं।

प्रश्न- 31. श्री सुनिल मेहता द्वारा : क्या **Siddharth Polysacks Pvt. Ltd.** ने **Plot 109** को विक्रय होने वाले ताम पर **Income Tax** चुकाया है?

उत्तर- श्री संजय जैन द्वारा- इस उपरोक्त प्रश्न के बारे में मैंने कोई बयान सर्च की कार्यवाही के दौरान नहीं दिया है अतः यह सवाल कोस एग्जामिनशन में नहीं पूछ सकते हैं।

प्रश्न- 32. श्री सुनिल मेहता द्वारा : आपने 29/04/2011 के दिये गये बयान को प्रश्न सं. 5 के जवाब में कहा कि आपको कुल 4.00 करोड़ का **Profit** हुआ है जिसकी कमजंपसे देने का आपने धारा 132(4) में वादा किया था। क्या आपने वह कमजंपसे आयकर विभाग को दी है? क्या वह **Details** आपके पास है? क्या आप बतायेंगे कि आपने या **Supreme Polymers Pvt. Ltd.** या **Siddharth Polysacks Pvt. Ltd.** के द्वारा बहुत सारे



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लॉट बेचना प्रमाणित होता है, और जिसका विवरण *Seized Documents* में भी है। क्या उपरोक्त 4.00 करोड़ के *Surrender* में वह उनकी अघोषित आय भी शामिल है?

उत्तर- श्री संजय जैन द्वारा- 4.00 करोड़ के *Surrender* बारे में हमारा जवाब हम माननीय समझौता आयोग के समुख पेश कर चुके हैं। *Supreme Polymers Pvt. Ltd.* या *Siddharth Polysacks Pvt. Ltd.* के द्वारा रिसेल में बेचे हुए प्लॉटों के बेचान के बारे में सवाल कोस एग्जामिनशन में नहीं पूछ सकते हैं।

Your honour, our submission is that all these questions were related to the search and seizure operations and have been raised previously in the statements taken u/s 131. Shri Sanjay Jain stated that " इस उपरोक्त प्रश्न के बारे में मैंने कोई बयान सर्च की कार्यवाही के दौरान नहीं दिया है अतः यह सवाल कोस एग्जामिनशन में नहीं पूछ सकते हैं।" Hence, Shri Sanjay Jain has deliberately attempted to scuttle the questions which were very relevant as they are part of the documents seized during the search and seizure operations carried out at the premises of Shri Sanjay Jain and Group, and the questions asked were directly related to the search and seizure operations carried out at te premises of Shri Sanjay Jain.

*Hence your honour, the seized documents do not belong to the assessee....."*

- 5) Your Honour, Kindly refer Ld CIT(A) order page no. 51-54 point no. ii regarding statement Shri Sanjay Jain along with his relative and others did real estate business in and around assessee owned "NATURE FARMS" & "NATURE FARM HILL RETREAT" & SHRI SANJAY JAIN PURCHASED LAND AROUND ASSESSEE'S PROJECT IN BENAMI NAMES. Which says as under:-

- ii. *That the nature of the land as shown as sold in the seized documents is Non- Agricultural land (residential), while the Assessee Company only sold Agricultural land. It is clear from the statements u/s section 131 given by Shri Sanjay Jain, where in reply to question no. 5 he stated that:*

**“Nature Farms** यह एक बड़ा फॉर्महाउस स्कीम दिल्ली रोड पर विकसित किया था इसमें जमीन खरीद कर उसका कृषि भूमि से रूपान्तरण करा कर छोटे-छोटे प्लॉट बनाकर बेचते थे ।

**Nature Farm Phase** के बारे में जानकारी नहीं है “

**Nature Farms Hill Retreat** यह एक बड़ा फॉर्महाउस स्कीम अचरोल गाँव पर विकसित किया था इसमें जमीन खरीद कर उसका कृषि भूमि से रूपान्तरण करा कर छोटे-छोटे प्लॉट बनाकर बेचते थे ।

*Your honour the report of the Tehsildar confirms the assessee's contention that it sold land in the same nature it had purchased, whereas statements of Shri Sanjay Jain confirm that whatever Shri Sanjay Jain or his group sold was after converting the land, for which conversion charges were taken. The assessee never got any land converted, and hence never took any conversion charges. Mr. Sanjay Jain and his group were also using the name "Nature Farms", "Nature Farm Phase", "Nature Farms Hill Retreat", and "NF Hill Retreat".*

*Your honour's attention is drawn to the reply of Shri Sanjay Jain wherein he has stated that his group sold land after getting it converted. The seized documents also contain narration of sale of plots after getting the plots converted only, and where conversion charges were taken from the purchasers. The Assessee company only sold unconverted agricultural land or sold converted land only where it had bought converted land from the seller, as is evident from the books of accounts of the Assessee Company, the copies of the registered sale Deeds already submitted with your honour, and which can also be further verified and confirmed from the land records from the Office of the Tehsildar, Jamwa Ramgarh, Jaipur.*

*While the land sold as per the seized documents show that the land was converted prior to the sale and for which conversion charges were charged from the purchasers. This has been confirmed by Shri Sanjay Jain in his statement dated 19/03/2017 taken u/s 131 of the I.T. Act wherein he has categorically stated against question No. 5 that his company bought land and sold it as small plots only after getting it converted. Infact, the documents seized from the premises of Sanjay Jain also clearly show that the sold plots shown in the seized documents were of converted plots for which Conversion Charges were charged from the buyers of the plots.*

*Shri Sanjay Jain, in his statement dated 19.5.2011 in reply to question no. 1 had stated that the documents ( Annexure -A, Exhibit-1 page no. 116) seized from his premises contained in Column No. 6 "Conversion charges rate per sq. yard"; at Column No.8 " Conversion Charges"; at Column No.10 "Conversion Amount Received"; and at Column No.12 " Conversion Amount Balance".*

*The Assessee company bought and sold MOSTLY UNCONVERTED AGRICULTURAL LAND OR SOLD VERY FEW CONVERTED PLOTS WHICH WERE BOUGHT AS CONVERTED LAND only. Hence, the documents seized from the premises of Shri Sanjay Jain do not pertain to the Assessee Company.*

- iii. That the measurement unit shown in the seized document is in Square Yards while the sales made by the Assessee company is mostly in BISWA/BIGHA ( more recently in hectare), which is the standard measurement unit for agricultural lands.
- iv. That the Assessee company bought and sold land in its own name only, while the seized documents at Page 127 of EXHIBIT -1. ANNEXURE-A clearly show under the heading "INCOME OF NATURE FARMS" that land was sold through "Nature Farms", while all the purchases and related expenses were booked under the heading of "NF Hill Retreat". Page 127 also reveals that a profit of Rs.2,24,87,607/- was earned after deducting the Expenses of "NF Hill Retreat" from the Income of "Nature Farms". How is it possible that land could be bought and developed in one company, and sold in the other?
- The Assessee Company bought land, made related developmental expenses, and sold land under the title of "Nature Farms" which was owned by the Assessee Company. Similarly, S.M. Developers (where the Assessee Company is a partner) bought land, made related developmental expenses and sold land under the title "Nature Farms Hill Retreat" owned by S.M. Developers.
- v. At page No. 127 of the aforesaid seized documents, the land purchased by "NF Hill Retreat" is shown as 159.185 Bighas, while the total land purchased during the period by S.M. Developer's owned "Nature Farms Hill Retreat" was only 53.2 BIGHAS. Hence, the seized documents obviously do not refer to the Assessee Company or S.M. Developers as there is a vast difference in the purchase figures. Your honour, it is well known that all purchases can only be done through Registered deeds. It can also be verified from the office of the Tehsildar, Jamwa Ramgarh, Jaipur regarding purchases of land made in S.M. Developers owned "Nature Farms Hill Retreat" which is stated under village Charanwas alias Kali Pahadi, Tehsil Jamwa Ramgarh, Jaipur.
- vi. Similarly, page 127 of the aforesaid seized documents, under the title INCOME OF NATURE FARMS, the Area shown as Sold, Sellable Area, and Balance Area do not at all match with the records of the Assessee company, and that of the records of the Government.
- vii. That in the seized documents, several plots shown as sold, either does not exist or were unsold during the period in the books of the Assessee Company and in the records of the Government. Hence, it is abundantly clear that the documents seized from the premises of Sanjay Jain and Group do not pertain to the Assessee but are a narration of the businesses of Shri Sanjay Jain himself.
- MORE IMPORTANTLY THE SALES MADE BY THE ASSESSEE ARE THROUGH REGISTERED SALE DEEDS WHICH MATCH AS THE DETAILS PROVIDED BY THE TEHSILDAR IN HIS REPORT. ON THE OTHER HAND, THE SEIZED DOCUMENTS ALSO SHOW SALES THROUGH REGISTERED DEEDS BUT DO NOT MATCH WITH BOOKS OF THE ASSESSEE AS WELL AS WITH THE REPORT OF THE TEHSILDAR. NO COPIES OF THE REGISTERED SALE DEEDS HAVE BEEN SEIZED BY THE DEPARTMENT. HENCE, IF A NARRATION IN THE SEIZED DCOUMENTS IS OF REGISTERED DOCUMENTS THEN IT SHOULD EXACTLY MATCH WITH THE RECORDS OF THE GOVERNMENT IN TERMS OF NATURE AND TYPE OF LAND, SIZE OF PLOT, MEASUREMENT UNIT APPLIED, CONVERTED OR UNCONVERTED, ETC. THE SEIZED DOCUMENTS NEITHER EXACTLY MATCHES WITH THE BOOKS OF THE ASSESSEE NOT WITH THE RECORDS OF THE TEHSILDAR. HENCE, THE DOCUMENTS ARE A NARRATION OF SOME REGISTERED SALES WHICH ARE NOT THE SAME AS THE SALES OF THE ASSESSEE, AND ALSO THE SALES WHICH ARE REFLECTED IN THE RECORDS OF THE TEHSILDAR PROVES THAT THE SEIZED DOCUMENTS ARE BELONGING TO SHRI SANJAY JAIN AND GROUP.**
- C. THAT SHRI SANJAY JAIN ALONG WITH HIS RELATIVES & OTHERS DID REAL ESTATE BUSINESS IN AND AROUND ASSESSEE OWNED "NATURE FARMS" & " NATURE FARMS HILL RETREAT". & SHRI SANJAY JAIN PURCHASED LAND AROUND ASSESSEE'S PROJECT IN BENAMI NAMES.
- i. That Shri Sanjay Jain and his relatives carried out business of buying and selling land in and around the Assessee owned "Nature Farms" & "Nature Farms Hill Retreat". This fact was reconfirmed by Shri



Sanjay Jain during his cross questioning by Shri Sunil Mehta on the 19/03/2017, wherein he had stated in reply to question No. 15 on page 10 of 14:

"Neelam Gupta एवं Rajiv Gupta मेरे रिलेटिव हैं। हाँ, मेरी जानकारी मे उन्होंने Sums Exim Pvt. Ltd. एवं SM Developers से जमीनों की खरीद बेचान किया है। इसके आलावा 2009 से पहले कुछ जमीन दूसरों से भी खरीद बेचान किया हो सकता है।"

The Assessee would like to draw your honour's kind attention to the fact that The Assessee has not sold any plot or land to either Neelam Gupta or Shri Rajiv Gupta. The same can be verified from the books of accounts of the Assessee. The same can be verified from the records of the Tehsildar, Jamwa Ramgarh, Jaipur. It is also obvious that Shri Sanjay Jain's Delhi based brother in law and sister are doing business around the assessee's projects in collusion with Sanjay Jain, and earning income by using the name of the assessee, which has been the finding of the Ld. AO in the assessment order. It is also obvious that Shri Sanjay Jain misused his position as the Director of the assessee company to do real estate business and earn unaccounted money in the name of the assessee.

Your honour's kind attention is drawn towards the seized documents at Pages 1-66, Annexure A, Exhibit -1, at Page No. 16 seized from the premises of Shrey's India Pvt. Ltd., Jhotwara Industrial Area, Jaipur. This page which has hand written calculations by Shri Sanjay Jain clearly reveals that Rajiv Gupta and Neelam Gupta did real estate businesses near the Assessee's projects in collusion with Shri Sanjay Jain.

- ii. Further, your honour's attention is drawn towards the fact that the following documents in support of the fact that businesses were in fact the BENAMI transactions of Shri Sanjay Jain himself. The seized documents are replete with details where cash and cheques have exchanged hands between Shri Sanjay Jain, on one hand and his relatives on the other, and for which no rationale has been provided for such transactions.

That Shri Dinesh Gupta, the biological real brother of Shri Sanjay Jain, bought and sold land in and around the projects of the Assessee. From close perusal of such registered deeds, it can be easily verified that the signatures done by Shri Dinesh Gupta are different on different registered deeds. Shri Dinesh Gupta never visited Jaipur for such sales or purchases. This is a clear indication that the actual purchaser/ seller were Shri Sanjay Jain himself who made BENAMI transactions to personally earn unaccounted and illegal money. (Please see ANNEXURES -8). Hence, it is clear that the seized documents are nothing but a narration of illegal real estate business carried out by Sri Sanjay Jain.

Registered Purchase Deed dated 12/12/2005 wherein Smt. Neelam Gupta has purchased 5 BIGHAS of land in Village Chak Charanwas for Rs.200,000/- in the area adjoining S.M. developers owned " Nature Farms Hill Retreat".(Please see ANNEXURE -9 ). & made sale of land near the projects of the ASSESSEE ( Please see ANNEXURES - 9A & 9B )

That in one Registered sale deed dated 16.10.2006 of Shri Dinesh Gupta (biological real brother of Shri Sanjay Jain) has been shown as son of Shri Nandan Gupta resident of S.A. 98, Shashtri Nagar, Ghaziabad (UP), while in other Registered sale deed dated 25.04.2008 of Smt. Aruna Devi (Biological and real mother of Shri Sanjay Jain, has been shown as wife of Shri Nandan Jain, resident of S.A. 98, Shashtri Nagar, Ghaziabad (UP). Hence, in one Registered document Shri Sanjay Jain's biological father has been shown as Shri Nandan Gupta while in the other it has been shown as Shri Nandan Jain, both having the same residential address. This clearly implies that Shri Sanjay Jain wanted to conceal the true identity of the buyer simply for the reason that he was the BENAMI buyer. ( Please see ANNEXURES 10 & 11 ).

- iii. The assessee would like to furnish evidences before your good self regarding purchases of land, near the assessee's owned projects, made by Shri Sanjay Jain for which he made sales later and made undisclosed profits. Please see ANNEXURES 12, 12A, 12B from which it is evident that Shri Sanjay Jain bought agricultural land directly from the villagers, and sold the same after getting it converted into

small- small plots. NO SUCH TRANSACTIONS HAVE BEEN SHOWN BY SHRI SANJAY JAIN IN HIS BOOKS OF ACCOUNTS AND IN HIS APPLICATION BEFORE THE HON. ITSC.

- iv. All these evidences have been produced during cross examination with Mr Sanjay Jain and there is no adverse finding against the assessee by the Id. AO.  
Hence, the documents seized from the premises of Shri Sanjay Jain & Group pertains to his own personal real estate businesses.

Your Honour the above Statements as appearing in the order of Ld. CIT (Appeals) from page no. 51 to 54 was submitted by the Ld. AO in compliance of remand report u/s 250(4) which clearly establish that incriminating materials / seized documents does not belong to the assessee. The Ld. AO while submitting the Statements along with the Factual Report had not found any adverse inference against the Assessee.

6) Kindly refer Ld CIT(A) order page no. 54-64 wherein point no. D regarding submitting of Tehsildar report. The relevant scanned portion is as under:-

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*small- small plots. NO SUCH TRANSACTIONS HAVE BEEN SHOWN BY SHRI SANJAY JAIN IN HIS BOOKS OF ACCOUNTS AND IN HIS APPLICATION BEFORE THE HON. ITSC.*

iv. *All these evidences have been produced during cross examination with Mr Sanjay Jain and there is no adverse finding against the assessee by the ld. AO.  
Hence, the documents seized from the premises of Shri Sanjay Jain & Group pertains to his own personal real estate businesses.*

**D. THE REPORT OF THE TEHSILDAR REGARDING THE PLOTS SOLD BY THE ASSESSEE CONFIRMS THE FACT THAT THE SEIZED DOCUMENTS DO NOT BELONG TO THE ASSESSEE.**

i. *The Report of the Tehsildar is based on irrefutable facts which show that mostly all sales made by the Assessee during the period were of Agricultural land only and were through Registered Sale documents. The assessee also sold a very few residential plots which were bought by the assessee as Residential plots only and hence conversion charges were not applicable to the buyer. On the other hand, the seized documents show that all the sales made were of Converted Non- agricultural land sold through registered sale documents for which conversion charges were charged/collected.*

ii. *The Report of the Tehsildar clearly shows that all agricultural land sold by the assessee was directly converted by the purchaser much after the purchase of the land, and the assessee never got any land converted for sale. The Conversion charges were directly paid by the purchaser to the relevant Government authorities in which the assessee had no role. On the other hand, the seized documents show the collection of Conversion charges. Your honour's kind attention is drawn towards the statement of Shri Sanjay Jain dated 19.5.2011 in reply to question no. 1 had stated that the documents ( Annexure -A, Exhibit-1 page no. 116) stated the following:*

“ हॉ , यह पेज संख्या 116 सर्व कार्यवाही के दौरान मेरे ही कार्यालय के कंप्यूटर से बरामद / जब्त किया गया है . इस पेज पैर जो विवरण दर्शाया गया है उसमे एक सारणी है , जिसके कॉलम मे क्रमशः जो विवरण लिखा है उसका क्रमानुसार विवरण – प्रथम कॉलम मे पार्टी / व्यक्ति का नाम जिसने 0 सम्मस एक्सिम प्रा. लि. से प्लाट खरीदे हैं, दुसरे कॉलम मे प्लाट संख्या , तीसरे कॉलम मे प्लाट का क्षेत्रफल , चौथे कॉलम मे बेची गयी जमीन का क्षेत्रफल , पांचवे कॉलम मे बेची गयी भूमि की रेट , छठे कॉलम कॉलम मे कन्वर्शन चार्जेज रेट प्रति वर्ग गज , सातवे कॉलम मे कुल रकम जिस पर भूमि बेची गयी, आठवे कॉलम मे कन्वर्शन चार्जेज , नवे कॉलम मे भूमि बेचने के पेटे प्राप्त की गयी राशी, दशवे कॉलम मे कन्वर्शन से प्राप्त राशी ,इग्यरावे कॉलम मे वैलेंस, बारवे कॉलम मे कन्वर्शन वैलेंस दर्शाया गया है”

*It is clearly evident in the seized documents, as admitted by Shri Sanjay Jain in his aforesaid statement, that Conversion charges was collected from the buyers of the plots. From the report of the Tehsildar it is evident that the Assessee mostly sold AGRICULTURAL unconverted land or sold very few converted land which was purchased by the Assessee as a converted land only. Hence, the seized documents do not pertain to the Assessee but are a narration of the businesses of Shri Sanjay Jain and group who sold land after getting it converted. This is further confirmed by Shri Sanjay Jain, in his statement u/s section 131 dated 19.3.2017, where in reply to question no. 5 at Page No. 1 of 6, he categorically stated that:*

**Nature Farms** यह एक बड़ा फॉर्महाउस स्कीम दिल्ली रोड पर विकसित किया था इसमें जमीन खरीद कर उसका कृषि भूमि से रूपान्तरण करा कर छोटे-छोटे प्लॉट बनाकर बेचते थे ।

**Nature Farm Phase** के बारे में जानकारी नहीं है “

**Nature Farms Hill Retreat** यह एक बड़ा फॉर्महाउस स्कीम अचरोल गॉव पर विकसित किया था इसमें जमीन खरीद कर उसका कृषि भूमि से रूपान्तरण करा कर छोटे-छोटे प्लॉट बनाकर बेचते थे “

*Hence, the seized papers are only a narration of the real estate businesses of Shri Sanjay Jain and Group as described by him in his various statements made u/s 131 of the I. T. Act. The Assessee never sold land after getting it converted.*

**MORE IMPORTANTLY, THE ASSESSEE OWNED “NATURE FARMS HILL RETREAT” IS SITUATED IN “ VILLAGE CHARANWAS A.K.A KALI PAHAD” FALLING UNDER TEHSIL JAMWA RAMGARH, JAIPUR RURAL, UNDER THE**



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**JURISDICTION OF JAIPUR COLLECTOR.** AS STATED BY SHRI SANJAY JAIN IN HIS STATEMENT MADE U/S 131 OF THE I.T. ACT ON 19.3.2017., THE "NATURE FARM HILL RETREAT" IS LOCATED IN ACHROL VILLAGE" WHICH COMES UNDER TEHSIL AMER, AND IS UNDER J.D.A. JURISDICTION AS URBAN AREA. VILLAGE ACHROL IS OVER 8 KMS AWAY FROM THE ASSESSEE OWNED "NATURE FARMS HILL RETREAT".

HENCE, THE "NATURE FARM HILL RETREAT" OF SHRI SANJAY JAIN & GROUP IS DIFFERENT AND DISTINCT FROM THE "NATURE FARMS HILL RETREAT" OF THE ASSESSEE. IT IS, THEREFORE, EVIDENT THAT REAL ESTATE OF SHRI SANJAY JAIN AND GROUP WAS DIFFERENT FROM THAT OF THE ASSESSEE, AND THE SEIZED DOCUMENTS PERTAIN TO THE BUSINESSES OF SHRI SANJAY JAIN & GROUP ONLY AS THE STATEMENTS OF SHRI SANJAY JAIN U/S 131 MATCHES WITH THE DOCUMENTS SEIZED FROM THE PREMISES OF SANJAY JAIN & GROUP, BUT DOES NOT AT ALL MATCH WITH THE BOOKS OF THE ASSESSEE.

- iii. That the Tehsildar report categorically shows that all land sold by the Assessee was Agricultural land with the measurement unit applicable was Biswa/ Bigha which is the legally applicable measurement unit for agricultural land. This exactly matches with sales made vide registered documents by the Assessee, copies of which have already been submitted by the assessee before your kind self. The books of the assessee are matching with the Tehsildar report, while not matching with the seized documents. This clearly implies that the seized documents do not pertain to the assessee.
- iv. Your kind attention is drawn to the following chart which clearly shows that all the conversions were done much after the sale, by the purchasers themselves.

## FOR VILLAGE CHAK CHARANWAS

S. No. in Tehsildar Report	date of sale/ Mutation	Nature /Type of land	sold to	Date of conversion	Our submission
1.	22.02.2006/ 8/5/2006	Agri./Barani 2	Monisha Khatwani	23.02.2010	Tehsildar's report is matching with the assessee's books but does not match with the seized documents in terms of nature of land, measurement unit applied, size of the plot, and the person to whom sold.
2.	20.02.2006/ 08.05.2006	Agri./ Barani 2	Priti Mehta	23.02.2010	Tehsildar's report is matching with the assessee's books but does not match with the seized documents in terms of nature of land, measurement unit applied, size of the plot, and the person to whom sold.
3.	20.02.2006/ 05.05.2007	Agri./Barani2	Chandraraj Bhandari	Not Specified	Tehsildar's report is matching with the assessee's books but does not match with the seized documents in terms of nature of land, measurement unit applied, size of the plot, and the person to whom sold.
4.	SALES NOT MADE BY THE ASSESSEE BUT BY SHRI DINESH GUPTA				Shri Dinesh Gupta is the real brother of Shri Sanjay Jain.



S. No. in Tehsildar Report	date of sale/ Mutation	Nature /Type of land	sold to	Date of conversion	Our submission
5.	DETAILS OF PURCHASE MADE BY WHISPERING MEADOWS				
6.	20.03.2006/ 20.06.2006	Agri./Barani2	Amarnath Jain	2.12.2006	<i>Shri Amarnath Jain is the father of Shri Sanjay Jain.</i>
7.	N.S.	Agri./Barani2	Manisha Khatri	N.S.	<i>Tehsildar's report is matching with the assessee's books but does not match with the seized documents in terms of nature of land, measurement unit applied, size of the plot, and the person to whom sold.</i>
8.	20.03.2006/20.06.2006	Agri./Barani2	Chandraraj Bhanari	22.6.2007	<i>Tehsildar's report is matching with the assessee's books but does not match with the seized documents in terms of nature of land, measurement unit applied, size of the plot, and the person to whom sold.</i>
9.	Not related to the assessee(NRA)				
10.	NRA				THIS IS OF SALES MADE BY SHRI DINESH GUPTA, BROTHER OF SHRI SANJAY JAIN.
11.	NRA				
12.	15.04.2006/ 20.06.2006	Agri./Barani2	Rajiv, Sanjiv Bhargava	11.6.2006	<i>Tehsildar's report is matching with the assessee's books but does not match with the seized documents in terms of nature of land, measurement unit applied, &amp; the size of the plot.</i>
13.	NRA				
14.	15.4.2006/ 20.06.2006	Agri./Barani2	Urmila Singh	2.12.2006	<i>Tehsildar's report is matching with the assessee's books but does not match with the seized documents in terms of nature of land, measurement unit applied, size of the plot.</i>
15.	10.05.2006/ 20.06.2006	Agri./Barani2	Amarnath Khurana	2.12.2006	<i>Tehsildar's report is matching with the assessee's books but does not match with the seized documents in terms of nature of land, measurement unit applied, size of the plot, and the person to whom sold.</i>
16.	NOT RELATED WITH ASSESSEE. (NRA)				SALES MADE BY SHRI DINESH GUPTA, BROTHER OF SHRI SANJAY JAIN.
17.	NRA				SALES MADE BY SHRI DINESH GUPTA, BROTHER OF SHRI SANJAY JAIN.





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S. No. in Tehsildar Report	date of sale/ Mutation	Nature /Type of land	sold to	Date of conversion	Our submission
32.	16.10.2006/ 20.11.2006	Agri./Dahari 2	Surendra Singh	21.03.2007	<i>Tehsildar's report is matching with the assessee's books but does not match with the seized documents in terms of nature of land, measurement unit applied, size of the plot.</i>
33.	26.10.2006/ 20.11.2006	Agri./Dahari 2	Ritu Goyal	21.03.2007	<i>Tehsildar's report is matching with the assessee's books but does not match with the seized documents in terms of nature of land, measurement unit applied, size of the plot.</i>
34.	26.10.2006/ 20.11.2006	Agri./Dahari 2	Sukhveer Chug	21.03.2007	<i>Tehsildar's report is matching with the assessee's books but does not match with the seized documents in terms of nature of land, measurement unit applied, size of the plot, and the person to whom sold.</i>
35.	26.10.2006/ 20.11.2006	Agri./Dahari 2	Sukhveer Chug	STILL NOT CONVERTED	<i>Tehsildar's report is matching with the assessee's books but ..does not match with the seized documents in terms of nature of land, measurement unit applied, size of the plot, and the person to whom sold.</i>
36.	26.10.2006/ 10.11.2006	Agri./Dahari 2	Vajjanti Mala	21.03.2007	<i>Tehsildar's report is matching with the assessee's books but does not match with the seized documents in terms of nature of land, measurement unit applied, size of the plot.</i>
37.	13.11.2006/ 20.01.2007	Agri./Dahari 2	Manoj Kumar	21.3.2007	<i>Tehsildar's report is matching with the assessee's books but ..does not match with the seized documents in terms of nature of land, measurement unit applied, size of the plot, and the person to whom sold.</i>
38.	13.11.2006/ 20.01.2007	Agri./Dahari 2	Manoj Kumar	STILL NOT CONVERTED	<i>Tehsildar's report is matching with the assessee's books but ..does not match with the seized documents in terms of nature of land, measurement unit applied, size of the plot, and the person to whom sold.</i>
39.	13.11.2006/ 20.01.2007	Agri./Dahari 2	Sarita Aggarwal	11.04.2007	<i>Tehsildar's report is matching with the assessee's books but ..does not match with the seized documents in terms of nature of land, measurement unit applied, size of the plot.</i>
40.	13.11.2006/ 20.01.2007	Agri./Dahari 2	Sarita Aggarwal	11.04.2007	<i>Tehsildar's report is matching with the assessee's books but ..does not match with the seized documents in terms of nature of land, measurement unit applied, size of the plot.</i>
41.	02.12.2006/ 7.01.2007	Agri./Dahari 2	DeepMala	11.04.2007	<i>Tehsildar's report is matching with the assessee's books but does not match with the seized documents in terms of nature of land, measurement unit</i>

S. No. in Tehsildar Report	date of sale/ Mutation	Nature /Type of land	sold to	Date of conversion	Our submission
					<i>applied, size of the plot.</i>
42.	02.02.2007/ 07.1.2007	Agri./Dahari 2	Manorma Gupta	11.04.2007	<i>Tehsildar's report is matching with the assessee's books but does not match with the seized documents in terms of nature of land, measurement unit applied, size of the plot.</i>
43.	8.3.2007/ 20.4.2007	Agri./Dahari 2	Anjul Gupta	21.10.2009	<i>Tehsildar's report is matching with the assessee's books but does not match with the seized documents in terms of nature of land, measurement unit applied, size of the plot.</i>
44.	31.01.2007/ 20.4.2007	Agri./Dahari 2	Bhaskar Sharma	STILL NOT CONVERTED	
45.	31.1.2007/ 20.2.2007	Agri./Dahari 2	Anup Aggarwal	STILL NOT CONVERTED	
46.	31.1.2007/ 20.2.2007	Agri./Dahari2	Brijmohan Aggarwal	22.12.2008	
47.	17.04.2007/ 20.4.2007	Agri./Dahari2	Neelam Saxena	STILL NOT CONVERTED	
48.	6.9.2012/ 5.10.2012	Agri./Dahari2	Malvika Kamath	STILL NOT CONVERTED	
49.	8.6.2014/ 21.7.2014	Agri./Dahari2	Balkrishna Khatwani	STILL NOT CONVERTED	
50.	26.07.2011/ 5.10.2011	Agri./Dahari2	Aryanish Patel	STILL NOT CONVERTED	
51.	26.7.2011/ 5.10.2011	Agri./Dahari2	Mukta Patel	STILL NOT CONVERTED	
52.	6.09.2012/ 5.10.2012	Agri./Dahari2	Pronoti Roy	STILL NOT CONVERTED	
53.	NRA	Agri./Dahari2			
54.	27.5.2006/ 8.05.2006	Agri./Dahari2	Suneil Sikka	01.3.2007	
55.	16.10.2002/ 20.11.2006	Agri./Dahari2	Dinesh Gupta	STILL NOT CONVERTED	
56.	2.12.2006/ 27.1.2007	Agri./Dahari2	Krishna devi	STILL NOT CONVERTED	
57.	8.3.2007/ 20.4.2007	Agri./Dahari2	GB Panda	STILL NOT CONVERTED	
58.	10.7.2006/ 5.9.2006	Agri./Chahi2	Akhil Babel	11.4.2007	
59.	10.7.2007/ 5.9.2006	Agri./Chahi 2	Krishna Nirvan	11.4.2007	
60.	2.12.2006/ 5.9.2006	Agri./Dahari2	Asha	STILL NOT	



	5.7.2007		Maini	CONVERTED	
61.	NRA			STILL NOT CONVERTED	
62.	NRA			<b>PLOT SOLD BY SHRI DINESH GUPTA, BROTHER OF SHRI SANJAY JAIN</b>	
63.	24.8.2006/ 5.9.2006	Agri./Dahari2	Priti Mehta	STILL NOT CONVERTED	
64.	24.8.2006/ 5.9.2006	Agri./Dahari2	pawan Bansal	21.3.2007	
65.	24.8.2006/ 5.9.2006	Agri./Dahari2	Om Bansal	21.3.2007	
66.	16.10.2006/ 20.11.2006	Agri./Dahari2	Dinesh Gupta	STILL NOT CONVERTED	
67.	5.8.2007/ 5.7.2007	Agri./Barani2	Asha maini	NS	
68.	NRA	<b>SOLD BY SUPREME POLYMERS PVT. LTD</b>			<i>MATCHES WITH THE SEIZED DOCUMENTS as sales has been as converted land with measurement unit is Sq. Yards</i>
69.	NRA	sold by supreme polymers			<b>-Do-</b>
70.	NRA	<b>SOLD BY SIDDHARTH POLYSACKS</b>			<b>-DO-</b>
71.	13.12.2007/ 1.10.2008	Agri./Dahari2	R. SILE	STILL NOT CONVERTED	
72.	NRA	<b>SOLD BY SANJAY JAIN</b>			
73.	8.3.2007/ 20.4.2007	Agri./Dahari2	POOJA MITRA	STILL NOT CONVERTED	
74.	15.10.2007/ 21.11.2007	Agri./Dahari2	SUBHASH MATHUR	STILL NOT CONVERTED	
75.	20.10.2007/ 20.11.2007	Agri./Dahari2	Pushpa Saraogi	21.10.2009	
76.	NRA	Agri./Barani2			
77.	UNSOLD	Agri./Dahari2			
78.	UNSOLD	Agri./Dahari2			

79.	UNSOLD	Agri./Dahari2			
80.	UNSOLD	Agri./Dahari2			
81.	20.6.2006/ 20.7.2006	Agri./Dahari2	SANJAY JAIN	STILL NOT CONVERTED	
82.	SOLD BY SANJAY JAIN				
83.	NRA	Agri./Dahari2			
84.	4.2.2012/ 7.5.102	Agri./Dahari2	JHUMA BHUMIK LODHA	STILL NOT CONVERTED	
85.	4.2.2012/ 7.5.2012	Agri./Dahari2	JHUMA BHUMIK LODHA	STILL NOT CONVERTED	
86.	NRA (MATTER OF FIR & COURT ORDERS)	Agri./Dahari2			
87.	27.10.2008/ 7.1.2009	Agri./Dahari2	ANIRUDH AGGARWAL	STILL NOT CONVERTED	

## FOR VILLAGE RAJPURWAS TALA

S.No. in Tehsildar Report	date of sale/Mutation	Nature/Type of land	sold to	Date of Conversion	Our Submission
1.	24.8.2006/ 27.1.2007	Agri./Barani2	Rajesh Gordan	Still Not converted	
2.	5.6.2007/ 5.7.2007	Agri./Barani2	Varsha Chajlani	Still Not converted	
3.	5.06.2007/ 05.07.2007	RESIDENTIAL	Neha duggar		Purchased by Assessee as converted Land & Sold as Converted Land. Hence, the assessee did not require to get any conversion done or take any conversion charges.
4.	23.07.2007/ 20.09.2007	RESIDENTIAL	Dolli Duggar		Purchased by Assessee as converted Land & Sold as Converted Land. Hence, the assessee did not require to get any conversion done or take any conversion charges.
5.	20.10.2007/ 20.11.2007	RESIDENTIAL	Ashok Kumar		Purchased by ssessee as converted Land & Sold as Converted Land. Hence, the assessee did not require to get any conversion done or take any conversion charges.
6.	20.10.2007/ 20.11.2007	RESIDENTIAL	Sushil Kumar Wali		Purchased by Assessee as converted Land & Sold as Converted Land. Hence, the



S.No. in Tehsildar Report	date of sale/Mutation	Nature/Type of land	sold to	Date of Conversion	Our Submission
					assessee did not require to get any conversion done or take any conversion charges.
7.	18.09.2006/ 2.12.2006	RESIDENTIAL	NRA		These are purchase details of the assessee.
8.	18.09.2006/ 2.12.2006	Agri./Barani2	NRA		These are purchase details of the assessee.
9.	18.09.2006/ 2.12.2006	Agri./Barani2	NRA		These are purchase details of the assessee.
10.	09.09.2010/ 20.10.2010		Sold by Sanjay Jain to the assessee.		
11.	09.09.2010/ 20.10.2010		Sold by Sanjay Jain to Assessee.		
12.	23.05.2012/ 05.07.2012	Agri./Barani2	Ghanshyam Khatri	STILL NOT CONVERTED.	
13.	07.05.2005/ 26.08.2005	Agri./Dahari2	NOT RELATED WITH ASSESSEE.		
14.	07.05.2005/ 26.08.2005	Agri./Dahari2	NOT RELATED WITH ASSESSEE		
15.	07.05.2005/ 26.08.2005	Agri./Dahari2	NOT RELATED WITH ASSESSEE		
16.	09.02.2011/ 05.08.2011	Agri./Barani2	Dr.Sudarshan Kumari	STILL NOT CONVERTED	
17.	07.05.2005/ 26.08.2005	Agri./ Barani2	NRA		
18.	07.05.2005/ 26.08.2005	Agri./ Barani2	RELATES TO THE ASSESSEE'S PURCHASE.		
19.	07.05.2005/ 26.08.2005	Agri./ Barani2	RELATES TO THE ASSESSEE'S PURCHASE		
20.	22.10.2010/ 13.12.2010	Agri./Dahari2	Dr.Sudarshan Kumari	STILL NOT CONVERTED.	
21.	10.01.2011/ 05.10.2011	Agri./Dahari2	Surjit Kumar Jairath	STILL NOT CONVERTED.	
22.	17.04.2007/ 05.05.2007	Agri./Dahari2	RELATES TO THE PURCHASE MADE BY THE ASSESSEE.		

S.No. in Tehsildar Report	date of sale/Mutation	Nature/Type of land	sold to	Date of Conversion	Our Submission
22.	07.06.2007/05.07.2007	Agri./ Barani2	Sushil Kumar Wali		Purchased by Assessee as converted Land & Sold as Converted Land. Hence, the assessee did not require to get any conversion done or take any conversion charges.
23.	17.04.2007/05.05.2007	Agri./ Barani2	RELATES TO THE PURCHASE MADE BY THE ASSESSEE.		
24.	17.04.2007/05.05.2007	Agri./ Barani2	RELATES TO THE PURCHASE MADE BY THE ASSESSEE.		
25.	22.10.2010/13.12.2010	RESIDENTIAL	Geeta Ahluwalia		Purchased by Assessee as converted Land & Sold as Converted Land. Hence, the assessee did not require to get any conversion done or take any conversion charges.
26.	04.12.2014/22.12.2014	Agri./ Banjad2	Pushpa Bhandari	STILL NOT CONVERTED.	
27.	05.06.2013/05.07.2013	Agri./ Banjad2	Shalini Khatri	STILL NOT CONVERTED.	
28.	29.07.2009/8.10.2009	Agri./ Banjad2	Vipin Sharma	STILL NOT CONVERTED.	
29.	05.08.2008/20.09.2008	Agri./ Banjad2	Rekha Gupta	STILL NOT CONVERTED.	
30.	19.07.2008/20.08.2008	Agri./ Banjad2	Rakesh Gupta	STILL NOT CONVERTED.	
30.	12.06.2013/05.07.2013		NOT RELATED WITH THE ASSESSEE.		
31.	05.08.2008/20.08.2008	Agri./Banjad2	Rekha Gupta	23.02.2009	
32 (i)	29.6.2009/8.10.2009	RESIDENTIAL	RITA CHARURVED I		Purchased by Assessee as converted Land & Sold as Converted Land. Hence, the assessee did not require to get any conversion done or take any conversion charges.
32(ii)	19.08.2010/13.12.2010	Agri./Banjad2	Jaspal Sigh Babra	Still not converted.	
33.	19.08.2010/13.12.2010	Agri./ Banjad2	Jaspal Singh Babra	Still not converted.	
34.	16.01.2006/20.02.2006	Agri./ Banjad2	Relates with the purchase of		

S.No. in Tehsildar Report	date of sale/Mutation	Nature/Type of land	sold to	Date of Conversion	Our Submission
			the assessee.		
35.	03.03.2011/ 05.08.2011	Agri./ Banjad2	Shewta Agarwal	Still not converted.	
36.	07.06.2007/ 05.07.2007	Agri./ Banjad2	Rekha Rani Ojha	Still not converted.	
37.	07.06.2007/ 05.07.2007	Agri./ Banjad2	Rekha Rani Ojha	Still not converted.	
38.	05.06.2007/ 05.07.2007	Agri./ Banjad2	Relates with the purchase of the Assessee.		
39.	05.06.2007/05.0 7.2007	Agri./ Banjad2	Relates with the purchase of the Assessee.		
40	31.10.2008/05.0 2.2009	Agri./ Banjad2	Mantosh Das	Still Not Converted.	
41.	30.05.2005/25.0 8.2005	Agri./ Banjad2	Relates with the purchase of the Assessee.		
42.		Agri./ Banjad2	NRA.		

THE ASSESSEE HAS SUBMITTED A DETAILED CHART IN ITS WRITTEN SUBMISSION DATED 26/28. 09.2016 BEFORE YOUR GOOD SELF WHICH SHOWS HOW EACH ENTRY IN THE SEIZED DOCUMENTS IS VASTLY DIFFERENT FROM THE BOOKS AND THE REGISTERED DOCUMENTS OF THE ASSESSEE. THE SAME NOW STANDS CONFIRMED WITH THE REPORT OF THE TEHSILDAR, WHICH MATCHES WITH THE REGISTERED DOCUMENTS OF THE ASSESSEE BUT DOES NOT MATCH THE SEIZED DCOUMENTS. HENCE, THE SEIZED DCOUMENTS DO NOT MATCH WITH THE BOOKS OF THE ASSESSEE WHICH MATCH WITH THE RECORDS OF THE TEHSILDAR.

- v. That the report of the Tehsildar is completely different from the seized documents in terms of nature of the land sold, size of the plot sold, measurement unit applied, etc. The report of the Tehsildar is matching with the books of the assessee wherever the sale made by the assessee has been shown. There is no evidence in the tehsildar report which shows that the Assessee purchased Agriculture land, then converted it for non-agricultural use, and then sold as small-small plots to the buyers as stated by Shri Sanjay Jain in his statement dated 19.3.2017 u/s 131 of the Act. The name of the assessee is appearing in various places of the Tehsildar Report. All details relating to the assessee is matching with the books of the accounts of the assessee. In the case of the assessee, the Tehsildar report clearly shows that all conversions happened after the land was sold, and after the mutation was opened in the government records in the name of the purchaser. The assessee never got any conversions done prior to or during making any sales. The assessee only sold Converted land which it had purchased as converted land only, which is in very few numbers. **The Ld. AO had not given any adverse finding thereon neither during assessment proceedings nor during the proceedings u/s 250(4).** On the other hand, in the parallel real estate business run by Shri Sanjay Jain and Group, (as admitted and confirmed by Shri Sanjay Jain in his various statements u/s 132(4), and 131 of the Act), they bought agriculture land, and then got it converted ("इसमें जमीन खरीद कर उसका कृषि भूमि से रूपांतरण करा कर छोटे-छोटे प्लॉट बनाकर बेचते थे") from agriculture land and sold it as small- small plots. This matches with the seized documents which show conversion charges on each sale. Hence, while the seized documents do not pertain to the assessee, and they are clearly a narration of the real estate business of Sanjay Jain and group only. The report of the Tehsildar also confirms this fact.



Your Honour the above Tehsildar Report as appearing in the order of Ld. CIT (Appeals) from page no. 56 to 64 was submitted by the Ld. AO in compliance of remand report u/s 250(4) which clearly establish that incriminating materials / seized documents does not belong to the assessee. The Ld. AO while submitting the Tehsildar Report along with the Factual Report had not found any adverse inference against the Assessee.

- 7) Your Honour, Kindly refer Ld CIT(A) order page no. 30 wherein point no. 2.9 regarding police investigation report which is available at page no. 45-52, 65-66 point no. B & E.

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- B. THAT THE ABOVE ALL DOCUMENTS SEIZED FROM THE PREMISES OF SANJAY JAIN & GROUP DO NOT PERTAIN TO THE ASSESSEE BUT BELONG TO THE BUSINESS OF SHRI SANJAY JAIN & GROUP.
- i) THAT THE POLICE INVESTIGATION REPORT AND THE FINDINGS OF THE HON'BLE SESSIONS COURT ON THE FIRS FILED BY THE DIRECTORS OF THE ASSESSEE COMPANY ALSO CONCLUSIVELY PROVE THAT SHRI SANJAY JAIN RAN PARALLEL REAL ESTATE BUSINESS IN THE NAME OF THE ASSESSEE COMPANY. THE LD. AO IN ITS ASSESSMENT ORDER GAVE SIMILAR FINDING.
- i. In regard to the FIR No.429/2009 filed with P.S. Sodala, Jaipur the Hon'ble District Session Court observed in its order dated 1.5.2010-
- “लोक अभियोजन का कथन है कि मूल मुख्तियारनामा भी अभी प्राप्त नहीं हुआ है, इस संबंध में वकील प्रार्थीगन का कथन है कि मूल मुख्तियारनामा सम्पूर्ण कार्यवाही के बाद सुनील मेहता को दे दिया गया था, परंतु यह स्थिति सही प्रतीत नहीं होती है क्योंकि सामान्यता दस्तावेज उसी व्यक्ति के पास रहता है, जिसके पक्ष में उसका निष्पादन किया जाता है और प्रस्तुत स्थिति में मुख्तियार नामा सुनील मेहता के पास होने की कोई स्थिति नहीं थी। मुख्तियारनामा लाल सिंह के पक्ष में किया गया है और ऐसी स्थिति में निश्चित तौर पर इसे लाल सिंह के पास होना चाहिये था।
- लोक अभियोजन का कथन है की अनुसंधान से यह स्थिति भी आयी है की विक्रय राशि का भुगतान संजय जैन , जो की सिद्धार्थ पोलीमेर्स प्राइवेट लिमिटेड के प्रबंध निदेशक है, उनके खाते से हुआ है और जिसके एकमात्र ऑयोरिजेट सिग्नट्री संजय जैन ही है। इस प्रकार इस स्तर पर यह नहीं कहा जा सकता की प्रार्थीगन को प्रकरण में झूठा फंसाया जा रहा है। अपराध की गंभीर प्रकृति और प्रार्थीगन की सीधी लिप्तता देकते हुए प्रार्थीगन को अग्रिम जमानत का लाभ दिया जाना उचित नहीं है। अतः प्रार्थीगन मुकेश गोयल, भास्कर शर्मा, लाल सिंह, संजय जैन द्वारा प्रस्तुत दोनों अग्रिम जमानत आवेदनपत्र अंतर्गत धारा 438 दू प्र सं खारिज किये जाते हैं।“
- ii. With regard to the FIR No. 3/2010 filed with Police Station Sodala, Jaipur the Hon'ble District Session Court observed in its order dated 1.5.2010-
- “लैटर ऑफ़ केडिट के संबंध में यह स्थिति स्पष्ट आई है कि इसके संबंध में सारी कार्यवाही संजय जैन द्वारा की गई और अन्य निदेशक को इसकी जानकारी नहीं थी इससे सम्बंधित सारी कार्यवाही संजय जैन द्वारा अपने निजी नाम से की गई है स्टार लिंगर कंपनी द्वारा संजय जैन को ही पत्र लिखा गया है और उनका निजी नम्बर ही उन्हें दिया गया ह। इस प्रकरण पर गुणावगुण पर कोई टिपणी नहीं करते हुए प्रकरण के तथ्यों व परिस्थितियों एवं इस स्थिति पर विचार करते हुए कि अपराध गंभीर प्रकृति का हुआ है , प्रार्थी संजय और भास्कर की इसमें सीधी लिप्तता है, इस लिए इस स्तर पर प्रार्थीगन को अग्रिम जमानत का लाभ दिया जाना उचित नहीं है.अतः प्रार्थीगन भास्कर शर्मा और संजय जैन द्वारा प्रस्तुत अग्रिम जमानत आवेदन पत्र अन्ततः धारा 438 द.प्र.सं. खारिज किये जाते हैं.”
- iii. With regard to FIR No. 313/2009 dated 16.12.2009, the Police Investigation revealed, which is reproduced as under for your honour's kind information:
- “यह की उपरोक्त तथ्यों से स्पष्ट है कि संजय जैन , भास्कर शर्मा , एवं लाल सिंह सिसोदिया ने अपराधिक षडयंत्र रचकर प्रार्थी की कंपनी को धोका देने की नियत से पहले तो कंपनी की सम्पत्ति को सुप्रीम पोलीमेर्स की सम्पत्ति बताते हुए अन्य खरीददारों को ज़्यादा कीमत में बेच एवं इस बाबत फर्जी रसीदें उन खरीददारों को जारी की एवं कंपनी को प्राप्त होने वाले रूपए को कंपनी में ना जमा करा कर उक्त रूपए का अपराधिक दुर्विनयोग किया एवं तत्पश्चात कंपनी के अन्य निदेशकों को धोका दे कर उक्त सम्पत्ति न सिर्फ कम कीमत में खरीद ली बल्कि उक्त खरीदशुदा राशि के भुगतान भी कंपनी को ना कर एवं विक्रय पत्र में गलत हवाला देकर सदोष हानि पहुँचाई है। आदि रिपोर्ट पर अभियोग संख्या 313/2009 धारा -409, 420, 467, 468, 471, 120बी भा. द. स. में कायम शुरू कर तफ्तीश शुरू की गयी। प्रकरण हॉजा बाद अनुसंधान मुलजिमान श्री संजय जैन पुत्र श्री अमरनाथ जैन उम 42 साल, निवासी 46बी केशव पथ सूरज नगर पश्चिम जयपुर थाना सोडाला जिला जयपुर शहर व श्री भास्कर शर्मा पुत्र श्री गिरधारी लाल शर्मा जाती ब्राह्मण उम 47 साल निवासी 108 हरी मार्ग सिविल् लाइन्स जयपुर थाना सोडाला जिला जयपुर के विरुद्ध चार्जशीट नंबर 77/10 दिनांक 13.05.10 धरा 420, 409 भा.द. स. में किता कर चालान दिनांक 21.05.2010 को न्यायालय में पेश की जा चुकि है”.
- iv. The other two FIRs were not related to the matter of sales of plots etc.

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- v. That Shri Sanjay Jain did parallel real estate business individually in his own name, in the name of his relatives, and in the name of his other companies, viz. Supreme Polymers Pvt. Ltd., Siddharth Polysacks Pvt. Ltd. (and many others which may not be known), under the name and title of "Nature Farms Phase" for which ample documentary evidence has been provided to your honour.
- vi. Furthermore, Shri Sanjay Jain has himself admitted during the cross-questioning that he did real estate business in the name of his other companies.  
In this regard, please refer to the Statement dated 29.04.2011 taken under section 132(4) of the I.T. Act where in reply to question no. 5 in relation to Annexure-AS Exhibit-2 pages 116 to 133 he stated  
"यह जमीन बेचते समय sale amount का कुछ हिस्सा नकद में लिया गया था। इस नकद राशि को further जमीन खरीदने के लिए use किया गया था।  
फिर भी मेरे हिसाब से इन projects से मुझे चार करोड़ का लाभ हुआ और इसे मैंने आगे जमीन खरीद के लिए अग्रिम दे रखे हैं। इसकी details मैं आपको प्रस्तुत कर दूंगा।"
- vii. That the seized documents carry exact details of the transactions made and payments received by either Sanjay Jain in his own name or in the name of his other companies, and such payments received have gone directly into either the personal bank accounts of Shri Sanjay Jain, or into the bank accounts of his other companies, viz Supreme Polymers Pvt. Ltd and Siddharth Polysacks Pvt. Ltd. This has been confirmed by police investigation as well as in the order of the Hon'ble Sessions Court, Jaipur. None of these incomes have been shown by Shri Sanjay Jain or his aforementioned other companies have been shown in the returns filed with the Income tax department, and have been shown as a part of his unaccounted income of Rs. 4 crores as submitted by him. A fact that has not been categorically denied by Shri Sanjay Jain either in his cross questioning or in his own statements given under section 131 of the I.T. Act. The Assessee would like to produce the following documents:
- Copy of the Registered Sale Document dated 21/02/2007 of a sale made to Urshine developers India Pvt. Ltd by Shri Lal Singh Sisodia on behalf of Siddharth polysacks Pvt. Ltd. where in a sale for Rs. 17,02,400/- vide cheque no. 071576 dated 20.02.2017 drawn on Standard Chartered Bank was made to Siddharth Polysacks Pvt. Ltd. The aforesaid payment was received directly in the bank account of Sidharth Polysacks Pvt. Ltd. ( Please see ANNEXURE-2 ).
  - Registered Sale deeds of sales made by Supreme Polymers Pvt. Ltd to a) Ms. Gauri Misra and b) Ms. Kusum Verma. The payment of both these sales went into the bank accounts of Supreme Polymers Pvt. Ltd. ( Please see ANNEXURES 3 & 4 )
  - Registered Sale deed of Sales made by Shri Sanjay Jain dated 25.09.2007 for Rs.680,500/- , the payment of which went into the personal bank accounts of Shri Sanjay Jain. ( Kindly see ANNEXURE -5)
  - Copy of Registered Sale deed dated 20.11.2007 of sale made by Siddharth Polysacks Pvt. Ltd. to one Mrs.Sulochna Kanodia through a forged Power of Attorney. The payment of Rs.15,72,800/- against this sale went into the bank account of Siddharth Polysacks Pvt. Ltd. ( Kindly see ANNEXURE -6)

SIMILARLY THERE MAY BE MANY MORE SUCH TRANSACTIONS AND SALES WHICH THE ASSESSEE COMPANY MAY HAVE NO INFORMATION ABOUT. THESE ARE ONLY SOME KNOWN INCIDENCES WHICH HAVE COME TO LIGHT. HENCE, IT IS EVIDENT THAT SANJAY JAIN AND HIS ASSOCIATES DID REAL ESTATE BUSINESS AND THE AFOREMENTIONED DETAILS MATCH WITH THE SEIZED DCOUMENTS.

IMPORTANTLY, ALL SUCH SALES IN WHICH THE PAYMENTS HAVE BEEN DEPOSITED IN THE ACCOUNTS OF SHRI SANJAY JAIN AND HIS OTHER AFORESAID COMPANIES, HAVE BEEN



SHOWN IN THE DOCUMENTS SEIZED FROM THE PREMISES OF SHRI SANJAY JAIN. THIS CLEARLY IMPLIES THAT THE SEIZED DOCUMENTS PERTAIN TO SANJAY JAIN AND HIS OTHER AFORESAID COMPANIES, AND NOT TO THE ASSESSEE COMPANY.

Hence, there are documented evidences that prove that Shri Sanjay Jain and group did real estate business in the name of the assessee company to make personal profits and earn unaccounted income by using the name of the assessee company. Hence the seized documents are belonging to Shri Sanjay Jain and group.

- iv) THE DOCUMENTS SEIZED FROM THE PREMISES OF SHRI SANJAY JAIN AND GROUP ARE UNDATED COMPUTER PRINTS AND CARRY NO SIGNATURES. NATURE OF LAND, SIZE OF LAND AND TYPE OF TRANSACTIONS ARE ALSO COMPLETELY DIFFERENT. HENCE, MERELY ON THE BASIS OF ASSUMPTION OF DATE AND OWNERSHIP, THE SEIZED DOCUMENTS CANNOT BE SAID TO BE PERTAINING TO THE ASSESSEE COMPANY.
- v) YOUR HONOUR'S ATTENTION IS DRAWN TO CONTRADICTORY STATEMENTS MADE BY SANJAY JAIN IN HIS VARIOUS STATEMENTS MADE U/S 132(4) AND 131 OF THE I.T. ACT. WHEREIN HE HAD STATED THAT THE SEIZED DOCUMENTS WERE HANDED OVER TO HIM BY THE REMAINING THREE DIRECTORS. IN THIS REGARD, YOUR HONOUR'S ATTENTION IS DRAWN TOWARDS THE FOLLOWING STATEMENTS:
- i. In the statement made under section 132(4) of the I.T Act dated 29.04.2011 wherein Mr. Sanjay Jain has not made any mention of receiving any documents from the remaining three directors. In fact, he has stated in reply to Q.No. 5 that:

“इस project की जमीन खरीद के लिए मेरे द्वारा निवेश किया जो page no.132 से 133 में विदित है.”

Shri Sanjay Jain further stated in reply to the same question :

“यह जमीन बेचते समय sale amount का कुछ हिस्सा नकद में लिया गया था। इस नकद राशि को further जमीन खरीदने के लिए use किया गया था।

फिर भी मेरे हिसाब से इन projects से मुझे चार करोड़ का लाभ हुआ और इसे मैंने आगे जमीन खरीद के लिए अग्रिम दे रखें हैं। इसकी details मैं आपको प्रस्तुत कर दूंगा।”

Hence, there is no mention by Shri Sanjay Jain of having received any documents from the remaining Directors, and in fact there is an admission by Shri Sanjay Jain stating that he had personally made a profit of Rs.4.00 crores and that he had further invested the same by giving it as advance for purchase of land. Hence, it is abundantly clear that the documents seized from the premises of Sanjay Jain are only belonging to him, and do not pertain to the Assessee. Therefore, there does not arise any question of his receiving the documents from the remaining three directors.

- ii. In the statement made under section 131 of the I.T Act dated 02.05.2011 where in Mr. Sanjay Jain has not made any mention of receiving any such documents from the remaining three directors. On the other hand, Shri Sanjay Jain totally agreed to the fact as raised in the question No. 4 that :

“इन प्रॉपर्टी मे मेरे द्वारा अन्य व्यक्तियों के साथ मिल कर खरीदी व बेची गयी जमीन से सम्बंधित कागजात हैं यह भूमि दिल्ली रोड पर स्थित है और इसे नेचर फर्म्स के नाम से डेवेलोप एवं प्रमोट किया गया था .”

This only goes to prove that the documents pertained to the real estate businesses of Shri Sanjay Jain which he had done with “other persons” (अन्य व्यक्तियों के साथ मिल कर) wherein also the remaining Directors of the assessee company were not named. Hence, it was only at a later date, probably on legal advice, that Shri Sanjay Jain fabricated the statement that he had received the seized documents from the remaining three directors.

- iii. Your honour's kind attention is drawn towards the statement made by Shri Sanjay Jain under section 131 of the I.T Act dated 16.05.2011 where in Mr. Sanjay Jain has not made any mention of receiving



any such documents from the remaining three directors. In fact, Shri Sanjay Jain at page No.6 in the last para stated that:

“मैंने उपरोक्त बयान मेरी कंपनी से प्राप्त दस्तावेजों / लूज पेपर्स, जो की मुझे अच्छी तरह दिखाए गए हैं, के आधार पर पूर्ण होश हवास में बिना किसी दबाव के दिए हैं”

*This clearly indicates that Shri Sanjay Jain in his earlier statement admitted the documents to be from his own premises, and has nowhere stated that the documents were received by him from the remaining three directors, and later fabricated the statement to suit his own purposes.*

- iv. Your honour's kind attention is drawn towards the statement made under section 131 of the I.T Act dated 19.05.2011 where in Mr. Sanjay Jain, in response to question no. 2, has for the first time stated that:

“मुझे उक्त संदर्भित पेपर्स कंपनी से उस समय प्राप्त हुए जब मेरा और कंपनी के अन्य निदेशकों का आपस में मनमुटाव व मतभेद चल रहा था यह करीब सितम्बर 2008 के समय की बात है”

*Your honour's kind attention is drawn to the fact it was for the first time on 19.05.2011 that Shri Sanjay Jain mentioned that the papers were received from the remaining Directors around September, 2008 when " मेरा और कंपनी के अन्य निदेशकों का आपस में मनमुटाव व मतभेद चल रहा था" .*

*Your honour can very well imagine that if there was a dispute going on, then there was no reason for the other Directors to send any papers to a Director who had made an unceremonious exit from the assessee Company after he was caught indulging in cheating and frauds.*

- v. Your honour's kind attention is drawn towards the fact that Shri Sanjay Jain continued to give contradictory and fabricated statements. He further changed his statement on 19.03.2017 which was made under section 131 of the I.T. Act, wherein he stated in response to question nos. 14, 15, 18, 21, 22, 23, 24, 25, 26, 28, 29, & 30 that he received the documents sometime in the year 2009-10, during time of the Memorandum of Understanding (MOU) ( समझौते के दौरान). The statement is reproduced as under for your kind information:

“ यह सारे कागजात हमें बाकी निदेशकों ने समझौते के दौरान वर्ष 2009-10 में दिये थे तथा समझौते के समय आपसी हिसाब के लिए उनके द्वारा दिए गए थे .”

*Hence, Shri Sanjay Jain once again fabricated a new story and a new date. The lies stated by Shri Sanjay Jain are clearly apparent as the MOU was signed on 9.9.2010 ( year 2010-11), whereas Shri Sanjay Jain, in his statement on 19.5.2011 u/s 131, stated that he had received the documents sometime in September, 2008 during the on going dispute. In his statement given on 19.3. 2017, he has changed the narration sometime during the time of समझौते which was in September, 2010.*

- vi. Your honour's kind attention is further drawn towards the Cross Examination of Shri Sanjay Jain on 19.03.2017 in response to question nos. 7 at page No. 8 of 14, to the query of Shri Sunil Mehta – “ क्या आप यह कहना चाहते हैं की यह कागजात आपको त्याग पत्र के बाद या पहले दिए गए थे ”

to which Shri Sanjay Jain replied that:

“यह अभी मुझे ध्यान नहीं .”

*Hence, your honour can verify that Shri Sanjay Jain in his first statement made under section 132(4) stated that the documents and the unaccounted income earned thereof was belonging to him only. Your honour, It is a settled position that admission made by the assessee u/s. 132(4) is an important piece of evidence and the same is conclusive unless the assessee who made the admission to show that it is incorrect. Mr Sanjay Jain had not produced any evidence to show that it is incorrect. Jodhpur ITAT Bench in Maheshwari Industries v. Asstt. CIT [2005] 148 Taxman 74 (Jodh). The Hon'ble Allahabad High Court held that the burden lay on the assessee to establish that the admission made in the said statement was wrong. In the said case assessee did not make any attempt to discharge this burden. There is no evidence produced by Mr. Sanjay Jain that*



there was any pressure or duress was exercised on the assessee when he made the statement and it was a finding of fact. Decision of Hon'ble Kerala High Court in the case of Mahesh B Shah v. Asstt. CIT [1999] 238 ITR 130/103 Taxman 91 has also been relied by the assessee. Further, Sanjay Jain has repeatedly given either misleading or evasive replies to this question, thereby pointing to the fact that the statement of Shri Sanjay Jain that he received the documents from the remaining directors, is a fabricated statement to conceal the real truth. Hence Sanjay Jain is making self contradictory and evasive statements about the timing of giving the above seized documents, the name of the director who gave the above stated seized documents to him and whether he received the above stated seized documents or the soft copy.

vii. Your honour's kind attention is further drawn towards the Cross Examination of Shri Sanjay Jain on 19.03.2017 in response to question nos. 21 at page No. 11 of 14, where Shri Sanjay Jain stated that:

" मुझे ध्यान नहीं की इन तीनों निदेशकों में से मुझे किसने Soft Copy भेजी थी ."

This is a yet another example of Shri Sanjay Jain feigning memory lapse to conceal the truth. Hence, Shri Sanjay Jain has not only stood by his own statement but has also given contradicting and evasive replies which shows that the statement given by Shri Sanjay Jain is nothing but a fabrication of lies.

viii. Furthermore, nowhere in the said MOU there is any mention of giving of any documents to Shri Sanjay Jain by the remaining Directors. The MOU was primarily done at the behest of common business associates to amicably resolve the differences and bitterness, and the method suggested was of withdrawal of the FIRs filed earlier ( Copy of the MOU enclosed and marked as Annexure 2 ).

ix. Your honour's kind attention is further drawn towards the Cross Examination of Shri Sanjay Jain on 19.03.2017 in response to question nos. 6,8,,9 &10, Shri Sanjay Jain stated that:

" यह कागजात मुझे आप व अन्य निदेशकों द्वारा मनसुटाव / समझौते के दौरान दिए गए थे . इसकी सत्यता के बारे में मुझे जानकारी नहीं है ."

Your honour, Shri Sanjay Jain has once changed his statement and left it open for a very large period beginning April, 2008 ( when the "मनसुटाव" began to September 2010 ( when the MOU was signed). This clearly indicates that the entire statement given by Shri Sanjay Jain are not only self contradictory but clearly fabricated to mislead the department.

x. MOST IMPORTANTLY, SHRI SANJAY JAIN IN HIS STATEMENTS U/S 131 HAS IN SOME PLACE MENTIONED THAT HE HAS RECEIVED DOCUMENTS (कागजात ) AND IN OTHER PLACES HE HAS STATED THAT HE HAS RECEIVED "SOFT COPY". IN REPLY TO QUESTION NO.3 IN HIS STATEMENT U/S 131 ON 19.5.2011, SHRI SANJAY JAIN HAS STATED THAT THE SOFT COPY SEIZED FROM SHREYA'S INDIA PVT. LTD WAS GIVEN TO HIM BY THE REMAINING DIRECTORS. HOWEVER, IN THE COVERING PAGE NARRATION BY THE DEPARTMENT FOR ANNEXURE-AS, EXHIBIT -1 IT SHOWS AS PAGES 1 TO 66 WERE SEIZED AS DOCUMENTS. FURTHER, THESE DOCUMENTS SEIZED FROM THE PREMISES OF SHREYA'S INDIA PVT. LTD. AT ANNEXURE -AS, EXHIBIT-1 PAGES 64,65,AND 66 ARE THE RESIGNATION LETTERS OF SHRI SANJAY JAIN FROM THE CONCERNS OF THE ASSESSEE, WHICH MEANS THAT THESE ARE THE DOCUMENTS THAT WERE CREATED IN THE PREMISES OF SHRI SANJAY JAIN AFTER HIS DEPARTURE FROM THE ASSESSEE COMPANY. THEN THE QUESTION ARISES IS THAT HOW COME DOCUMENTS THAT ARE THE PERSONAL DOCUMENTS OF SHRI SANJAY JAIN AND WHICH HAVE BEEN DRAFTED AFTER HIS DEPARTURE FROM THE ASSESSEE COMPANY, BE HANDED OVER TO HIM BY THE REMAINING DIRECTORS?

THAT SHRI SANJAY JAIN IS OBVIOUSLY LYING WHEN HE STATES THAT THE SOFT COPY WAS HANDED OVER TO HIM BY THE REMAINING DIRECTORS. THE

QUESTION IS THAT WHY WOULD THE REMAINING DIRECTORS SEND A SOFT COPY TO AN ADDRESS WHERE SHRI SANJAY JAIN WAS A NON- ENTITY DURING THAT PERIOD, AND ONLY JOINED THERE AS A DIRECTOR IN 2014?

FURTHER, ANNEXURE -A, EXHIBIT -1 SEIZED FROM THE PREMISES OF SUPREME POLYMERS WERE SEIZED FROM THE D- DRIVE OF THE COMPUTER AS MENTIONED BY THE DEPARTMENT ON THE FACE OF THE PAGE-127. THE SEIZED PAGES 120 – 126 OF ANNEXURE-A, EXHIBIT-1 SHOW THE DATE OF CREATION ON THESE PAGES AS APRIL 28, 2011. THE QUESTION REMAINS THAT WHY WOULD SHRI SANJAY JAIN DIVIDE THE DOCUMENTS WHICH HE ALLEGES TO HAVE RECEIVED FROM THE REMAINING DIRECTORS, AND PLACE SOME PARTS OF THE SAID DOCUMENTS AT ONE PLACE IN DOCUMENT/ LOOSE PAPER FORM, AND OTHER PARTS OF THE SAME SAID DOCUMENT AT OTHER PLACES IN SOFT COPY? FURTHERMORE, IN SOME STATEMENTS SANJAY JAIN HAS STATED THAT HE HAD RECEIVED A "SOFT COPY", AND IN OTHER STATEMENTS HE HAS STATED THAT HE HAD RECEIVED DOCUMENTS. OBVIOUSLY, SHRI SANJAY JAIN IS LYING AND DELIBERATELY MAKING MISLEADING STATEMENTS SO AS CONFUSE THE DEPARTMENT. IT ALSO IMPLIES THAT THE DOCUMENTS PERTAIN TO HIM ONLY AND HE IS ATTEMPTING TO FABRICATE ALIBIS.

- xi. Furthermore, it is surprising that while Shri Sanjay Jain remembers all other dates and period accurately, it is regarding those most important documents that his memory has failed him. Obviously, no such documents/ soft copy were ever handed over to Shri Sanjay Jain by the remaining directors of the Assessee, and the same has been clearly fabricated by him to mislead the department.
- xii. It is also pertinent to note that seized documents have been recovered from various places, most of which do not have any link or relation with the Assessee but definitely has links with Shri Sanjay Jain himself, thereby proving that the seized documents are a narration of the businesses of Shri Sanjay Jain and group. At some places, the documents have been seized, at other places it has been recovered from the computers of Shri Sanjay Jain & Group which clearly indicate that the seized documents carry a narration of the businesses of Shri Sanjay Jain & Group only. Further, even if for once it is believed that such documents were given to Shri Sanjay Jain by the remaining Directors, then how did these documents reach different locations which have no relevance with the assessee. Clearly, because these documents pertained to the businesses of Shri Sanjay Jain only.
- xiii. Further, Sanjay Jain and Bhaskar Sharma have themselves stated that the books of account were maintained by Bhaskar Sharma in the factory cum office premises of Supreme Polymers.
- xiv. There is not a shred of evidence in support of the false and fabricated statements made by Sanjay Jain stating that the seized documents were handed over to him by the remaining directors.
- xv. IN REGARDS TO THE STATEMENT OF SHRI SANJAY JAIN THAT THE DOCUMENTS WERE HANDED OVER BY THE REMAINING DIRECTORS, THE THREE DIRECTORS OF SUMS EXIM PVT. LTD. VIZ., SUNIL MEHTA, UTTAM KUMAR KHATWANI, AND MANTOSH DAS ARE HEREBY SUBMITTING AN AFFIDAVIT IN SUPPORT OF THE FACT THAT NO SUCH DOCUMENTS, AS STATED BY SHRI SANJAY JAIN, WERE EVER HANDED OVER TO SHRI SANJAY JAIN AT ANY POINT OF TIME. ( Please see ANNEXURE -7)
- xvi. THE NATURE OF THE SEIZED DOCUMENTS ARE COMPLETELY DIFFERENT FROM THE BOOKS OF THE ASSESSEE.



The documents seized from the premises of Shri Sanjay Jain are completely different from the books of the assessee.

- i. That the details as shown in the aforesaid seized documents do not match with the books of the Assessee Company in terms of the nature of land sold, area sold, measurement unit applied for such sales, cheques/cash taken, conversion charges taken, person to whom sold, etc.
- ii. That the nature of the land as shown as sold in the seized documents is Non- Agricultural land (residential), while the Assessee Company only sold Agricultural land. It is clear from the statements u/s section 131 given by Shri Sanjay Jain, where in reply to question no. 5 he stated that:

“Nature Farms यह एक बड़ा फॉर्महाउस स्कीम दिल्ली रोड पर विकसित किया था इसमें जमीन खरीद कर उसका कृषि भूमि से रूपांतरण करा कर छोटे-छोटे प्लॉट बनाकर बेचते थे ।

Nature Farm Phase के बारे में जानकारी नहीं है “

Nature Farms Hill Retreat यह एक बड़ा फॉर्महाउस स्कीम अचरोल गाँव पर विकसित किया था इसमें जमीन खरीद कर उसका कृषि भूमि से रूपांतरण करा कर छोटे-छोटे प्लॉट बनाकर बेचते थे ।

Your honour the report of the Tehsildar confirms the assessee's contention that it sold land in the same nature it had purchased, whereas statements of Shri Sanjay Jain confirm that whatever Shri Sanjay Jain or his group sold was after converting the land, for which conversion charges were taken. The assessee never got any land converted, and hence never took any conversion charges. Mr. Sanjay Jain and his group were also using the name "Nature Farms", "Nature Farm Phase", "Nature Farms Hill Retreat", and "NF Hill Retreat".

Your honour's attention is drawn to the reply of Shri Sanjay Jain wherein he has stated that his group sold land after getting it converted. The seized documents also contain narration of sale of plots after getting the plots converted only, and where conversion charges were taken from the purchasers. The Assessee company only sold unconverted agricultural land or sold converted land only where it had bought converted land from the seller, as is evident from the books of accounts of the Assessee Company, the copies of the registered sale Deeds already submitted with your honour, and which can also be further verified and confirmed from the land records from the Office of the Tehsildar, Jamwa Ramgarh, Jaipur.

While the land sold as per the seized documents show that the land was converted prior to the sale and for which conversion charges were charged from the purchasers. This has been confirmed by Shri Sanjay Jain in his statement dated 19/03/2017 taken u/s 131 of the I.T. Act wherein he has categorically stated against question No. 5 that his company bought land and sold it as small plots only after getting it converted. Infact, the documents seized from the premises of Sanjay Jain also clearly show that the sold plots shown in the seized documents were of converted plots for which Conversion Charges were charged from the buyers of the plots.

Shri Sanjay Jain, in his statement dated 19.5.2011 in reply to question no. 1 had stated that the documents ( Annexure -A, Exhibit-1 page no. 116) seized from his premises contained in Column No. 6 "Conversion charges rate per sq. yard"; at Column No.8 " Conversion Charges"; at Column No.10 "Conversion Amount Received"; and at Column No.12 " Conversion Amount Balance".

The Assessee company bought and sold MOSTLY UNCONVERTED AGRICULTURAL LAND OR SOLD VERY FEW CONVERTED PLOTS WHICH WERE BOUGHT AS CONVERTED LAND only. Hence, the documents seized from the premises of Shri Sanjay Jain do not pertain to the Assessee Company.



- iii. That the measurement unit shown in the seized document is in Square Yards while the sales made by the Assessee company is mostly in BISWA/BIGHA ( more recently in hectare), which is the standard measurement unit for agricultural lands.
- iv. That the Assessee company bought and sold land in its own name only, while the seized documents at Page 127 of EXHIBIT -1. ANNEXURE-A clearly show under the heading "INCOME OF NATURE FARMS" that land was sold through "Nature Farms", while all the purchases and related expenses were booked under the heading of "NF Hill Retreat". Page 127 also reveals that a profit of Rs.2,24,87,607/- was earned after deducting the Expenses of "NF Hill Retreat" from the Income of "Nature Farms". How is it possible that land could be bought and developed in one company, and sold in the other?
- The Assessee Company bought land, made related developmental expenses, and sold land under the title of "Nature Farms" which was owned by the Assessee Company. Similarly, S.M. Developers (where the Assessee Company is a partner) bought land, made related developmental expenses and sold land under the title "Nature Farms Hill Retreat" owned by S.M. Developers.
- v. At page No. 127 of the aforesaid seized documents, the land purchased by "NF Hill Retreat" is shown as 159.185 Bighas, while the total land purchased during the period by S.M. Developer's owned "Nature Farms Hill Retreat" was only 53.2 BIGHAS. Hence, the seized documents obviously do not refer to the Assessee Company or S.M. Developers as there is a vast difference in the purchase figures. Your honour, it is well known that all purchases can only be done through Registered deeds. It can also be verified from the office of the Tehsildar, Jamwa Ramgarh, Jaipur regarding purchases of land made in S.M. Developers owned "Nature Farms Hill Retreat" which is stated under village Charanwas alias Kali Pahadi, Tehsil Jamwa Ramgarh, Jaipur.
- vi. Similarly, page 127 of the aforesaid seized documents, under the title INCOME OF NATURE FARMS, the Area shown as Sold, Sellable Area, and Balance Area do not at all match with the records of the Assessee company, and that of the records of the Government.
- vii. That in the seized documents, several plots shown as sold, either does not exist or were unsold during the period in the books of the Assessee Company and in the records of the Government. Hence, it is abundantly clear that the documents seized from the premises of Sanjay Jain and Group do not pertain to the Assessee but are a narration of the businesses of Shri Sanjay Jain himself.
- MORE IMPORTANTLY THE SALES MADE BY THE ASSESSEE ARE THROUGH REGISTERED SALE DEEDS WHICH MATCH AS THE DETAILS PROVIDED BY THE TEHSILDAR IN HIS REPORT. ON THE OTHER HAND, THE SEIZED DOCUMENTS ALSO SHOW SALES THROUGH REGISTERED DEEDS BUT DO NOT MATCH WITH BOOKS OF THE ASSESSEE AS WELL AS WITH THE REPORT OF THE TEHSILDAR. NO COPIES OF THE REGISTERED SALE DEEDS HAVE BEEN SEIZED BY THE DEPARTMENT. HENCE, IF A NARRATION IN THE SEIZED DCOUMENTS IS OF REGISTERED DOCUMENTS THEN IT SHOULD EXACTLY MATCH WITH THE RECORDS OF THE GOVERNMENT IN TERMS OF NATURE AND TYPE OF LAND, SIZE OF PLOT, MEASUREMENT UNIT APPLIED, CONVERTED OR UNCONVERTED, ETC. THE SEIZED DOCUMENTS NEITHER EXACTLY MATCHES WITH THE BOOKS OF THE ASSESEE NOT WITH THE RECORDS OF THE TEHSILDAR. HENCE, THE DOCUMENTS ARE A NARRATION OF SOME REGISTERED SALES WHICH ARE NOT THE SAME AS THE SALES OF THE ASSESSEE, AND ALSO THE SALES WHICH ARE REFLECTED IN THE RECORDS OF THE TEHSILDAR PROVES THAT THE SEIZED DOCUMENTS ARE BELONGING TO SHRI SANJAY JAIN AND GROUP.**
- C. THAT SHRI SANJAY JAIN ALONG WITH HIS RELATIVES & OTHERS DID REAL ESTATE BUSINESS IN AND AROUND ASSESSEE OWNED "NATURE FARMS" & "NATURE FARMS HILL RETREAT". & SHRI SANJAY JAIN PURCHASED LAND AROUND ASSESSEE'S PROJECT IN BENAMI NAMES.
- i. That Shri Sanjay Jain and his relatives carried out business of buying and selling land in and around the Assessee owned "Nature Farms" & "Nature Farms Hill Retreat". This fact was reconfirmed by Shri



**Your honour the relevant scanned portion of page no. 65 and 66 is as under:-**

ITA No. 232 to 234/2014-15

E. THE POLICE INVESTIGATIONS AND THE ORDER OF THE HONOURABLE COURTS PROVE THAT SHRI SANJAY JAIN INDULGED IN FRAUD, CHEATING, FORGERY AND THEREBY EARNED UNACCOUNTED INCOME IN THE NAME OF THE CONCERNS OF THE ASSESSEE.

- i. FIR संख्या 313/2009 दिनांक 16.12.2009 पुलिस थाना चंदवाजी, जयपुर ग्रामीण भारतीय दंड संहिता तहत धारा 420, 467, 468, 471, 120बी व 409 संजय जैन, भास्कर शर्मा, लाल सिंह सिसोदिया एवं अन्य के विरुद्ध।

The operative portion of the report of the Police station Chandwaji, Jaipur Rural, Jaipur is reproduced as under:-

"यह की उपरोक्त तथ्यों से स्पष्ट है कि संजय जैन, भास्कर शर्मा, एवं लाल सिंह सिसोदिया ने अपराधिक षडयंत्र रचकर प्रार्थी की कंपनी को धोका देने की नियत से पहले तो कंपनी की सम्पत्ति को सुप्रीम पोलिमेर्स की सम्पत्ति बताते हुए अन्य खरीददारों को ज़्यादा कीमत में बेच एवं इस बाबत फर्जी रसीदें उन खरीददारों को जारी की एवं कंपनी को प्राप्त होने वाले रूपए को कंपनी में ना जमा करा कर उक्त रूपए का अपराधिक दुर्विनियोग किया एवं तत्पश्चात कंपनी के अन्य निदेशकों को धोका दे कर उक्त सम्पत्ति न सिर्फ कम कीमत में खरीद ली बल्कि उक्त खरीदशुदा राशि के भुगतान भी कंपनी को ना कर एवं विक्रय पत्र में गलत हवाला देकर सदोष हानि पहुँचाई है। आदि रिपोर्ट पर अभियोग संख्या 313/2009 धारा -409, 420, 467, 468, 471, 120बी भा. द. स. में कायम शुरू कर तफ्तीश शुरू की गयी। प्रकरण हॉजा बाद अनुसंधान मुलजिमान श्री संजय जैन पुत्र श्री अमरनाथ जैन उम 42 साल, निवासी 46बी केशव पथ सूरज नगर पश्चिम जयपुर थाना सोडाला जिला जयपुर शहर व श्री भास्कर शर्मा पुत्र श्री गिरधारी लाल शर्मा जाती ब्राह्मण उम 47 साल निवासी 108 हरी मार्ग सिविल लाइन्स जयपुर थाना सोडाला जिला जयपुर के विरुद्ध चार्जशीट नंबर 77/10 दिनांक 13.05.10 धरा 420, 409 भा.द. स. में किता कर चालान दिनांक 21.05.2010 को न्यायालय में पेश की जा चुकी है।"

- ii. FIR संख्या 429/2009 दिनांक 07.12.2009 पुलिस थाना चंदवाजी, जयपुर ग्रामीण भारतीय दंड संहिता तहत धारा 420, 467, 468, 471, 120बी व 409 संजय जैन, भास्कर शर्मा, लाल सिंह सिसोदिया एवं अन्य के विरुद्ध।

Your honour's kind attention is drawn towards the Order of the District Judge, Sessions Court, Jaipur City, Jaipur the operative portions of which are reproduced as under:

"लोक अभियोजन का कथन है कि मूल मुख्तियार नामा भी अभी प्राप्त नहीं हुआ है, इस संबंध में वकील प्रार्थीगन का कथन है कि मूल मुख्तियार नामा सम्पूर्ण कार्यवाही के बाद सुनील मेहता को दे दिया गया था, परंतु यह स्थिति सही प्रतीत नहीं होती है क्योंकि सामान्यता दस्तावेज उसी व्यक्ति के पास रहता है, जिसके पक्ष में उसका निष्पादन किया जाता है और प्रस्तुत स्थिति में मुख्तियार नामा सुनील मेहता के पास होने की कोई स्थिति नहीं थी। मुख्तियार नामा लाल सिंह के पक्ष में किया गया है और ऐसी स्थिति में निश्चित तौर पर इसे लाल सिंह के पास होना चाहिये था।

लोक अभियोजन का कथन है कि अनुसंधान से यह स्थिति भी आयी है कि विक्रय राशि का भुगतान संजय जैन, जो की सिद्धार्थ पोलिमेर्स प्राइवेट लिमिटेड के प्रबंध निदेशक है, उनके खाते से हुआ है और जिसके एकमात्र ऑथोरिज्ड सिग्नरी संजयजैन ही है। इस प्रकार इस स्तर पर यह नहीं कहा जा सकता की प्रार्थीगन को प्रकरण में झूठा फंसाया जा रहा है। अपराध की गंभीर प्रकृति और प्रार्थीगन की सीधी लिप्तता देकते हुए प्रार्थीगन को अग्रिम जमानत का लाभ दिया जाना उचित नहीं है।

अतः प्रार्थीगन सुकेश गोयल, भास्कर शर्मा, लाल सिंह, संजय जैन द्वारा प्रस्तुत दोनों अग्रिम जमानत आवेदनपत्र अंतर्गत धारा 438 दूँ प्र सं खारिज किये जाते हैं।

- iii. FIR संख्या 193/2010 दिनांक 28.05.2010 पुलिस थाना सोडाला, जयपुर दक्षिण भारतीय दंड संहिता तहत धारा 420, 120बी व 409 संजय जैन, भास्कर शर्मा, लाल सिंह सिसोदिया एवं अन्य के विरुद्ध।

The aforesaid FIR is unrelated with the seized documents.

- iv. FIR संख्या 3/2010 दिनांक 02.01.2010 पुलिस थाना सोडाला, जयपुर दक्षिण भारतीय दंड संहिता तहत धारा 420, 120बी व 409 संजय जैन, भास्कर शर्मा, लाल सिंह सिसोदिया एवं अन्य के विरुद्ध।

Your honour's kind attention is drawn towards the Order of the District Judge, Sessions Court, Jaipur City, Jaipur the operative portions of which are reproduced as under:

" इस प्रकरण पर गुणावगुण पर कोई टिपण्णी नहीं करते हुए, प्रकरण के तथ्यों व परिस्थिति एवं स्थिति पर विचार करते हुए कि अपराध गंभीर प्रकृति का हुआ है, प्रार्थी संजय जैन और भास्कर शर्मा की इसमें सीधी लिप्तता है, इसलिए इस स्तर पर प्रार्थीगन को अग्रिम जमानत का लाभ दिया जाना उचित नहीं है."



*F. THAT SANJAY JAIN AND GROUP HAVE OBTAINED ORDERS FROM HON. INCOME TAX SETTLEMENT COMMISSION (ITSC) BY MISREPRESENTATION & FRAUD.*

- a) *That nowhere in the Application of Shri Sanjay Jain & Group there was a "full and Complete disclosure".*
- i) *Shri Sanjay Jain & Group did not show anywhere in his application with the ITSC as to how, when, and from whom was the unaccounted of Rs.4.00 crore earned. No details of the unaccounted income of Rs. 4.00 crore has been provided in the application.*
- ii) *That Shri Sanjay Jain has shown NIL income during the AY 2006-07, 2007-08 and 2008-09- the time when he was the Director in the Assessee company from where he had to resign and flee in April, 2008 when he found to have committed gross financial irregularities, fraud, and forgery. It was only in the year AY 2009-10 when he has declared to have earned the accounted income, a period when he was not a part of the assessee company. Hence, the ITSC seriously erred in treating the unaccounted income earned by a former Director to be belonging to the assessee company.*

*Your honour's kind attention is drawn towards the statement of Shri sanjay Jain made on 19.05.2011 u/s 131 of the I.T. Act where in had stated in response to question no.3 at Page no. 4:*

*" इस कंपनी से जनवरी 2009 से अपनी शेयर होल्डिंग कंपनी के वाकी निदेशकों को दे दी थी परन्तु मैंने कंपनी में काम करना मई 2008 से ही बंद कर दिया था " .*

- iii) *That during the Cross Examination of Shri Sanjay Jain on 19.03.2017, your honour's kind attention is drawn towards the question no. 27 and the reply given by Shri Sanjay Jain:*

*"प्रश्न- 27. श्री सुनिल मेहता द्वारा : आपने उपरोक्त 4.00 करोड़ की अघोषित आय कब-कब कमाई है? आपने उपरोक्त 4.00 करोड़ की अघोषित आय कैसे-कैसे कमाई है?*

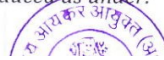
*उत्तर- श्री संजय जैन द्वारा- इस उपरोक्त प्रश्न के बारे में मैंने कोई बयान सर्च की कार्यवाही के दौरान नहीं दिया है अतः यह सवाल कोस एग्जामिनशन में नहीं पूछ सकते है । हालांकि यह जानकारी माननीय समझौता आयोग के समक्ष दी जा चुकी है ।*

**And in reply to cross examination question no. 32, Shri Sanjay Jain replied:**

*उत्तर- श्री संजय जैन द्वारा- 4.00 करोड़ के Surrender बारे में हमारा जवाब हम माननीय समझौता आयोग के समुख पेश कर चुके है । Supreme Polymers Pvt. Ltd. या Siddharth Polysacks Pvt. Ltd. के द्वारा रिसेल में बेचे हुए प्लॉटों के बेचान के बारे में सवाल कोस एग्जामिनशन में नहीं पूछ सकते है ।*

*Your honour, Shri Sanjay Jain's statement that he has given the details to the Hon. ITSC which is a blatant lie. Your honour can examine for your kind self that no such details, as to how, from whom, and the manner in which the unaccounted income of Rs4.00 crore has been earned, have been provided before the Hon. ITSC by Shri Sanjay Jain. NO DETAILS OF THE MANNER IN WHICH THE UNACCOUNTED RS.4.00 CRORES HAVE BEEN EARNED BY SHRI SANJAY JAIN HAS PROVIDED BEFORE THE HON. ITSC Hence, evidently the order was obtained by Shri Sanjay Jain through "fraud and misrepresentation" before the ITSC, and in gross violation of the I.T. Act.*

- iv) *That on all occasions from day of the search and seizure operations carried out at his premises till his written statement before the Hon. ITSC, nowhere has Shri Sanjay Jain stated that the Assessee has earned any unaccounted income. Shri Sanjay Jain has only stated that he has earned an unaccounted income of Rs. 4.00 crores. The following statements of Shri Sanjay Jain given u/s 132 (4) and 131 of the I.T. Act, are reproduced as under:*



The Ld AO has not given any adverse inference with the police investigation report which confirm that Shri Sanjay Jain along with his relative and others did real estate business in and around assessee owned "NATURE FARMS" & "NATURE FARM HILL RETREAT" & SHRI SANJAY JAIN PURCHASED LAND AROUND

ASSESSEE'S PROJECT IN BENAMI NAMES. Hence, seized documents are not belonging to the assessee.

- 8) Your Honour, Kindly refer Ld CIT(A) order page no. 22-24 wherein point no. 2.10 is appearing The relevant scanned portion is as under:-

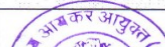
[2.10] AO is also required to give comments on the following discrepancies highlighted by the aforementioned assessee which were not duly taken into cognizance while framing the assessments for the year.

(1) The seized documents suffer from inherent contradictions as different figures are given at different pages, thereby putting a question on their reliability and authenticity as far as the assessee is concerned, unless otherwise these pages are a narration of different real estate businesses of Shri Sanjay Jain and Group.

a) Refer Annexure A, Exhibit 1 at pages 120 till 127 of the seized documents and Annexure AS, Exhibit 1 at pages 6- to 8 of the seized documents details of which is as under:

Details of nature farms plots status	Annexure a, exhibit 1 at pages 120 till 127 of the seized documents	Annexure as, exhibit 1 at pages 6-8 of the seized documents
Total sellable area	354,842.140	334,456.440
Area sold	214,783.070	206,457.480
Balance area	140,059.070	127,998.960

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On this, AO is required to give his factual comments on the above.

b) Refer Annexure –A, Exhibit -1 and Annexure –AS, Exhibit -2 details of which are as under:

S. No.	Annexure –A, Exhibit -1 (pages 120-126) of the seized documents dated 28 April, 2011 (which are similar to pages 31 -38 of annexure –AS. Exhibit -1 dated April 28, 2011.)	Annexure –AS, Exhibit -2 of the seized documents (pages 85 -88)
1.	At page no. 125, cheque received against the plot no. 29 is of Rs.331,774/-	At page no. 88 cheque received for plot no. 29 from Rajeev Bhargava / Sanjeev Bhargava shown as Rs.331,950/-
2.	At page no. 125 for plot no. 28, a cheque amount received has been shown as Rs.240,176/-	At page no. 88, for plot no. 28 cheque amount received has been shown as Rs.246,200/-
3.	At page no. 126 plot nos. 2 & 3 are shown as sold to Visas Khurana	No sales for plot no. 2 & 3 shown in the pages 85-88 showing sales nature farms ledger account
4.	At page no. 126 plot nos. 5 & 5a shown as sold to Kanha Projects Pvt. Ltd.	At page no. 87 only plot no. 5 is shown as sold to Kanha Projects Pvt. Ltd.
5.	At page no. 126 plot no. 6 shown as sold to Dave Brooks	No such sale has been shown.
6.	No such sale shown as made to sanjay jain	Page no. 88 shows sale of 10 bigha & 4 biswa (44 biswa) to sanjay jain
7.	No such sale shown as made to Dinesh Gupta.	Page no 88 sale of 10 bigha 4 biswa shown as sold to Dinesh Gupta (brother of Sanjay Jain)
8.	At page no. 126 plot nos. 12a, 13a, 13, 14, 14a shown as sold to whispering meadows clubs & resorts pvt. Ltd of a total area of 10010.82 sq. Yards	At page no. 88 a sale of 1 bigha ( 3025 sq. Yards) of land shown as sold to whispering meadows clubs & resorts pvt. Ltd.
9.	At page no. 126 plot no. 19 shown as sold to Sanded Parasher.	No such sale has been shown.
10.	At page no. 125 plot no. 21 has been shown as sold to Evette.	No such sales have been shown.
11.	At page no. 125, plot nos. 20, 20,21,22,22a,22b have been shown as sold to Rashmi Karnani	No such sale has been shown
12.	At page no. 125, plot nos.33, 34, 34a, 35, 36, 38 have been shown as sold to Nav Sthapana Builders Pvt. Ltd.	No such sale has been shown.
13.	At page no. 122 plot no 116 has been shown as sold to Sidh Raj Bhandari.	At page no. 87 the plot no. 116 has been shown as sold to Preeti Mehta
14.	At page no 122 plot no 133 has been shown as sold for cheque amount Rs.333,333/-	At page no. 85, plot no.133 shows receipt of cheque payment of Rs. 333,300/-
15.	At page no. 122, plot no. 134 for an area of 1878.000 sq. Yards shows a cheque payment of Rs.563,400/-	At page no. 85, plot no.134 for an area of 15 biswa shows receipt of cheque payment of Rs.544,500/-
16.	At page no. 121 plot no. 136 shows a receipt of Rs.288,792/-	At page no. 86 plot no. 136 shows a cheque receipt of Rs.288,880/-
17.	At page no. 121 plot no. 141 has been shown as sold to Anup Aggarwal	At page no. 85, plot no. 141 has been shown as sold to Brij Mohan Aggarwal.
18.	At page no. 121 plot no. 142 has been shown as sold to Brijmohan Aggarwal	At page no. 85, plot no. 142 has been shown as sold to Anup Aggarwal.
19.	At page no. 125, plot no. 31 has been shown as sold to Rajesh Bhatia/ Anita Bhatia.	At page no. 87, plot no. 31 has been shown as sold to Raja (Rajesh Bhatia)
20.	No sale of plot no. 32 has been shown as unsold.	The plot no. 32 is not mentioned as sold.
21.	At page no. 123 plot no. 112 has been shown as sold to Supreme Polymers/Aditya Mishra for a cheque amount of Rs.603,200/-	At page no. 86 plot no. 112 & 113 has been shown as sold to Supreme Polymers pvt. Ltd. For an amount of Rs.10,58,200/- no sale shown as made to Aditya Mishra.
22.	At page no. 123 plot no. 113 has been shown as sold to Supreme	No separate entry shown. No sale has been shown to

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S. No.	Annexure -A, Exhibit -1 (pages 120-126) of the seized documents dated 28 April, 2011 (which are similar to pages 31 -38 of annexure -A5. Exhibit -1 dated April 28, 2011.)	Annexure -A5, Exhibit -2 of the seized documents (pages 85 -88)
	Polymers/Aditya Mishra for a cheque amount of Rs.455,000/-	Kusum Verma.
23	At page no. 123 plot no. 109 has been sold to Urshine Developers/ Amit.	Plot no. 109 has been shown as sold to Sidharth Polysacks Pvt. Ltd
24	Plot no. 103 shown as sold to Sidharth Polysacks / Mahesh Kanodia	Plot no. 103 shown as sold to Sidharth Polysacks Pvt. Ltd
25	At page no. 123 plot no. 102 has been shown as sold to Amar Khurana / Vikash K	No sale of plot no. 102 has been shown.
26	At page no. 122 plot no. 119 has been shown as sold to Dr. Seema Mehta	No such sale has been shown. Infact, the sale of this plot matches with books of accounts of Sanjay Jain.
27	At page no. 122, the plot nos. 124, 125, 126 have shown to be sold to Dinesh Gupta through three separate registered deeds for Rs.274,000/-, Rs.212,000/ and Rs.464,400/- respectively adding up to Rs.950,400/-	The sale of plots no. 124,125, 126 have been made through a single registered deed for Rs.951,062/-

On this, AO is required to give his factual comments on the above.

- c) *AO's comments required on the detailed submission( Enclosed as per Annexure-C) regarding Annexure - A, EX. 1. Pages 115-131 because there are lots of discrepancies as per seized documents vis a vis with the bank statements and case records maintained by the assessee, details of which is enclosed herewith as per Annexure-D*
- d) *For your reference, assessee's submission dt 06.10.2016 containing details of agricultural land sold/ unsold/ sold upto 31.03.2008 mentioning Khasara no etc is enclosed herewith as per Annexure-E. All these land plots are situated at Rajpurwas Tala Panchayat Village- Charanwas, Kalipahari. You are required to obtain Tehsildar ( Jamwa Ramgarh Dist Jaipur) & Patwari's report with regard to Khasra mentioned therein in order to examine assessee's contention. For your reference, a copy of paper book provided by the assessee is also enclosed herewith as per Annexure-E*

Your Honour the Ld AO submitted Tehsildar report which is appearing in Ld. CIT appeal order page no. 54 to 64. The Ld AO has not given any adverse inference with the Tehsildar report which confirm that seized documents are not belonging to the assessee.

### C. THE FINDING AND THE ORDER OF THE LD CIT (A)

- 1) Your Honour, Kindly refer Ld CIT(A) order page no. 74-83 and 180-184 wherein point no. 2.16.4, 2.16.5, 2.16.6 and 4.1.1 respectively regarding finding of the Ld CIT (A) is appearing.

2.16.4 I have duly considered AO's report and assessee's rejoinder. I have also taken a note of sworn statement recorded on oath of Sh Sanjay Jain and his subsequent cross-examination by Sh Sunil Mehta. On careful perusal of the same, facts emerging out of this is summarized as under:

- (a) *Assessee is not a part of the Supreme Group of companies. After 31.05.2008, Sh Sanjay Jain is no associated in the business Sh Sunil Mehta and his entities.*
- (b) *Search and seizure operation was conducted at the premises of Supreme Group companies and its director including Sh Sanjay Jain and the impugned seized documents were found & seized from their possession. Therefore, the impugned documents can be treated as 3<sup>rd</sup> party documents subject to the provisions of sec 132(4A) rws 292C of the Act. During the search operation in the sworn statement recorded on oath u/s 132(4) of the Act on 28/4/2011 and u/s 131 on 16/5/2011 of Sh Sanjay Jain had denied ownership of impugned documents (Reference Q No 5.of statement u/s 132(4) and Q No 5 of 131 also referred by the AO in the assessment order). Further, Sh Bhaskar Sharma, the then accountant of M/s SUMS Exims Pvt Ltd during the period April 2005 to July 2008 in answer to Q no 3 of the sworn statement recorded on oath on 28.06.2011 u/s 131 of the Act has also accepted that entries recorded in the impugned documents pertain to M/s SUMS Exims Pvt Ltd. However, Sh Sunil Mehta in sworn statement recorded u/s 131 of the Act on 21.06.2011 has completely denied the ownership of those supra impugned documents. For the sake of clarity, the details of impugned documents found and seized are as under:*

<u>Document identified as</u>	<u>Found from the possession of</u>
(i) Annex- AS Exhibit-2 (Pages 1 to 88)	Residence of Shri Lal Singh Sisodiya
(ii) Annex.-AS Exhibit-1 (Pages 1 to 66)	Factory cum office of M/s Shrey's India Pvt Ltd
(iii) Annex. AS Exhibit-2 (Pages 1 to 75)	Factory cum office of M/s Shrey's India Pvt Ltd
(iv) Annex.-A Exhibit-1 (Pages 115 to 131)	Premise of Supreme Polymer Pvt Ltd



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- (c) *Sh Sanjay Jain in reply to question no. 5 of the sworn statement recorded on 29.04.2011 u/s 132(4) in relation to Annex.-AS- Exhibit 2 Pg 116 to 133 has stated inter alia as under:*

"यह जमीन बेचते समय sale amount का कुछ हिस्सा नकद में लिया गया था। इस नकद राशि को further जमीन खरीदने के लिए use किया गया था। फिर भी मेरे हिसाब से इन projects से मुझे चार करोड़ का लाभ हुआ और इसे मैंने आगे जमीन खरीद के लिए अग्रिम दे रखे हैं। इसकी details मैं आपको प्रस्तुत कर दूंगा।"

- (d) *On careful perusal, Tehsildaar report further confirms assessee's contention that it sold land in the same nature it had purchase. From the Tehsildaar report it is also clear that all the lands sold by the assessee were agriculture land (few exceptions of converted land sold by assessee). For the sake of clarity, the Tehsildaar report is summarized as under:*

- (i) *Khata Khesra No. as mentioned in the impugned seized record and submission made by the assessee matches with the Tehsildaar report. Lands purchased by assessee as converted land were sold as converted land*
- (ii) *Some of the lands (Khata Khesra No. mentioned in the seized document) are still not converted.*
- (iii) *Some lands sold by Sh Sanjay Jain & his aids namely (1) Sh Dinesh Gupta, assessee's real brother (2) Amarnath Jain, Assessee's father-in-law (3) Sh Rajiv Gupta, W/o Smt Neelam Gupta who is sister of Sh Sanjay Jain (4) M/s Supreme Polymer Pvt Ltd (measurement in sq yds).*
- (iv) *The Tehsildar report categorically shows that all land sold by the assessee was agricultural land with the measurement unit applicable was Biswa /Bigha which is the legally applicable measurement unit for agricultural land. This exactly matches with sales made vide registered documents by the Assessee, copies of which have already been submitted by the assessee before your kind self. The books of the assessee are matching with the Tehsildar report, while not matching with the seized documents. This clearly implies that the seized documents do not pertain to the assessee. Relevant details are summarized as under:*

SUBJECT	As per Page No 127 SEIZED FROM THE PREMISES OF SANJAY JAIN	AS PER OUR RECORDS and accounts books and finding of the Ld. AO (SQ. YARDS)	AS PER REPORT OF THE TEHSILDAR
TOTAL SALE ABLE AREA SQ. YARDS	354,842.140	259, 569.20	
SOLD AREA SQ. YARDS ON WHICH CONVERSION CHARGES CHARGED AND ALSO SOLD IN SQ. YARDS	214,783.070	Nil	Nil
SOLD AREA SQ. YARDS ON WHICH NO CONVERSION CHARGES CHARGED AND ALSO SOLD IN BIGHA/ BISWA (converted into sq yards for the sake of convenience of the deptt. only)	Nil	156,284.50	156284.50
BALANCE STOCK SQ. YARDS	140,059.070	103,284.70	

- (e) *The assessee own "Nature Farms Hill Retreat" at village Charanwas A.K.A. Kali Pahadi which false under Tehsil Jamwaramgarh Jaipur Rural and this comes under the jurisdictional Jaipur Collector. It is pertinent to mention here that Sh Sanjay Jain in his statement made on oath u/s 131 of the Act on 19.03.2017 has stated that the "Nature Farms Hill Retreat" is located in Achrol village which comes under tehsil Amer and is under JDA jurisdictional as urban area. Village Achrol is over 8 KM away from the assessee's owned "Nature Farms Hill Retreat". Therefore, the "Nature Farms Hill Retreat" of Sh Sanjay Jain & Group seems to be different from assessee owned "Nature Farms Hill Retreat".*



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(f) In examination on oath and subsequent cross-examination by Sh Sunil Mehta, Sh Sanjay Jain has not been clearly able to explain and establish that entries /transactions recorded in the impugned seized documents, are belonging / pertain to Sh Sunil Mehta and his entities, namely M/s S.M. Developers & M/s SUMS Exim Pvt Ltd. The relevant extracts of answers to Q No 3, 4, 5, 12, & 18 are as under:

3.	Nature Farm, project को विकसित करने में आपकी भूमिका क्या रही?
उत्तर	Nature Farm, project को विकसित करने में मेरी सीमित भूमिका थी । क्योंकि मैं उपरोक्त कम्पनियों में निदेशक होने के कारण वहाँ का मुख्य कार्य देखता था । इसलिए SUMS Exims पर बहुत कम समय दे पाता था । project विकसित होने के बाद अपने जानकार लोगो project के बारे में बताने तक सीमित था । इसके अलावा इस कम्पनी के बैंक से संबंधित कार्य मैं देखता था ।
4.	कृपया बताएं कि 1. SUMS PL अथवा SUMS PL कौनसी कम्पनी है तथा इनमें क्या काम होता था । आपकी इनमें क्या भूमिका थी ।
उत्तर	मेरी जानकारी में 1. SUMS PL अथवा SUMS PL इस नाम से कोई कम्पनी नहीं थी । यह SUMS Exims Pvt. Ltd. का Short form हो सकता है ।
5.	कृपया Nature Farms, Nature Farm Phase & Nature Farms Hill Retreat के बारे में विस्तार से बताएं?
उत्तर	Nature Farms यह एक बड़ा फॉर्महाउस स्कीम दिल्ली रोड पर विकसित किया था इसमें जमीन खरीद कर उसका कृषि भूमि से रूपान्तरण करा कर छोटे-छोटे प्लॉट बनाकर बेचते थे । Nature Farm Phase के बारे में जानकारी नहीं है Nature Farms Hill Retreat यह एक बड़ा फॉर्महाउस स्कीम अचरोल गॉव पर विकसित किया था इसमें जमीन खरीद कर उसका कृषि भूमि से रूपान्तरण करा कर छोटे-छोटे प्लॉट बनाकर बेचते थे ।

12.	कृपया बताएं SUMS Exims में कोई बेची गई जमीन के पेटे नकद राशि भी प्राप्त की जाती थी या नहीं?
उत्तर	नहीं, ऐसी मेरे पास कोई जानकारी नहीं है ।

18.	तलाशी के दौरान जब्त किये गये Annexure-AS, Exhibit-2 के पृष्ठ सं. 64 की प्रति आपके अवलोकनार्थ प्रस्तुत है। इनके अनुसार आप द्वारा रुपये 9 लाख की राशि प्राप्त की है जो किसी मोहित को transfer भी की हैं। साथ ही एक अन्य प्रविष्टी के अनुसार आप द्वारा श्री राजीव गुप्ता से 10 लाख रुपये की नकद राशि प्राप्त की हैं। इस transactions का प्रयोजन विस्तारपूर्वक बताइये। यह भी बताइये कि श्री राजीव गुप्ता एवं श्रीमती नीलम गुप्ता का आपके व्यापारिक कार्यकलापों में किस प्रकार का योगदान रहा हैं।
उत्तर	यह SUMS Exims के खाते है मुझे इस तरह के transactions की जानकारी नहीं है । यह सारे कागजात हमें बाकी निदेशकों ने समझौते के दौरान वर्ष 2009-10 में दिए थे तथा समझौते के समय आपसी हिसाब के लिए उनके द्वारा दिए गए थे । श्री राजीव गुप्ता एवं श्रीमती नीलम गुप्ता का मेरे व्यापारिक कार्यकलापों में कोई योगदान नहीं है ।

(g) The sworn statement recorded on oath u/s 131 of the Act of Sh Sanjay Jain on 02.05.2011: relevant extract of question no. 3, 4, 5 & 6 are reproduced here as under:

".....प्र03 आपके गुप में दिनांक 28.04.2011 को आयकर विभाग के द्वारा तलाशी एवं जब्ती एवं सर्वे की कार्यवाही की गई थी। तलाशी कार्यवाही के दौरान आपने अपने शपथपूर्वक दिये गये बयानों में पेज सं0 2 पर प्रश्न सं0 4 के उत्तर में आपकी अपनी कम्पनी मै0 एलाइन्स पॉलिसेक्स प्रा0 लि0 में आपके द्वारा वर्णित राशि - प्रिफेंसियल शेयर/ शेयर एप्लीकेशन मनी एवं कॅपिटल मनी के रूप में वित्तीय वर्ष 2009-10 तथा 2010-11 में आई है, जहाँ तक इसके स्रोत का सवाल है, वित्त वर्ष 2009-10 में रुपये 4.50 करोड़ की राशि आई है उसमें से रुपये 3.00 लाख आपका अपना निजी रुपया होना बताया है, रुपये 5.00 लाख आपकी अपनी कम्पनी मै0 सिद्धार्थ पॉलिसेक्स प्रा0 लि0, रुपये 3.00 लाख आपकी अन्य कम्पनी मै0 सुप्रीम पॉलिमर्स प्रा0 लि0 एवं रुपये 4.00 लाख अपने व्यापारिक मित्र श्री एस0 रमेश के खाते से होना बताया है। बाकी 4.35 करोड़ कुछ कम्पनी के मार्फत अपने द्वारा एन्ट्री अरेज करके अपनी कम्पनी मै0 एलाइन्स पॉलिसेक्स प्रा0 लि0 में इन्ट्रोड्यूस होना बताया है। वास्तव में इस कम्पनी ने जिनके नाम शेयर एप्लीकेशन /शेयर कॅपिटल में दिखाया गया है। उन्होंने वास्तव में मेरी उक्त कम्पनी में कोई इन्वेस्टमेंट नहीं किया है। उपरोक्त रुपये 4.35 करोड़ मेरे अपने ही होना बताया है। मैंने इन कम्पनियों के नाम से एन्ट्रीज लेकर मै0 एलाइन्स प्रा0 लि0 में इन्ट्रोड्यूस किया है। यानि कि उपरोक्त रकम नकद में हवाला द्वारा खाताबहियों में पहुँचा दी है और वहाँ मेरी उक्त कम्पनी के नाम का बैंक बनकर आ गया, जिसके जमा खर्च हमने अपनी बुक्स में कर दिये हैं। इसी प्रकार से वित्तीय वर्ष 2010-11 से रुपये 3.93 करोड़ मैंने अपनी नकदी से शेयर एप्लीकेशन मनी के रूप में मै0 एलाइन्स पॉलिसेक्स प्रा0 लि0 कम्पनी की खाताबहियों में इन्ट्रोड्यूस की है। उपरोक्त कुल रुपये 8.28 करोड़ रुपये वास्तव में मैंने अपनी स्वयं की अधोषित आय ब्रोकर्स के माध्यम से शेयर कॅपिटल की एन्ट्री लेकर प्रिफेंसियल शेयर एवं प्रिफेंसियल शेयर मनी के रूप में अपनी कम्पनी में कॅपिटल इन्ट्रोड्यूस किया है। मैंने वित्त वर्ष 2009-10 में रु0 4.35 करोड़ और वित्त वर्ष 2010-11 में 3.93 करोड़ रु0 अधोषित आय मानते हुए स्वयं (संजय जैन) आपने स्वेच्छा से आयकर अदायगी



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के लिए समर्पित किया है। तथा यह सारी रकम आपने अपने स्वयं को होना बताया है। आपने अपने बयानों में यह भी कहा है कि यह करारोपण की घोषणा आज दिनांक 28.04.2011 को सर्व के दौरान शेयर एप्लीकेशन मनी / कोपिटल से संबंधित पाई गड अनियमितताओं को मद्दे नजर रखते हुए मन की शांति एवं कानूनी विवादों से बचने के लिए कुल ₹0 8.28 करोड़ वास्तव में आपने अपनी स्वयं की अधोषित आय माना है, क्या आप आज भी उपरोक्त बयान से पूर्णतः सहमत है ?

उ0 हॉ, मैंने वित्तीय वर्ष 2009-10 में ₹0 4.35 करोड़ एवं वित्तीय वर्ष 2010.11 में ₹0 3.93 करोड़ अर्थात् कुल ₹0 8.28 करोड़ रुपये जो कि मेरी अधोषित आय जो अन्य कम्पनियों से है, मैं उक्त 8.28 करोड़ ₹0 को अपनी अधोषित स्त्रोतो से आय मानते हुए उस पर नियमानुसार आयकर अदा करने पर पूर्णतः सहमत हूँ, जैसा कि मैंने यह बयान पूर्व में दिनांक 28.04.2011 को सर्व कार्यवाही के दौरान भी शपथपूर्वक बयान में दियेह, जो कि सही है।

प्र04 आपके गुप में दिनांक 28.04.2011 को आयकर विभाग के द्वारा तलाशी एवं जब्ती एवं सर्वे की कार्यवाही की गई थी। तलाशी कार्यवाही के दौरान आपकी कम्पनी मै0 सुप्रीम पॉलिमर्स प्रा0 लि0, 137-138, झोटवाड़ा इण्डो एरिया जयपुर में स्थित ऑफिस से कुछ लूज पेपर्स पाये गये थे, जिसे एनेक्सर ए.एस-1 से सूचीबद्ध किया गया था। जिसमें पेज सं0 116 से 133 आपको दिखाये जाने पर आपने शपथपूर्वक बयानों के प्रश्न सं0 5 के उत्तर में यह जवाब दिया था कि इन पृष्ठों में मेरे द्वारा अन्य व्यक्तियों के साथ मिलकर खरीदी व बेची गई जमीनों से संबंधित कागजात है यह मूनि दिल्ली रोड पर स्थित है और इसे नेचर फार्मस के नाम से डवलप एवं प्रमोट किया गया था। पृष्ठ सं0 116 से 126 पर प्रोजेक्ट के विभिन्न प्लॉट्स की सेल की डिटेल्स होना बताया है। पृष्ठ सं0 127 पर इस प्रोजेक्ट का वास्तविक प्रॉफिट एवं लोस एकाउन्ट है। यह जमीन बेचते समय सेल रकम का कुछ हिस्सा नकद में लिया जाना कबूला है। इस नकद राशि को आगे और जमीन खरीदने के लिए प्रयोग लिया गया था। इस प्रकार हर प्रोजेक्ट की कुल प्राप्तियाँ तथा कुल खर्चों की समरी पेज सं0 127 पर मौजूद है। इस प्रोजेक्ट की जमीन खरीद के लिए मेरे द्वारा निवेशित रकम की डिटेल्स, जो कि पेज सं0 132 एवं 133 में वर्णित है। सन् 2008 में बाकी भागीदारों से मनमुटाव हो गया था उस समय लगभग 30 से 40 प्रतिशत जमीन अनसोल्ड जमीन के बदले मुझे रकम प्राप्त होना बताया है। आपने स्वयं ने इस प्रोजेक्ट से ₹0 4.00 करोड़ का लाभ होना कबूल किया है। जो कि आपकी अधोषित लाभ एवं उससे किये हुए निवेश को अधोषित आया मानते हुए करारोपण हेतु कबूल किया है, क्या आप उक्त तथ्य से सहमत है ?

उ0 जी हॉ, मैंने नेचर फार्म, दिल्ली रोड पर डवलप एवं प्रमोट की गई जमीन से कुल लाभ रुपये 4.00 करोड़ अधोषित आय मानते हुए इस नियमानुसार करारोपण हेतु आज भी वचनबद्ध हूँ तथा मविष्य में भी उक्त तथ्या पर कायम रहूँगा।

प्र05 आपके गुप में दिनांक 28.04.2011 को आयकर विभाग के द्वारा तलाशी एवं जब्ती एवं सर्वे की कार्यवाही की गई थी। तलाशी कार्यवाही के दौरान आपके शपथपूर्वक बयान लिए गए थे। बयानों में प्र0 सं0 8 के उत्तर में आपने आपके विभिन्न परिसरों / प्रमाइसिस पर सर्वे/सर्वे की कार्यवाही के दौरान बहुत सारे ऐसे लेन-देन एवं दस्तावेज पाये गये, जिनका स्पष्टीकरण देने में आप असमर्थ रहे। इन दस्तावेजों में कई प्रकार की नकद प्राप्ति, नकद खर्च जैसे लेन देन भी दर्ज है, साथ ही अधिक पाई गई नकदी एवं ज्वेलरी को भी आप पूर्णतः स्पष्ट करने में असमर्थ रहे हैं एवं इसके साथ ही आपकी कम्पनीज एवं कन्सर्नस एवं फाइल में कुछ अनियमिततायें एवं अपने ध्यान से छूटना होना बताया है। इन सभी तथ्यों को मद्देनजर रखते हुए आपने ₹0 3.25 करोड़ की राशि अधोषित निवेश के रूप में मानते हुए उस पर नियमानुसार आयकर अदा करने हेतु समर्पित किया है, क्या आप आज भी अपने उक्त तथ्य/बयान से पूर्णतः सहमत है ?

उ0 जी हॉ, मैं आज दिनांक 02.05.2011 को भी विभिन्न परिसरों / प्रमाइसिस पर सर्वे/सर्वे की कार्यवाही के दौरान बहुत सारे ऐसे लेन-देन एवं दस्तावेज पाये गये, जिनका स्पष्टीकरण देने में मैं असमर्थ रहा हूँ। इन दस्तावेजों में कई प्रकार की नकद प्राप्ति, नकद खर्च जैसे लेन-देन भी दर्ज है, साथ ही अधिक पाई गई नकदी एवं ज्वेलरी को भी मैं पूर्णतः स्पष्ट करने में असमर्थ रहा हूँ एवं इसके साथ ही हमारी कम्पनीज एवं कन्सर्नस एवं फाइल में कुछ अनियमिततायें ऐसे लेन देन एवं दस्तावेजों का स्पष्टीकरण देने में असमर्थ हूँ एवं साथ ही अधिक पाई गई नकदी एवं ज्वेलरी को मैं पूर्णतः स्पष्ट करने में असमर्थ हूँ अतः मैं इस मद में ₹0 3.25 करोड़ की राशि अधोषित आय मानते हुए उस पर नियमानुसार आयकर अदायगी हेतु राजी हूँ। जैसा कि मैंने यह बयान पूर्व में दिनांक 28.04.2011 को सर्व कार्यवाही के दौरान भी शपथपूर्वक बयान में दियेह, जो कि सही है।

प्र06 आपने आज दिनांक 02.05.2011 को दिये गये बयानों में फिर से यह कबूल किया है कि ₹0 4.35 करोड़ कुछ कम्पनियों के मार्फत एन्ट्री अरेन्ज करके अपनी कम्पनी मै0 एलाइन्स पोलिसेक्स प्रा0 लि0 में शेयर एप्लीकेशन -शेयर कोपिटल में दिखा रखा है। आप यह बताये कि इस एन्ट्री हेतु आपने किस व्यक्ति/दलाल के माध्यम नकद राशि भेजी तथा इसके एवज में आपकी अपनी कम्पनी मै0 एलाइन्स पोलिसेक्स प्रा0 लि0 के नाम जारी चैक किस कम्पनी द्वारा जारी किया गया तथा किस व्यक्ति /दलाल के माध्यम से आपको दिया गया। कृपया उपरोक्त सम्पूर्ण चैनल की पूर्ण जानकारी दिये ?

उ0 इस प्रश्न के उत्तर में यह कहना चाहता हूँ कि मुझे सुप्रीम गुप की कम्पनियों की अधोषित राशि अपनी अन्य कम्पनी मै0 एलाइन्स पोलिसेक्स प्रा0 लि0 में प्रिफ्रेंसियल शेयर एप्लीकेशन मनी के रूप में इन्ट्रोड्यूज करनी थी तथा कम्पनी की खाताबहियों में समायोजन करने हेतु मैंने अहमदाबाद स्थित अपने मित्र से मोबाइल पर बात की। इस संबंध में अहमदाबाद स्थित मेरे मित्र ने कलकत्ता स्थित किसी व्यक्ति का नाम, पता, व मोबाइल नम्बर इत्यादि उपलब्ध करवाया। जिस पर बात कर बताया कि कलकत्ता स्थित संदर्भित व्यक्ति कलकत्ता की फर्जी कम्पनी को नकद राशि देकर मै0 एलाइन्स पोलिसेक्स प्रा0 लि0 को नकद राशि के एवज में उतनी ही राशि का चैक जारी कर अंगडिया (वह व्यक्ति जो कलकत्ता से जयपुर के बीच नकदी व चैक का आदान प्रदान करता है) के माध्यम से हमारी कम्पनी को दे देगा तथा चैक प्राप्त होन के बाद हमारी सुप्रीम गुप की कम्पनियों का दो नम्बर का पैसा, जो कि बहीखातो में इन्द्राज नहीं है, को अंगडिया को नकद में दे देते हैं। इस प्रकार की एन्ट्री के एवज में कुल 5 प्रतिशत का खर्चा, जो कि एन्ट्री की राशि का होता है, पूरे चैनल को दिया जाता है। मुझे कलकत्ता की ऐसी कम्पनी का नाम, पता अभी पता नहीं है चूँकि ऐसी कम्पनी वास्तव में अस्तित्व में नहीं है। यह



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केवल काल्पनिक कम्पनियाँ हैं, जो कि ऐसी फर्जी एन्ट्रीयों कमीशन के बदले उपलब्ध करवाती है। मुझे अपने अहमदाबाद स्थित मित्र का व अंगडिया का नाम, पता व मोबाईल नम्बर अभी याद नहीं है। इस संबंध में पूर्ण जानकारी मैं बाद में दस्तावेज देखकर बता दूँगा, अभी मुझे याद नहीं है।.....”

**(h) Misleading statement given by Sh Sanjay Jain in answer to Question No 7, 21, 29, 30, 31 & 32 (Supra)**

“.....”

7.	आपके विरुद्ध श्री सुनिल मेहता द्वारा दर्ज करवाही गई प्राथमिकी के अनुसार पुलिस अनुसंधान में प्रथम दृष्टया आपको दोषी माना गया था। इस बारे में आपको क्या कहना है?
उत्तर	मेरे विरुद्ध श्री सुनिल मेहता द्वारा दर्ज करवाही गई FIR कभी सही नहीं पाई गई और अन्त में सुनिल मेहता ने SUMS Exims के तरफ से FIR को वापस ले लिया। हमारे आपसी समझौते के बाद राजस्थान उच्च न्यायालय के आदेश पर FIR को निरस्त कर दिया।
21.	तलाशी के दौरान जब्त किये गये Annexure-AS, Exhibit-2 के पृष्ठ सं. 48 और 49 की प्रति आपके अवलोकनार्थ प्रस्तुत है। इनके अनुसार आप द्वारा Shri Nathyal, Smt. Minakshi Sen and office bearer of KHPL से cash transactions किये गये हैं। इनके बारे में आपको क्या कहना है?
29.	आपके यहां से जब्त कागजातों से ज्ञात होता है कि SUMS Exims में Nature Farms के क्षेत्रफल, प्रकृति एवं खरीद बेचान में काफी अंतर है। इस बारे में आपको क्या कहना है?
उत्तर	यह SUMS Exims, S.M. Developers से संबंधित कागजात है। यह सारे कागजात हमें बाकी निदेशकों ने समझौते के दौरान वर्ष 2009-10 में दिए थे तथा समझौते के समय आपसी हिसाब के लिए उनके द्वारा दिए गए थे। अन्तर के बारे में कम्पनी ही बता सकती है।
30.	आपके अवलोकनार्थ Annexure-A, Exhibit-1 एवं Annexure-AS, Exhibit-2 की प्रतियां प्रस्तुत हैं। इन्हें देखकर क्या आप यह बता सकते हैं कि इनमें से कौनसी जमीन बेची जा चुकी है और कौनसी जमीन नहीं बेची गई?
उत्तर	जैसा कि मैं पहले बता चुका हूँ कि यह SUMS Exims, S.M. Developers से संबंधित कागजात है। यह सारे कागजात हमें बाकी निदेशकों ने समझौते के दौरान वर्ष 2009-10 में दिए थे तथा समझौते के समय आपसी हिसाब के लिए उनके द्वारा दिए गए थे। इसके बारे में कम्पनी के बाकी निदेशक ही बता सकते हैं।
31.	कृपया बताएं क्या आप द्वारा जमीन बेचान के पेटे किसी प्रकार का रूपांतरण शुल्क वसूला जाता था या नहीं, साथ ही यह भी बताएं आप द्वारा बेची गई जमीन कृषि भूमि थी या गैर कृषि भूमि?
उत्तर	जो भी जमीन बेची गई थी वे कम्पनी SUMS Exims, S.M. Developers द्वारा बेची गई थी, यदि कोई शुल्क वसूला गया है, वो कम्पनी द्वारा वसूला गया होगा तथा बेची गई जमीन कृषि भूमि थी या गैर कृषि भूमि इसके बारे में कम्पनी द्वारा ही बताया जा सकता है।
32.	कृपया बताएं आप द्वारा आयकर समझौता आयोग के सम्मुख अघोषित आय समर्पित/surrender की थी? यदि हाँ तो यह भी बताएं यह किस मद में की थी?
उत्तर	समझौता आयोग के सम्मुख समर्पित की गई अतिरिक्त आय का विवरण अभी मेरे पास उपलब्ध नहीं है जो कि आयकर समझौता आयोग के आदेश में दिया गया है जिसकी प्रतिलिपि मैं आपके समक्ष कल प्रस्तुत कर दूँगा।

**(i) The impugned seized documents also contain details of transactions and payments received by Sh Sanjay Jain in his own names or in the name of his entities. Some payment have gone directly into the personal bank accounts of Sh Sanjay Jain or into the bank accounts of his companies such as M/s Supreme Polymer Pvt Ltd, M/s Siddharth Polusecks Pvt Ltd which have also been confirmed in the Police investigation and by the order of the Hon'ble Session Court, Jaipur**

**(j) Ms. Neelam Gupta is the biological sister of Shri Sanjay Jain, and Shri Rajiv Gupta is her husband. Neelam Gupta and Rajiv Gupta did real estate business of purchasing and selling land near the Assessee owned "Nature Farms" and "Nature Farms Hill Retreat". Sanjay Jain's biological brother, Shri Dinesh Gupta also did the business of Purchase and sale of plots near the Assessee owned "Nature Farms" and "Nature Farms Hill Retreat", as well as in the Sanjay Jain & Group's real estate projects. That Shri Sanjay Jain and his relatives carried out business of buying and selling land in and around the Assessee owned "Nature Farms" & "Nature Farms Hill Retreat". This fact fraud committed by Sh Sanjay Jain was reconfirmed is further corroborated from registered sale document. Seized documents are replete with details where cash and**



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*cheques have exchanged hands between Shri Sanjay Jain, on one hand and his relatives on the other, and for which no rationale has been provided for such transactions.*

- (I) *Registered Purchase Deed dated 12/12/2005 wherein Smt. Neelam Gupta has purchased 5 BIGHAS of land in Village Chak Charanwas for Rs.200,000/- in the area adjoining S.M. developers owned " Nature Farms Hill Retreat*
- (II) *Registered sale deed dated 16.10.2006 of Shri Dinesh Gupta (biological real brother of Shri Sanjay Jain) has been shown as son of Shri Nandan Gupta resident of S.A. 98, Shashtri Nagar, Ghaziabad (UP), while in other Registered sale deed dated 25.04.2008 of Smt. Aruna Devi ( Biological and real mother of Shri Sanjay Jain, has been shown as wife of Shri Nandan Jain, resident of S.A. 98, Shashtri Nagar, Ghaziabad (UP). Hence, in one Registered document Shri Sanjay Jain's biological father has been shown as Shri Nandan Gupta while in the other it has been shown as Shri Nandan Jain, both having the same residential address. This clearly implies that Shri Sanjay Jain wanted to conceal the true identity of the buyer simply for the reason that he was the BENAMI buyer.*

(k) *Police Investigation and order of Hon'ble Session Court Jaipur have also given categorical findings about fraud, forgery & cheating from which Sh Sanjay Jain has earned huge unaccounted money. Relevant extracts are reproduced as under:*

- (1) **FIR** संख्या 313/2009 दिनांक 16.12.2009 पुलिस थाना चंदवाजी, जयपुर ग्रामीण भारतीय दंड संहिता तहत धारा 420, 467, 468, 471, 120बी व 409 संजय जैन, भास्कर शर्मा, लाल सिंह सिसोदिया एवं अन्य के विरुद्ध।
- (2) **FIR** संख्या 429/2009 दिनांक 07.12.2009 पुलिस थाना चंदवाजी, जयपुर ग्रामीण भारतीय दंड संहिता तहत धारा 420, 467, 468, 471, 120बी व 409 संजय जैन, भास्कर शर्मा, लाल सिंह सिसोदिया एवं अन्य के विरुद्ध।

Operative portion of the report of the Police station Chandwaji, Jaipur Rural, Jaipur is reproduced as under:

"यह की उपरोक्त तथ्यों से स्पष्ट है कि संजय जैन, भास्कर शर्मा, एवं लाल सिंह सिसोदिया ने अपराधिक षडयंत्र रचकर प्रार्थी की कंपनी को धोका देने की नियत से पहले तो कंपनी की सम्पत्ति को सुप्रीम पोलिमेर्स की सम्पत्ति बताते हुए अन्य खरीददारों को ज़्यादा कीमत में बेच एवं इस बाबत फर्जी रसीदें उन खरीददारों को जारी की एवं कंपनी को प्राप्त होने वाले रूपए को कंपनी में ना जमा करा कर उक्त रूपए का अपराधिक दुर्विनयोग किया एवं तत्पश्चात कंपनी के अन्य निदेशकों को धोका दे कर उक्त सम्पत्ति न सिर्फ कम कीमत में खरीद ली बल्कि उक्त खरीदशुदा राशि के भुगतान भी कंपनी को ना कर एवं विक्रय पत्र में गलत हवाला देकर सदोष हानि पहुँचाई है। आदि रिपोर्ट पर अभियोग संख्या 313/2009 धारा -409, 420, 467, 468, 471, 120बी भा. द. स. में कायम शुरू कर तफ्तीश शुरू की गयी। प्रकरण हाँजा बाद अनुसंधान मुलजिमान श्री संजय जैन पुत्र श्री अमरनाथ जैन उम 42 साल, निवासी 46बी केशव पथ सूरज नगर पश्चिम जयपुर थाना सोडाला जिला जयपुर शहर व श्री भास्कर शर्मा पुत्र श्री गिरधारी लाल शर्मा जाती ब्राह्मण उम 47 साल निवासी 108 हरी मार्ग सिविल लाइन्स जयपुर थाना सोडाला जिला जयपुर के विरुद्ध चार्जशीट नंबर 77/10 दिनांक 13.05.10 धारा 420, 409 भा.द. स. में कित्ता कर चालान दिनांक 21.05.2010 को न्यायालय में पेश की जा चुकी है।"



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Order of the District Judge, Sessions Court, Jaipur City, Jaipur the operative portions of which are reproduced as under:

“ इस प्रकरण पर गुणावगुण पर कोई टिपणी नहीं करते हुए , प्रकरण के तथ्यों व परिस्थिति एवं स्थिति पर विचार करते हुए कि अपराध गंभीर प्रकृति का हुआ है, प्रार्थी संजय जैन और भास्कर शर्मा की इसमें सीधी लिप्तता है , इसलिए इस स्तर पर प्रथिगन को अग्रिम जमानत का लाभ दिया जाना उचित नहीं है .”

- (l) **For the sake of reference, in the settlement application of Shri Sanjay Jain & Group before the Hon. ITSC, it has been stated as under on page 9 at para no. 3 of the said application:**

*“The manner of earning such income as already explained in my statement u/s 132(4) of the Act is activity of sale of plots of Sums Exim Pvt. Ltd., and other undisclosed activity undertaken in individual hands as per loose papers/documents. Such activity in the individual hands related to dealing with scrap etc. it may be mentioned that I have owned up all the incriminating loose papers and also undisclosed activity as well as undisclosed income appearing in the documents in respect of search survey at my residence, residence of Lal Singh Sisodia, Sunil Aggarwal, and at factory premises of Supreme Polymers Pvt. Ltd. and survey at the factory cum office premises of our group company namely:*

- I. M/s Shreys India Pvt. Ltd.
- II. M/s Alliance Polysacks Pvt. Ltd.
- III. M/s Star Global Endura Limited
- IV. M/s Sidharth Polysacks Private Limited.

*It is also pertinent to mentioned here that Sh Sanjay Jain & other entities office group did not show anywhere in the application before the Hon. ITSC, had nowhere stated that any undisclosed income was earned by the Assessee. However, Shri Sanjay Jain has owned up the responsibility of all the incriminating documents, loose papers, etc which he shown as invested in his enterprises unrelated with the assessee. Hence, it is abundantly clear that the seized documents pertained to Shri Sanjay Jain & group, and did not pertain to the assessee. Further, Shri Sanjay Jain has shown NIL income during the AY 2006-07, 2007-08 and 2008-09- the time when he was the Director in the Assessee company from where he had to resign and flee in April, 2008 when he found to have committed gross financial irregularities, fraud, and forgery. It was only in the year AY 2009-10 when he has declared to have earned the accounted income, a period when he was not a part of the assessee company. Hence, the ITSC seriously erred in treating the unaccounted income earned by a former Director to be belonging to the assessee company.*

- (m) *AO had not given any adverse finding thereon neither during assessment proceedings nor during the proceedings u/s 250(4). On the other hand, in the parallel real estate business run by Shri Sanjay Jain and Group, (as admitted and confirmed by Shri Sanjay Jain in his various statements u/s 132(4), and 131of the Act), they bought agriculture land, and then got it converted (“इसमें जमीन खरीद कर उसका कृषि भूमि से रूपान्तरण करा कर छोटे-छोटे प्लॉट बनाकर बेचते थे ) from agriculture land and sold it as small- small plots. This matches with the seized documents which show conversion charges on each sale. Hence, while the seized documents do not pertain to the assessee, and they are clearly a narration of the real estate business of Sanjay Jain and group only. The report of the Tehsildar also confirms this fact.*

- (n) *In the impugned seized documents pages 120 to 127 to exhibit-1 of Annexure-A seized from the M/s Supreme Polymers Pvt. Ltd. and page no. 31 to 38 of exhibit-1 of*



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*Annexure-AS seized from M/s Shrey's India Pvt. Ltd, the total of cheques and cash amounts received/receivable on sale of various plots in 'Nature Farms' Scheme are summarized as under:-*

S No	Receipts	As per seized records Amount in Rs.	As per our records	As per tehsildar Report
1	Total Cheque Amount received (on sale of plots in Sq Yards) converted land or on which conversion charges taken	6,44,74,534	Nil	Nil
2	Total Cheque Amount received (on sale of plots in bigha / biswa) Agricultural land or on which no conversion charges taken	Nil	4,02,28,446.00	4,02,28,446.00
3	Total Cash received amount (on sale of plots in Sq Yards) converted land or on which conversion charges taken	14,52,76,599	Nil	Nil
4	Total Cash Amount received (on sale of plots in bigha / biswa) Agricultural land or on which no conversion charges taken	Nil	2,02,000	2,02,000
3	Total Cheque Amount receivable (on sale of plots in Sq Yards) converted land or on which conversion charges taken	57,55,724	Nil	Nil
	Total Cheque Amount receivable (on sale of plots in bigha / biswa) Agricultural land or on which no conversion charges taken	Nil	Nil	Nil
4	Total cash Amount receivable (on sale of plots in Sq Yards) converted land or on which conversion charges taken	1,44,71,572	Nil	Nil
	Total Cheque Amount receivable (on sale of plots in bigha / biswa) Agricultural land or on which no conversion charges taken	Nil	Nil	Nil
	Total	22,99,18,429	4,04,30,446.00	

*Now, the finding of the AO, it is also seen that there is no such total sale receipts is of Rs. 22,99,18,429/- is related to land already booked/sold having area 214783.070 sq. yrd of the assessee. Further, as per accounts of the assessee cheque received is of Rs. 4,02,28,446 and cash received of Rs. 2,02,000 upto March, 2008 of non converted agriculture land on which no conversion charges had been taken. There is neither any finding u/s 250(4) that the assessee hid any cheque received nor that the assessee was having any bank account except the account appearing in the books. Hence, it is proved that these seized papers / documents are not of the assessee but of Mr. Sanjay Jain and his group.*

*(o) In the page no 127 of exhibit 1 of annexure A seized from the business premises of M/s Supreme Polymers pvt. Ltd. details of expenses of NF Hill Retreat are mentioned. In this impugned seized documents, details of land purchase direct expenses, indirect expenses and advanced against expenses is given. This detail is reproduced as under:-*

Expenses of NF Hill Retreat		Book 1	Book 2	Total
Land purchase	Bigha 159.185	16004300	77812652	93816952
Direct expenses	Sq Yrd 4181534.625	34469355	9914588	44383943
Direct expenses		13636756	30547064	44183820
Advance against Expenses		8654548	1742239	103966787
				192781502

*(p) As per page No. 31 to 38 of the exhibit-1 of the Annexure -AS seized from M/s Shrey's India Pvt. Ltd. the total cheque and cash amount received on sale of various plot Nature Form Scheme are as under:*



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Receipts	Amount (in Rs.)
Cheque received	2,42,16,053
Cash received	2,41,46,187
Cheque receivable	87,44,955
Cash receivable	43,72,848
Total	6,14,80,043

*Total sale receipts of Rs. 6,14,80,043/- is related to land already booked/sold up to May 2008. The remaining land to be sold after May, 2008 as per the facts of the cases and material seized during the course of search.*

2.16.5 In view of above facts, it is seen that entries recorded in impugned seized documents are pertaining to Sh Sanjay Jain and his concerns. Sh Sanjay Jain has failed to establish that the entries recorded therein are not relatable to him & his concerns but to M/s S.M. Developers or M/s SUMS Exims Pvt Ltd in which Sh Sunil Mehta is interested. Tehsildar's report also confirms assessee's contention. On careful perusal of sworn statement recorded on oath u/s 132(4) during search operation and u/s 131 during post search investigation or even during remand proceeding u/s 250(4) during appellate proceeding, Sh Sanjay Jain could not establish that the entries recorded there in the impugned documents were duly taken into a/c for making true and full disclosure in the settlement application. Therefore, the impugned documents were not before the Hon'ble ITSC, New Delhi at the time of passing settlement order in the case of Sh Sanjay Jain & his entities, accordingly they have not been considered. Therefore, the entries cannot be said to be part of additional undisclosed offered before the Hon'ble ITSC, New Delhi, hence they have escaped taxation. AO neither in assessment order or even remand proceeding has in categorical terms been able to establish that the said entries are the part of offering & oral made for undisclosed income whereas documentary evidence gathered during the remand proceeding clear lead to conclusion that impugned documents actually belong to Sh Sanjay Jain & his concerns. Meaning thereby, Sh Sanjay Jain & his entities has not given true and full disclosure of facts while making an application u/s 245C of the Act before the Hon'ble ITSC, New Delhi. In view of these facts, the settlement order passed u/s 245D(4) of the Act in case of Sh Sanjay Jain & his entities has become void because it has been obtained by fraud and misrepresentation of facts. More importantly, cheque, detailed therein were not deposited in assessee's Bank A/c and Sh Sanjay Jain very confidently remained silent on that. These facts can easily be verifiable from registered sale deed documents of Sh Dinesh Gupta, Sh Amar Nath Jain, Sh Rajeev Gupta and M/s Supreme Polymer Pvt Ltd.

In view of these facts and circumstances, additions on a/c unexplained sales & investment on the basis of entries recorded in the impugned documents cannot be made in the hands of M/s S.M. Developers & M/s SUMS Exim Pvt Ltd, (as the case may be) ; since the entries were part of Sh Sanjay Jain Settlement Application, accordingly



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Hon'ble ITSC has not considered the same. Therefore, as per sec. 132(4A) r.w.s. 292C of the Act, it can be presumed that they (impugned seized documents) found from Sh Sanjay Jain's premises actually pertain to Sh Sanjay Jain and his concerns. Hence, they have to be taxed on substantive basis in the hands of Sh Sanjay Jain. Accordingly, AO is here by directed u/s 150(1) of the Act to re-open the cases of (i) Sh Sanjay Jain (ii) M/s Shrey's India Pvt Ltd (iii) M/s Supreme Polymers Pvt Ltd (iv) M/s Siddharth Polysacks Pvt Ltd for AY 2006-7, 2007-08 & 2008-09 on the basis of material and oral evidences gathered during the appellate proceeding. For AO's reference, following documents are being sent separately of even dated letter.

- (1) Annex. A to E of letter dt 11/11/2016
- (2) Rejoinder's copy filed (original) on 28/03/2017
- (3) Tehsildar's Report
- (4) Police Report.
- (5) Submissions made by assessee during appellate proceedings.

3. Grounds of appeal and submissions made: As assessee has repeatedly made same facts and case laws relied upon again , accordingly to avoid repetition, only relevant extracts are reproduced as and when required. Gr No 2 & 3 are clubbed together.

3.1 ITA No. 232/14-15 / AY 2006-07

Ground No. 2: "Addition on protective basis made in hand of assessee of Rs. 1,49,13,171/- as undisclosed sales treating as undisclosed income is bad in law & facts."

ITA No. 233/14-15 / AY 2007-08

Ground No. 2: "Addition on protective basis made in hand of assessee of Rs. 5,24,17,096/- as undisclosed sales treating as undisclosed income is bad in law & facts."

ITA No. 234/14-15 / AY 2008-09

Ground No. 2: "Addition on protective basis made in hand of assessee of Rs. 4,57,10,029/- as undisclosed sales treating as undisclosed income is bad in law & facts."

3.1.1 Submissions made: Relevant extract of which AR of the assessee are reproduced here as under:

".....

5.1. **Kindly refer page no. 24 para 1st line 2nd which reads as under:-**

".....Thus, it proves that in sale of the plots in both the projects unaccounted money was taken, but the question remains that who was the beneficiary of this unaccounted income on sales of plots. Since the documents have been seized from the premises of the concerns of Shri Sanjay Jain and Shri Sunil Mehta in his statement recorded during the post search enquiry U/s 131 of the IT Act, 1961 denied of having any



**4.1.1** I have duly considered assessee's submission and also carefully gone through the assessment order. I have also taken a note of factual matrix of the case as well as case laws relied upon with regard to proceedings u/s 153C of the Act in absence of incriminating documents found as a result of search carried out. Assessee contends that on the basis of some documents seized from the possession of 3<sup>rd</sup> party, addition cannot be made. Legally, Section 132(4) of the Act empowers the Authorized Officer to record the statement of any person on oath in course of search and seizure proceedings from whose possession the incriminating materials found and seized. It is specifically provided that such statement may be used in evidence in any proceedings under this Act. Therefore, such statement has an evidentiary value in law. Generally, it is presumed that whatever is stated at the time of recording of preliminary statement u/s 132(4) of the Act is true and correct. Thus, whenever assessee pleaded that the statement has been obtained forcefully/under coercion/undue influence/without material/contrary to the material then it should be supported by strong evidence. Therefore, in view of these, now I put following questions for the adjudication of case as under:

- (i) ***Whether presumption u/s 292C r.w.s 132(4A) is available to the assessee or not ? Whether the seized documents supra are dumb documents ? Whether can it be termed as 3<sup>rd</sup> party document or not as claimed by the assessee ?***
- (ii) ***What is the relevance of seized documents found from the premises of concerns of Sh Sanjay Jain in this case? Whether assessee's contention with regard to "seized document supra by assessee" is acceptable or not? What are the other***



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*corroborative evidences gathered during the search operation? whether transactions recorded there in are relatable to other documentary evidences of not? whether has AO brought about all these in the Asst. Order or not? Whether the documentary evidences and oral evidences gathered during the Remand Proceedings will have any bearing on this case or not?*

- (iii) *Relevance of sworn statements of Sh Sanjay Jain & Sh Sunil Mehta during search operation and remand proceedings are so crucial for the analysis of evidences and adjudication of this case? What are the other corroborative evidences gathered to substantiate AO's contention?*

The observations with regard to questions framed above are, as under:

**Question (i) Whether presumption u/s 292C r.w.s 132(4A) is available to the assessee or not? Whether the seized documents supra are dumb documents? Whether can it be termed as 3<sup>rd</sup> party document or not as claimed by the assessee?**

**Findings:** The presumptions u/s. 292C r.w.s 132(4A) of the Act are that the documents belong to the persons i.e., **Sh Sanjay Jain and his concerns** from whose possession and control they were found. The second presumption is that the contents of such documents are true. The third presumption is that the signature and handwriting shall be taken to be that of the person from whom the documents were found. The documents belong to the appellant. The contents are also true. **The dispute is : what are the contents? Is it permissible to draw the inference against the appellant on his failure to explain the contents of the documents after presuming that the contents are correct? Here I would like to quote the decision of Hon'ble ITAT Jabalpur in the case of ACIT Vs Satyapal Wassan[(2007) 295 ITR (AT) 352 ITAT Jabalpur] wherein elucidating with respect to the same issue, the Hon'ble the Tribunal has held as under :**

**"The crux of these decisions is that a document found during the course of search must be a speaking one and without any second interpretation, must reflect all the details about the transactions of the assessee in the relevant assessment year. Any gap in the various components as mentioned in section 4 of the Income tax Act must be filled up by the Assessing Officer through investigations and correlations with the other material found either during the course of the search or on investigation....."**

From above decision of **Hon'ble ITAT Jabalpur Bench** it is pertinent to note that a charge can be levied on the basis of document only when the document is a speaking one. The document should speak either out of itself or in the company of other material found on investigation and /or in the search. The document should be **clear and unambiguous** in respect of all four components of charge of tax. If it is not so, the document is only a dumb document and no charge of tax can be levied on the assessee on the basis of a dumb document. Here in this case, document in question is a speaking one **not a dumb document**. The



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legal **presumption** does **not permit** the inference that documents found from assessee's premise, is none other than the appellant. The search action at the residence of the appellant has yielded materials which justify such inference. It is so, in my opinion, even after **presumption** applied to the facts under **Section 292C**, there are adequate material to conclude that the transactions in the seized documents are the transactions of the appellant which remained undisclosed. The appellant, **under the principles of natural justice**, has the right to rebut the **presumption**. Under that right also, **assessee and Sh Sunil Mehta are** entitled to state that the transactions belonging to **assessee** are not recorded. In the opinion of AO, the information about the undisclosed income of the appellant is based on adequate & relevant material. This is very important since the **presumption** under **section 292C** is permitted only in respect of the documents in "**possession or control**" of the assessee. **Onus is on the assessee to prove that what was stated in the seized document was true.** Such an interpretation would render the deeming provisions of **section 292C** otiose and **presumption** as to the correctness of seized documents is automatic under **section 292C** of the Act unless the contrary is proved and as such, **the assessee was legally required to substantiate the seized documents with supporting evidence.** Where the Statute provides a deeming provision, what is prescribed is to be deemed without seeking corroborative evidence. AO has observed that these are speaking documents and not dumb documents. **A dumb document is a document which does not speak for itself and not a self explanatory and detailed document like present one.** Since in assessee own case AY 2009-10, 2010-11 & 2011-12 it has been decided that the document in question is **NOT** a "**DUMB DOCUMENT "BUT A "SPEAKING DOCUMENT"** on the basis of noting and jottings made therein which are easily verifiable and corroborated with other documentary evidences gathered during the course of search operation conducted against the assessee. However, AO has not conducted any enquiry to establish that the impugned seized documents actually belonged to assessee. AO has simply relied upon the statement recorded on oath of Sh Sanjay Jain & Sh Bhasker Sharma u/s 131 of the Act during assessment proceeding. In view of that the A.O has rightly rejected assessee's objection. **Now it is to seen whether the facts and circumstances in a given case may by itself would be sufficient to rebut the presumption u/s 292C of the Act?**

AO contents that as per the sworn statement recorded on oath of **Sh Sanjay Jain**, notings / transactions mentioned therein the seized document pertains to assessee ; therefore, **presumption** u/s **292C** r.w.s 132(4A) of the Act would arise against the assessee. AO in the assessment order passed has correctly explained the applicability of the **presumption** under **section 132(4A)** of the Act to the assessment proceedings. This aspect is all the more significant in view of the provisions contained in **section 292C**, which was inserted by the **Finance Act, 2007** and has been given retrospective effect from October 1, 1975 and provides for legal



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*presumption. The Hon'ble Bombay High Court in the case of Surendra M. Khandhar Vs ACIT 321 ITR 254 held as under:*

***"The language of section 132(4A) of the Income- tax Act, 1961, is similar to the language used in section 292C. The provisions raise a presumption that the contents of a document found during search proceedings are true. The presumption can be rebutted."***

*In view of these facts, AO has been asked to carry out necessary enquiry u/s 250(4) of the Act from Tehsildar to established ownership of the plots as mentioned in the Khata/ Khesra No. in the seized document. On receipt of documentary evidences gathered and examination /cross-examination of Sh Sanjay Jain by Sh Sunil Mehta, it is seen that the impugned document actually belonged to Sh Sanjay Jain & his entities*

**Question (ii)** *What is the relevance of seized documents found from the premises of concerns of Sh Sanjay Jain in this case? Whether assessee's contention with regard to "seized document supra by assessee" is acceptable or not? What are the other corroborative evidences gathered during the search operation? whether transactions recorded there in are relatable to other documentary evidences of not? whether has AO brought about all these in the Asst. Order or not ? Whether the documentary evidences and oral evidences gathered during the Remand Proceedings will have any bearing on this case or not?*

**Question (iii)** *Relevance of sworn statements of Sh Sanjay Jain & Sh Sunil Mehta during search operation and remand proceedings are so crucial for the analysis of evidences and adjudication of this case? What are the other corroborative evidences gathered to substantiate AO's contention?*

**Findings :** *The corroborative evidences gathered during the remand proceeding have been discussed in details in para no. 2.16.4 & 2.16.6*

During the assessment proceeding, AO has not accorded opportunity to Sh Sunil Mehta to cross-examine Sh Sanjay Jain. AO has simply relied upon the sworn statement of Sh Bhasker Sharma & Sh Sanjay Jain. In fact AO has also not properly examined the impugned seized documents and also not carried out necessary investigation to establish veracity of entries recorded therein and the ownership of seized documents. During appellate proceeding and the remand proceeding documentary and oral evidences have been gathered which clearly suggest that the impugned documents don't pertain to the assessee rather they belong to Sh Sanjay Jain & his associates /entities. These facts were not placed before the Hon'ble ITSC, New Delhi at the time of passing order, accordingly, they have not been considered which makes the



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order passed u/s 245D(4) of the Act as void because it has been obtained by fraud and misrepresentation of facts on the part of Sh Sanjay Jain & his entities. In view of these facts, AO is hereby directed under section 150(1) of the Act to re-open the case of Sh Sanjay Jain, M/s Shrey's India Pvt Ltd, M/s Supreme Polymers Pvt Ltd & M/s Siddarth Polysacks Pvt Ltd for AY 2006-07, 2007-08 & 2008-09.

In view of facts & circumstances of the case as discussed above, and also on the basis of documentary and oral evidences gathered during the remand proceeding conducted u/s 250(4) of the Act, it has been established that the impugned documents don't pertain to the assessee rather they belong to Sh Sanjay Jain & his entities, Accordingly, proceeding initiated u/s 153C of the Act becomes null & void. Assessee's appeal stands allowed on this ground.

**5.1 ITA No 239/14-15 / AY 06-07:**

**ITA No. 232/14-15 / AY 2006-07**

**Ground No. 1: "Initiation of proceedings u/s 153A r.w.s. 153C of IT Act, 1961 is bad in law & facts."**

**ITA No. 233/14-15 / AY 2007-08**

**Ground No. 1: "Initiation of proceedings u/s 153A r.w.s. 153C of IT Act, 1961 is bad in law & facts."**

**ITA No. 234/14-15 / AY 2008-09**

**Ground No. 1: "Initiation of proceedings u/s 153A r.w.s. 153C of IT Act, 1961 is bad in law & facts."**

**5.1.1 Submission made:** Relevant extract of which AR of the assessee are reproduced here as under:

".....  
**3.1 INITIATION OF PROCEEDINGS U/s 153A r.w.s. 153C of IT Act, 1961**

**Proceeding U/s 153A r.w.s. 153C of IT Act, 1961 was initiated on the ground as mentioned in the assessment order as under:-**

Kindly refer to Page no. 1 of para 2nd of the Assessment order wherein it is mentioned that a search was conducted on 28-04-2011 in the case of Supreme Group, Jaipur to which the assessee belongs. Thereafter as per page no. 2 of the assessment order para 6<sup>th</sup> which reveals that a search was conducted on 28-04-2011 in the case of Supreme Group, Jaipur at various residential/business premises. During the course of search various assets/books of account/loose papers/documents related to the assessee were found and seized as per annexure prepared during the course of the search at the residential/business premises covered in the search. Accordingly, in the case of the assessee proceedings U/s 153C r.w.s. 153A of the IT Act, 1961 has been initiated after recording reasons. During the course of the assessment proceedings, vide questionnaire dated 03-03-2014 the assessee was asked to furnish complete details of each page of the following exhibits of the Annexure related to it found and seized during the search:-



The AR relied on the finding and request that impugned seized documents are not pertaining to the assessee.

- D. Your Honour kind attention is to the Ld AO page no. 24 para 1<sup>st</sup> line no. 8 wherein Ld AO hold that **both the concerns M/s SUMS Exim Pvt.Ltd. and M/s SM Developers have earned (unaccounted money over and above the amount shown in this books of account) but this income was earned by Shri Sanjay Jain under the name of these concerns.**
- E. Hence Your Honour no incriminating material was found and the assessment u/s 153C is not based on any incriminating material.
- F. Your honour kindly refer page no. 4 of the paper book submitted on 09.02.2017. Your honour this is the copy of the note sheet. The relevant scanned portion is as under:-

कार्यालय टिप्पणी / NOTE SHEET	
	M/S SUMS Exim Pvt Ltd. AYs. 2006-07 to 2012-13
27/9/2013	Notice u/s 143(2) issued for AY 2012-13 m
30/9/2013	Letter of the AR received in date for enjoyment. m
3.2.2014	Notices u/s 153A r.w.s. 153C of the IT Act, 1961 issued for AYs 2006-07 to 2011-12. Reasons recorded are placed on record for AYs 2006-07 to 2012-13.

Recd  
M/s  
12/6/2014

Kindly see page no. 3 of the paper book submitted on 09.02.2017. This is the satisfaction note prepared by Ld. AO on 03.02.2014. The relevant scanned portion is as under:-

1

M/s Supreme Polymers Pvt. Ltd.,  
137-138, Jhotwara Industrial Area, Jaipur

A.Y. 2012-13  
PAN- AACCS5773P  
Status- Company

Received  
28/6/2014

**ORDER SHEET**

3/2/2014 Satisfaction note for initiating proceedings u/s 153C in the case of M/s Sums Exim Pvt. Ltd., (PAN – AAICS9072R), A-1, 1st Floor, Yamuna Path, Suraj Nagar (West), Civil Lines, Jaipur.

A search was conducted in the case of Supreme Group, Jaipur on 28.01.2011. Various documents/incriminating material were seized during the course of search. While examining the seized record of the Group, it was observed that documents/books of accounts relating to other person i.e. M/s Sums Exim Pvt. Ltd., A-1, 1st Floor, Yamuna Path, Suraj Nagar (West), Civil Lines, Jaipur were found in the business premises of M/s Supreme Polymers Pvt. Ltd., 137-138, Jhotwara Industrial Area, Jaipur in whose case search was conducted under sec 132 of the IT Act (person covered u/s 153A) as placed in the following annexure :-

(i) Factory-cum-office of M/s Supreme Polymers Pvt. Ltd., 137-138, Jhotwara Industrial Area, Jaipur  
Pages 115 to 131, Exhibit-1 of Annexure-A dated 29.04.2011

(ii) Residence of Sh. Lal Singh Sisodia, 5, Nemi Sagar Colony, Queen's Road, Jaipur  
Pages 21 to 88, Exhibit-2 of Annexure-AS dated 28.04.2011

(iii) Factory-cum-office of M/s Shreva's India Pvt. Ltd., 57, Jhotwara Industrial Area, Jaipur  
Pages 1 to 66, Exhibit-1 of Annexure-AS dated 28.04.2011

(iv) Factory-cum-office of M/s Shreva's India Pvt. Ltd., 57, Jhotwara Industrial Area, Jaipur  
Pages 1 to 75, Exhibit-2 of Annexure-AS dated 28.04.2011

I am therefore, satisfied that initiation of proceedings u/s 153C of the IT Act, 1961 is required in the case of M/s Sums Exim Pvt. Ltd., (PAN – AAICS9072R).

ACIT, CC-3, JPR

Your honour can see that the proceeding for the AY 2006-07 to 2012-13 was started on 27.09.2013. The Ld. AO written on top of the note sheet the name of the assessee and there after AY 2006-07 to 2012-13 and there after very first is written 27.09.2013 that notice under section 143(2) issued for AY 2012-13. Your honour can verified that on 30.09.2013 the AR took adjournment and there after on dated 03.02.2014 notice under section 143(3) r.w.s. 153B of the IT Act was issued for the AY 2006-07 to 2011-12. Reason recorded are placed on record for the AY 2006-07 to 2011-12. Your honour can verify that the above note sheet was started with the heading M/s Sums Exim Pvt. Ltd. A.Y. 2006-07 to 2012-13. Hence your honour it is very clear that proceeding has been started on 27.09.2013 before preparing Satisfaction Note which is having date 03.02.2014. Hence the whole

**proceeding is bad in law and facts.**

- G.** Your Honour kind attention to the paper book submitted by the assessee on 10.06.2022 in which the copy of the Writ Petition filed by the department on dated 24.08.2016 before Honorable High Court Total 25 page. Your Honour kind attention is invited to page no. 12 of the writ last 4 lines wherein the Ld AO submitted on oath to Honorable High Court that Shri Sanjay Jain did the business in the name of the assessee. kindly see the paper book submitted by the AR on 10 June 2022 page no. 14 point no. xi. The relevant scanned portion is as under:-

14

(14)

xi). That the applicants before the settlement commission collectively offered additional income of Rs. 2,86,67,802/- in their settlement applications whereas further addition u/s 245D(4) was made of an amount of Rs. 58,41,100/-, which shows that the respondents had not made a full and true disclosure of their income and the manner in which the income was derived.

The Oath is available is page no. 24-25 of the writ wherein the Ld. AO took oath on the Stamp before the Hon'ble Court that contents of the Writ Petition are true and correct to the best of my knowledge, legal advice and as per office records. Your honour on the strength of the Ld. CIT Appeal Order the Ld. AO filed Writ and submitted that Shri Sanjay Jain had not made a full and true disclosure of their income and the manner in which the income was derived. The relevant scanned

portion is as under:-

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN,  
JAIPUR BENCH, JAIPUR.

S.B.CIVIL MISC. WRIT PETITION NO. /2016.

UNION OF INDIA, THROUGH DEPUTY COMMISSIONER OF  
INCOME TAX, CENTRAL CIRCLE - 3, JAIPUR

VERSUS

M/s. SUPREME POLYMERS PVT. LTD. & ORS.

**AFFIDAVIT IN SUPPORT OF WRIT PETITION**

I, Kajal Singh D/o Shri  
K. B. Singh, Aged About 33 years,  
presently working as DCIT (Central  
Circle - 3), Jaipur (Raj.), do  
hereby make oath and state as under:

(1) That I am Officer-In-Charge in the above  
noted case and am fully conversant with the  
facts of the present case.

(2) That the annexed writ petition has been  
drafted by my counsel under my instructions  
and the same has been explained to me.

(3) That the contents of the writ petition are  
true and correct to the best of my knowledge,  
legal advice and as per our office record.

1.11. Your Honour kind attention to the paper book submitted on 25.09.2018 wherein the copy of the amendment Writ Petition on dated 14.03.2018 before Honorable High Court page no. 168-181 were submitted by the department. Your Honour kind attention is invited to page no. 174 of the writ last para to page no. 175. The relevant scanned portion is as under:-

After para-9(iii) of the writ petition, a new para No.9(iii)(a) may kindly be permitted to be inserted as follows:

"9-iii)(a) That the CIT(A)-4, Jaipur after having taken cognizance of all the facts and oral/documentary evidence gathered by the Assessing Officer and rejoinder filed by the assessee observed that additions made by the Assessing Officer on protective basis in the hands of M/s. SM Developers and M/s. SUMS Exim Pvt. Ltd. cannot be

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- 7 -

sustained because of the fact that the seized documents actually pertained to respondents, Shri Sanjay Jain and his group entities, and therefore, these additions are required to be made in the hands of the respondents."

The Ld AO submitted on oath to Hon'ble High Court that after having taken cognizance of the all the facts and oral / documentary evidences gathered by Ld AO and rejoinder filled by the assessee observed by the Ld AO that addition made on protective basis in the hands of the assessee because of the facts that the seized documents actually pertained to Shri Sanjay Jain and his group entities, and therefore, these additions are required to be made in their hands and not in the hands of the assessee. The oath is available is page no. 180-181 of the writ.

1.12. Hence, your honour the Ld. AO clearly stated that this income was earned

by Shri Sanjay Jain under the name of these concerns. Therefore, the Ld. AO held that addition of undisclosed income determined will be added on substantive basis in the hands of Shri Sanjay Jain/Supreme Polymers Pvt. Ltd./Shreya's India Pvt. Ltd. whose case is pending before Hon'ble Settlement Commission, but to protect the interest of revenue same addition on protective basis, is made in the hands of the assessee. The addition was made in the hand of the assessee only to protect the interest of the revenue. **Hence it is undisputed fact that the this income was earned by Shri Sanjay Jain under the name of these concerns.Hence it is undisputed fact that the incriminating materials are not belonging to the assessee.**

- 1.13. **The Ld DR submitted/aruged that FIR has no relevance since both parties assessee and Shri Sanjay Jain Group made settlement out of Court. In this respect the AR submit that contents of FIR and finding by police has relevance as out of Court settlement does not means that contents is insignificant. Your Honour the FIR, Finding of Police, Tehsildar Report was obtained by the Ld AO in compliance of section 250(4) the Ld AO was instructed to submit the factual report thereon. The Ld AO had not given any adverse inference and therefore the contents of FIR and finding by police and Tehsildar Report is undisputed wherein it was clearly proved that the seized documents does not belongs to the assessee.**

**So your Honour is requested kindly to not to allow the appeal of the revenue and confirmed that proceeding initiated u/s 153C of the Act is correctly hold as null & void by the Ld CIT (A) and request Kindly to delete the addition made by the Ld AO."**

11. We heard the rival contentions as argued by both the parties to drive home to their contentions from the order of the lower authorities. We have also perused the written submission and the detailed paper book containing 1321 pages of the assessee and 315 (I) +15(II) pages filed by the revenue. The bench noted that the apple of discord in all these appeals are arising out of page 31 to 38 of Exhibit -1 of Annexure AS seized from M/s. Shreya's India Private Limited related to the plot of the scheme "Nature Farm. On perusal of these papers Id. AO noted that it contains plot no.

booked, area sold, whether the registered or not, receipt of cheque and cash and balance of the amount. Similarly, page no. 122 to 127 of Exhibit-1 of Annexure -A to the Panchnama dated 28.04.2011 found and seized from M/s. Supreme Polymers Private Limited having similar details. As in these companies are group concerns of Shri Sanjay Jain who is also attached to the assessee firms based on these seized incriminating material wherein transaction of on money were recorded. These papers contains the details of the project under taken by the assessee in the name of “Nature Farm Hill Retreat” and “Natural Firm” undertaken by these firms. As the premises of these concerns were not searched, the assessment of these concerns were reopened in accordance with the provisions of Section 153C of the Act. Since the assessee has challenged the technical ground before the Id. CIT(A) who has delivered his judgement based on the technical ground raised by the assessee and appeal was consequently allowed on technical ground. Before us, the DR vehemently argued that the Id. CIT(A) erred in giving findings on technical ground as it is evidently clear that the transactions recorded in the form of cheque money is identical that has been recorded in the books of these concerns. Based on these observations the bench also observed from the page 21 of the department paper book as extracted here in below :

(21)  
(88) 73

**SUMS Exim Private Limited**  
A-1, Yamuna Path Surjnagar (W)  
Civil Lines  
Jaipur  
Ph.91-141-2222665, Fax 2223256  
**Sales - Nature Farms**  
Ledger Account

1-Apr-2006 to 31-Mar-2007

Date	Particulars	Vch Type	Vch No.	Debit	Page 1 Credit
1-4-2006	By Deferred Revenue Account	Journal	1		2,395,406.00
15-4-2006	By Urmila Singh W/o Shri P.K. Singh SALE OF NATURE FARM PLOT NO 24 (119/31) 14 Biswa	Sales	SUMSLAND017		417,816.00 ✓
	By Rajeev Bhargav/Sanjeev Bhargav SALE OF NATURE FARM PLOT NO 29 (119/21) 11 Biswa	Sales	SUMSLAND018		331,950.00 ✓
	By Rajeev Bhargav/Sanjeev Bhargav SALE OF NATURE FARM PLOT NO 28 (119/20) 08 Biswa	Sales	SUMSLAND019		246,200.00 ✓
	By Sanjay Jain (Loan A/c) BEING NATURE FARM LAND SOLD TO SANJAY JAIN 4/20 SHARE OF 10 BIGHA 4 BISWA FROM KHASARA NO. 73=1, 79=1, 4, 100=1,5, 82 = 1,2, 78=19 BISWA, 80= 1 BISWA, 81=2,17, 101=1,16 TOTAL 10 BIGHA 4 BISWA	Journal	10		150,000.00
	By Dinesh Gupta BEING NATURE FARM LAND SOLD TO DINESH GUPTA 3/20 SHARE OF 10 BIGHA 4 BISWA FROM KHASARA NO. 73=1, 79 =1,4, 100=1,5, 82 = 1,2, 78=19 BISWA, 80 = 1 BISWA, 81=2,17, 101=1,16 TOTAL 10 BIGHA 4 BISWA	Journal	11		100,000.00
3-5-2006	By Whispering Meadows Club and Resorts (P) LTD. Being 1 Bigha Land sold to Whispering Meadows Clubs & Resorts Pvt. Ltd.	Journal	26		140,000.00
10-5-2006	By Amar Kant Khurana SALE OF NATURE FARM PLOT NO-01 (119/20) 18 Biswa/2704.42 SQUARE YARDS	Sales	SUMSLAND020		540,800.00
18-5-2006	By Chandrani Basu SALE OF NATURE FARM PLOT NO-131 (119/33) 1210 SQUARE YARDS	Sales	SUMSLAND023		228,400.00 ✓
27-5-2006	By Ashish Gupta SALE OF NATURE FARM PLOT NO-18 (119/33) 13 Biswa/1966.52 SQUARE YARDS	Sales	SUMSLAND021		393,304.00
	By Sunil Sikka / Pankaj Goel SALE OF NATURE FARM PLOT NO-122 (119/33) 14 Biswa/2142 SQUARE YARDS	Sales	SUMSLAND022		428,410.00
26-6-2006	By Vikas Bhatia & Rashmi Bhatia SALE OF NATURE FARM PLOT NO : 25 (119/30) 14 Biswa/2094.44 SQUARE YARDS	Sales	SUMSLAND023		418,888.00
	Carried Over				5,791,174.00

2089.06  
+ 200

1210 x 189

Certified Copy

Dy. Commissioner of Income-tax  
Central Circle-3, Jaipur

continued ...

As it is evident from the sample sale document produced by the assessee at the instance of the bench the bench noted sale of Nature firm plot no. 24 to Ms. Urmila Singh w/o Shri P. K. Singh at a sum of Rs. 4,17,816/- for the amount recorded in the books of the assessee from the books of the Sums Exim Private Limited. Similar entry of this plot is appearing on page 131 of the seized document wherein the cheque rate is matching at Rs. 4,17,816/- [  $2089.08 \times 200$  rate of cheque in seized document =4,17,816/-] similarly for Ms. ChnadraniBasu Rs. 2,28,400/- [  $1210 \times 189$  rate of cheque in seized documents]. Against both transaction cash rate of Rs. 550 & Rs. 1011 is written thus the contention of the Id. AR of the assessee is incorrect that this document does not pertain to the assessee as the transaction is not only supported in the entry in the books of account but is also supported by the documents registered with the state government. Thus, we are of the considered view that based on these documents it cannot be considered that these documents do not pertain to the assessee as held by the Id. CIT(A) and therefore, the finding of the Id. CIT(A) is against the set of facts available on record holding that impugned documents do not pertain to the assessee rather they belong to Shri Sanjay Jain is against the above set of evidence produced by the Id. DR representing the revenue. Since, this finding of the Id. CIT(A) is incorrect the consequent holding of the

proceedings us/. 153 of Act as null and void is also incorrect and against the evidence placed on record. Now to decide the applicability of the legal ground of the revenue. It would be proper to extract the provision of section 153C of the Act here in below:

**Assessment of income of any other person.**

**153C.** (1) Notwithstanding anything contained in [section 139](#), [section 147](#), [section 148](#), [section 149](#), [section 151](#) and [section 153](#), where the Assessing Officer is satisfied that,—

- (a) any money, bullion, jewellery or other valuable article or thing, seized or requisitioned, belongs to; or
- (b) any books of account or documents, seized or requisitioned, pertains or pertain to, or any information contained therein, relates to,

a person other than the person referred to in [section 153A](#), then, the books of account or documents or assets, seized or requisitioned shall be handed over to the Assessing Officer having jurisdiction over such other person and that Assessing Officer shall proceed against each such other person and issue notice and assess or reassess the income of the other person in accordance with the provisions of [section 153A](#), if, that Assessing Officer is satisfied that the books of account or documents or assets seized or requisitioned have a bearing on the determination of the total income of such other person for six assessment years immediately preceding the assessment year relevant to the previous year in which search is conducted or requisition is made and for the relevant assessment year or years referred to in sub-section (1) of [section 153A](#) :

As it is evident from the provision of section 153C of the Act is its object and purpose is to address the persons other than the searched person as it is beyond doubt based on the fact that the seized documents belongs and pertains to the assessee and therefore, the proceedings initiated by the assessing officer is correct and action of the Id. Assessing Officer is upheld based on the above findings on facts. Based on this observation, the

Ground No. 1 raised by the revenue is allowed as it is evidently clear that the documents found in the search pertain to this firm and therefore, the proceedings-initiated u/s 153C is upheld as we have seen that direct nexus is established from the seized material that the amount recorded to the extent of cheque amount is already reflected in the books of account of the assessee. Therefore, we uphold the action of the AO initiated by him u/s 153C of the Act. In terms of observation, the Ground No. 1 raised by the Revenue is allowed.

12. Apropos to the ground no. 2 the relevant finding of the Id. CIT(A) is reiterated here in below for the sake of convenience and to understand the issue:

“I have carefully considered assessee’s submission and also carefully gone through the assessment order. I have also taken a note of factual matrix of the case as well as applicable case laws relied upon. AO is required to invoke the provision of section 145(3) of the Act before estimating assessee’s income. However, in view of relied given in Gr no. 2 & 3 becomes academic in nature. Accordingly same is not adjudicated.

12.1 As it is evident that the Id. CIT(A) has considered the appeal of the assessee on technical ground he has not dealt with the merits of the case. Thus, so far as the merits of the case is concerned the bench noted that the addition made by the assessing officer is on protective basis. Therefore, we have heard the parties on merits also. The reason behind as it is evident from the records that the challenged seized material found at

the premises of the company wherein Shri Sanjay Jain is Director and during search certain incriminating documents were found and incriminating materials were seized and the initiation of proceedings were made u/s 153C of the Act against the assessee based on that material. Based on the evidence presented by both the parties the Id. AR of the assessee submitted that even if the transaction is considered to be pertains / belongs to the assessee the related income has already been disclosed and accepted by the revenue in the case of Shri Sanjay Jain and that is why the addition is made on protective basis. The action of the Id. AO adding the whole consideration is also incorrect. On merits the Id. AR of the assessee submitted that as these transactions were completely under control of Shri Sanjay Jain the same was disclosed by him as income and once the same is accepted there cannot be double addition of the same income. The other three Directors/ Partners have no knowledge of the modus operandi in relation to the project developed by the assessee firm and that why the dispute arose and FIR was made. Accepting the contention of the revenue that the details written in these papers are somewhere matching to the extent of name and amount of documents executed but the Plot No. and area is not matching as the assessee firm has sold the agriculture land and, therefore, to that extent the documents

do not fully pertain to the assessee. Even if the contention of the Revenue is accepted and then in that case revenue themselves decided to tax the assessee on these on money as protective addition and now even the protective addition should not sustained as Shri Sanjay Jain has offered the income related to these documents there is no meaning of making protective addition in this case. In addition to the above oral arguments the Id. AR of the assessee further submitted following submissions on merits:

### SYNOPSIS

**THE BASIC PRINCIPLE OF TAXATION IS THAT AT A TIME SAME INCOME CANNOT BE CHARGED / TAXED ON TWO PERSONS.**

### UNDISPUTED FACTS

1	<b>Protective addition is made by the Ld. AO in both the assessee</b>
2	<b>Alleged protective addition has been made in both the assessee on the hinged of page no. 127 of Exhibit-1 of AnnexureA.</b>
3	<b>As per the aforesaid Page no. 127 the alleged undisclosed income is Rs. 2,24,87,607/-.</b>
4	<b>Page no. 127 is the final calculation of all the seized documents.</b>
5	<b>Since Shri Sanjay Jain had already surrendered Rs. 4 Crores covering all these seized documents, Therefore, the alleged income of seized documents has already been taxed</b>
6	<b>Revenue has confirmed all these findings.</b>
7	<b>Kindly see page no. 203 of paper book submitted by the Revenue in 09.10.2017 wherein the revenue took the stand before Hon'ble ITSC that the Tehsildar Report also confirms that the assessee sold land without conversion charges and the seized documents are relating to land sold with conversion charges.</b>

1. Your honour, It is undisputed fact that the Ld. AO passed the protective order.
2. Your honour, the Ld. AO calculated undisclosed income of SUMS Exim (India) Private Limited on the strength of seized documents and the details of which are as under:-
  - (a) Your honour kind attention is invited to the AO order page no.

24 point no. 12 of SUMS Exim AY 2006-07 wherein the Ld. AO considered all the seized documents in point no. 1 and thereafter in point no. 2 gave finding of “page no. 128 to 130 of exhibit-1 of Annexure A” thereafter in continuance thereof on page no. 25 point no. 3 considered the seized documents “page no. 120 to 126 of exhibit-1 of Annexure A” and concluded just below the table that Total alleged undisclosed sales receipts of Rs. 22,99,18,429. In point no. 4 the Ld. AO mentioned the sales of the assessee for the assessment years 2006-07 to 2012-13. Thereafter, in point no. 5 the undisclosed sales was calculated by multiplying with the alleged sales appearing in the seized document page no. 127 and that is alleged sales of Rs. 22,99,18,429. Therefore, the alleged undisclosed sales for the AY 2006-07 to 2008-09 was calculated Rs. 12,23,18,100 (AY 2006-07 Rs. 1,49,13,171) of SUMS Exim. Hence, the whole alleged undisclosed sales for the AY 2006-07 to 2012-13 is based on “seized documents page no. 127 of exhibit-1 of Annexure A.” For your honour ready reference the aforesaid page no. 127 is enclosed herewith.

(b) Even the above finding have been confirmed by the revenue in the Confidential report submitted by the deptt to the Secretary, Income Tax Settlement Commission on 22.09.2017 (Kindly see paper book IV submitted on 09.10.2017 page no. 210 on the table where all the above findings appear).

3. Similarly, your honour, the Ld. AO calculated undisclosed income of S.M. Developers on the strength of seized documents and the details of which is as under:-

(a) Your honour kind attention is invited to the AO order page no. 27 point no. 13 of S. M. Developers AY 2006-07 wherein the Ld. AO considered the finding of “page no. 127 of exhibit-1 of Annexure A” an alleged investment of Rs. 19,27,81,502 thereafter in continuance thereof on page no. 28 considered the seized documents “page no. 127 of exhibit-1 of Annexure A” and concluded just below the table that Total alleged undisclosed investment / expenditure of Rs. 19,27,81,502. The Ld. AO mentioned the undisclosed investment / expenditure of the assessee for the assessment years 2006-07 to 2008-09. Thereafter, the alleged undisclosed investment / expenditure was calculated by multiplying with the sales appearing in the seized document page no. 127 and that is Rs. 19,27,81,502. Therefore, the undisclosed investment / expenditure for the AY 2006-07 was calculated Rs. 1,30,03,657 of S.M. Developers. Hence, the whole undisclosed sales for the AY 2006-07 to 2008-09 is based on “seized documents page no. 127 of exhibit-1 of Annexure A.”

(b) Even the above findings have been confirmed by the revenue

**in the Confidential report submitted by the dept to the Secretary, Income Tax Settlement Commission on 22.09.2017 (Kindly see paper book IV submitted on 09.10.2017 page no. 211 on the table where all the above findings appear).**

4. Your honour kindly see paper book dated 30.06.2022 submitted by the department paper book page no. 7. Your honour, this paper book page no. 7 is the part of Seized Document Annexure-A Exhibit-1. This Exhibit-1 is having page no. 1-169 and has details of purchases, sales, income and expenses. The Ld. AO also gave these findings on page no. 15 and 16 that page no. 127 which is paper book page no. 7 shows a summary of purchases, sales, income and expenses. Your honour this page no. 127 has not been disputed by the Ld. AO which shows that the net profit of the seized document is Rs. 2,24,87,607/- against which Shri Sanjay Jain has already surrendered Rs. 4 Crores as income and tax thereon has already been paid. Kindly see paper book dated 30.06.2022 submitted by the department paper book page no. 235-236 wherein Shri Sanjay Jain surrendered Rs. 4 crores on these seized documents. Please allow me to read this statement. Your honour can see that the protective order passed by the Ld. AO only on the hinges of these papers.
5. Your honour, Hence, this income has already been taxed. Kindly note that it is an undisputed fact that aforesaid page no. 127 is the final calculation of all the seized documents. Your honour, the Ld. AO made the addition to both the assessee by taking alleged sales in the hands of Sums Exim Pvt. Ltd. and the alleged investment in the hands of S.M. Developers. **Hence, your honour can see that in both the cases, the addition has been confirmed on the hinges of page no. 127 which is appearing in paper book 1<sup>st</sup> submitted by the Revenue on dated 30.06.2022 page no. 7.**
6. Your honour, the above seized page no. 127 clearly states that the land was purchased and expenses of Rs. 19,27,81,502/- (with the heading as B) in the name of NF Hill Retreat and sale of Rs. 21,52,69,109/- (with the heading as A) was made in the name of Nature Farms. Thereafter, the difference of Income & Expenditure (A-B) is appears as Rs. 2,24,87,607/-. Whereas the Ld. AO made the addition in both the assessee by taking alleged expenses of NF Hill Retreat Rs. 19,27,81,502/-(B) as undisclosed investment of M/s S.M. Developers and by taking alleged sales of Nature Farms Rs. 22,99,18,429/- as undisclosed sales of SUMS Exim Pvt. Ltd. Whereas in the above seized paper 127 sales, purchases and expenditure incurred by the same alleged person to whom this paper belongs.
7. With this above page several pages having calculation of the sales amount (page no. 120-126 of exhibit-1 of the Annexure -A (kindly see paper book 1<sup>st</sup> submitted by the Revenue on dated 30.06.2022 page no. 8-14 wherein page no. 120-126 of Exhibit 1 of Annexure A is appearing) as well as page no. 31 to 38 of the exhibit-1 of the Annexure -AS (kindly see paper book 1<sup>st</sup> submitted by the Revenue on

dated 30.06.2022 page no. 118-124 wherein page no. 31-38 of Exhibit 1 of Annexure AS is appearing) Few pages show the collection of conversion charges also whereas no conversion charges were charged by the assessee.

8. **Hence, while the seized documents do not pertain to the assessee, and they are clearly a narration of the real estate business of Shri Sanjay Jain and group only, which is confirmed by the Tehsildar Report as well.**
  
9. **It is undisputed fact that Shri Sanjay Jain has already paid income tax against the said alleged undisclosed income by surrendering Rs. 4 Crores. Undoubtedly, the alleged unexplained income of the seized documents stands categorically surrendered as undisclosed income of Shri Sanjay Jain during the 132 proceedings (kindly see paper book 1<sup>st</sup> submitted by the revenue on 30.06.2022 on page no. 235-236 wherein this fact of surrender appears. Further, your honour is requested to kindly see paper book no. iv submitted by AR on 09.10.2017. Your honour, this paper book is a copy of a factual report sent on 06.10.2017 by the Ld. PCIT(Central) Jaipur to the Hon'ble ITSC page no. 4 of the report wherein in table Sr. No. 2 the surrender of above Rs. 4 Crores is appearing before the Settlement Commission. The Revenue has not controverted the said fact. The impugned income having been categorically taxed as undisclosed income of Shri Sanjay Jain, and therefore request that it should not be taxed in the hands of the assessee also, which would only result in taxing the same income twice.**

**So your Honour is requested kindly to not to allow the appeal of the revenue on this ground and request to confirm that the Ld CIT (A) is correctly deleted the addition made by the Ld AO."**

12.2 The Id. AR further argued that Revenue has misconceived the findings of the Hon'ble Settlement Commission and thereby added the whole sums of on money and that is also on protective basis which is incorrect. The Revenue while making the petition before the Hon'ble Rajasthan High Court in the case of Shri Sanjay Jain and Others has raised the issue which is reproduced para 8 to 11 as under:-

"8. That in view of the emergence of these above mentioned new facts arising after the order of learned CIT (A)-4, Jaipur, the humble applicant-petitioner prays for amending the writ petition in the following manner:

The Para-9 (iii) of the writ petition, may kindly be read as follows :-

"9-iii) That revenue while submitting its Rule-9 report raised an issue relating to the protective assessments completed in the case of M/s. Sums Exim Pvt. Ltd. and M/s. S.M. Developers. In the Rule-9 report it was submitted that during search certain incriminating documents were seized from the premises of Shri Sanjay Jain allegedly pertaining to M/s. Sums Exim Pvt. Ltd. and M/s. S.M. Developers in which Shri Sanjay Jain was one of the director and key person who left these companies in FY 2008-09. For protecting the interest of revenue protective assessments u/s 153C were completed in the above mentioned cases from AY 2006-07 to AY 2012-13. It was mentioned in the report that additions may be made in the case of the applicants on the basis of the facts narrated in the assessment orders.

Before the ITSC also, department submitted that most of the transactions were made by Shri Sanjay Jain therefore protective additions made in the cases of M/s Sums Exim Pvt. Ltd. and M/s S.M. Developers needs to be added as the undisclosed income of Shri Sanjay Jain.

The settlement commission while passing its order failed to consider the submissions made by the revenue."

After para-9 (iii) of the writ petition, a new para No.9 (iii) (a) may kindly be permitted to be inserted as follows:

"9-iii) (a) That the CIT (A)-4, Jaipur after having taken cognizance of all the facts and oral/documentary evidence gathered by the Assessing Officer and rejoinder filed by the assessee observed that additions made by the AO on protective basis in the hands of M/s. SM Developers and M/s. SUMS Exim Pvt. Ltd. cannot be sustained because of the fact that the seized documents actually pertained to respondents, Shri Sanjay Jain and his group entities, and therefore, these additions are required to be made in the hands of the respondents."

The Para-9 (v) of the writ petition, may kindly be read as follows :-

"9-v) That the assessing officer had worked out the unrecorded sales in the case of M/s SUMS Exim Pvt. Ltd. on the basis of the data found recorded in the seized papers/ documents allegedly relating to the sale of plots. The data was found recorded upto May, 2008 i.e. when Shri Sanjay Jain left the company.

The assessing officer has calculated the proportionate sales as per seized material as well as on the basis of recorded sales for the period 01/04/2005 to 31/05/2008.

On the same analogy, income of the assessee company relating to sale of plots was calculated for the later period also, i.e. from 01/04/2008 to 31/03/2012."

The Para-9 (vi) of the writ petition, may kindly be read as follows :-

"9-vi) That the assessing officer has calculated the undisclosed sales in the case of M/s S.M. Developers on the basis of alleged seized documents for the period 01/04/2005 to 31/05/2008 and specifically mentioned in the order that for every disclosed sale of Rs. 100/-, undisclosed income of Rs. 784.87/- was being earned by the assessee.

On the same analogy, income of the assessee company was calculated for the later period also, i.e. from 01/04/2008 to 31/03/2012. The assessing officer has also worked out the undisclosed investment/ expenditure on the basis of seized documents for AY 2006-07 to 2008- 09 and separate addition has also been made for the same.

The settlement commission failed to consider the evidences filed along with the Rule-9 report by the revenue."

The Para-9 (viii) of the writ petition, may kindly be read as follows :-

"9-viii) That the assessing officer while completing the protective assessment had taken into consideration and has also discussed in its order the statements of Shri Sunil Mehta, recorded on 21/06/2011 u/s 131 of the Income Tax Act.

The copies of FIRs, documentary evidences submitted by the A/R of Shri Sunil Mehta, M/s SUMS Exim Pvt. Ltd. and M/s S.M. Developers were made available to the settlement commission along with the Rule-9 report. The settlement commission while passing the order has not taken into consideration the above mentioned evidences which shows that Shri Sanjay Jain did the business in the name of these concerns and collected such entire sale proceeds."

After ground (I) of the Writ Petition, a new grounds (I) (A) may kindly be permitted to be inserted as follows:

"(I) (A). Because, in view of the orders dated 30.03.2017 passed by the learned CIT(A) in the case of M/s. SM Developers and M/s. SUMS Exim Pvt. Ltd. it is apparent that the respondents have not placed all the relevant and necessary documents before the Learned ITSC and as such, the impugned order dated 11.09.2015 is obtained by fraud and misrepresentation of facts

on the part of respondents rendering the impugned order as null and void, thus, liable to be set aside."

10. That amendment in the aforesaid manner is required to be carried out in the present Writ Petition to bring additional facts on record which further prove absence of a full and true disclosure by the respondents before obtaining the impugned order dated 11.09.2015 from the Learned ITSC. The amendment is bonafide and has been occasioned on account of subsequent events during the pendency of the writ petition. It is, therefore requested, in the interest of justice that the same may be allowed to incorporated.

11. That other submissions shall be made at the time of oral hearing of the case."

As it is clear that Revenue is of the view that if further addition if any is to be made, is required to be made in the case of Shri Sanjay Jain and there is no force in the arguments of the Id DR to sustain the addition on protective basis to safe guard the interest of the revenue even the department has since beginning choose not to tax the assessee on substantive basis and revenue has already taken a stand before the Honourable High court to tax this money in the hands of Shri Sanjay Jain to keep these issue alive sustaining the addition. The assessee established and demonstrated that the documents are not fully correct. The on money transaction if any was carried out by Shri Sanjay Jain and the seized records found at the time of search itself proves that income is required to be taxed in the hands of Shri Sanjay Jain as the Department repeatedly taken a stand including before the Hon'ble High Court taking a view that the addition is required to be made in the hands of Shri Sanjay Jain. Therefore,

in the light of these facts, there is no reason to sustain the addition on protective basis.

12.3 On the other hand Id. DR reiterated the fact that as it is clearly demonstrated that these transactions relates to the assessee and the same is required to be taxed in the hands of the assessee and the Id. AO has based on the admission of Shri Sanjay Jain made the protective addition which is correct and is required to be sustained. The Id. DR further submitted that substantial amount of unrecorded sales is found recorded on these documents and Shri Sanjay Jain has accepted only 4 Cr on this papers but in fact the stake is much more and that is why the revenue is in high court.

12.4 We have heard both the parties and perused the materials available on record. In this case, it is noted that a search was conducted on 28-04-2011 in the case of Supreme Group, Jaipur ( key person Shri Sanjay Jain) at various residential / business premises. During the course of search various books of accounts/loose papers/documents related to the assessee (M/s. SUMS Exim Pvt. Ltd.) were found and seized as per annexure prepared during the course of search at residential / business premises covered in the search. Accordingly, in the case of the assessee, proceedings u/s 153C r.w.s. 153A of the Act had been initiated after

recording the reasons by the AO as mentioned in the assessment order (Para 6). It is also noted from the assessment order that the show cause letter dated 20-03-2014 was issued to the assessee for which the assessee submitted the detailed reply vide letter dated 26-03-2014 to the AO. The AO considered the submission of the assessee but recorded the statements of some related persons u/s 132(4)/131 of the Act like Shri Sanjay Jain, Shri Bhaskar Sharma and Shri Sunil Mehta on various dates as mentioned in the assessment order. It is noted that the AO taking into consideration the above facts initiated the proceedings u/s 153C r.w.s. 143(3) of the Act in the case of M/s. Sums Exim Pvt. Ltd. It is also noteworthy to mention that proceedings had been started on 29-09-2013 and the satisfaction note for initiating proceeding has been prepared on 03-02-2014 in the case of the assessee (M/s. SUMS Exim Pvt. Ltd.). It is also noted that the paper book had been submitted by the assessee on 10-06-2022 in which the copy of the writ petition filed by the Department on 24-08-2016 before the Hon'ble High Court. It is also noted that the AO submitted an Oath before Hon'ble High Court that Shri Sanjay Jain did the business in the name of the assessee (PBP 24-25 of the Writ). However, in first appeal before the Id. CIT(A) who noticed that no incriminating material were found for the period after 31-05-2008 and the additions made on the

basis of material found and based on that material extrapolation additions have also been deleted considering it as academic in nature. Since, we have based on the arguments on the Id. DR allowed the ground no. 1 of initiation proceeding u/s. 153C of the Act it is also necessary to decide the second ground so of the revenue that based on the material available by both the parties even the protective addition made by the Id. AO is to be sustained on merits or not. It is not disputed by the revenue that the addition made on protective basis is required to be made on substantive basis. Merely revenue is contending that the Shri Sanjay Jain has accepted Rs. 4 Cr on these transactions but the whole sale proceeds is required to be added. Since the matter of reopening of the case of Shri Sanjay Jain is pending in the high court revenue is praying to sustain the protective addition. The bench noted that since beginning Shri Sanjay Jain is owning up the transaction recorded in the seized material. Shri Sanjay Jain has offered and has already disclosed a sum of Rs.4.00 crores out of Rs.2,24,87,607/- profit as calculated at page 127 of loose paper found named exhibit 1. Since these loose papers based upon which the addition is proposed in the case of assessee firm is already explained and disclosed by Shri Sanjay Jain and now there is no further scope of sustaining the protective addition as even on merits on these pages Shri Sanjay Jain has

disclosed a sum of Rs.4.00 Crores. The Id. AR has explained the working based on the seized material which is extracted hereinbelow:

<u>Income of Nature Farms</u>		Total Sale Amount	Amount Balance	Amount Recd
<u>Profit on Sale of Land Traded</u>				5,577,976
<u>Nature Farms Area Sold</u>	214,783.070	229,918,429	20,227,296	209,691,133
<u>Salable Area</u>	354,842.140			
<u>Balance</u>	140,059.070			<u>215,269,109 (A)</u>
<u>Expenses of NF Hill Retreat</u>		<u>Book I</u>	<u>Book II</u>	<u>Total</u>
<u>Land Purchase</u>				
Bigha	159.185	16,004,300	77,812,652	93,816,952
Sq Yard	481534.625			
<u>Direct Expenses</u>		34,469,355	9,914,588	44,383,943
<u>Indirect Expenses</u>		13,636,756	30,547,064	44,183,820
<u>Advance Against Expenses</u>		8,654,548	1,742,239	10,396,787
				<u>192,781,502 (B)</u>
<u>Difference of Income &amp; Expenses (A-B)</u>				<u>22,487,607</u>

The revenue while submitting the report to the settlement commission against the sales proceeds recorded and found in the disputed page also found the related expenditure incurred in cash on this project as extracted

above at page 127 of exhibit 1 and the relevant observation of the revenue in that report submitted to settlement commission is as under:

(o) In the page No. 127 of exhibit of annexure A seized from the business premises of M/s Supreme Polymers Pvt Ltd. details of expenses of NF Hill Retreat are mentioned. In this impugned seized documents, details of land purchase direct expenses, indirect expenses and advanced against expenses are given. This detail is reproduced as under:-

Expenses of Hill Retreat		Book 1	Book 2	Total
Land	Bigha 159.185 sq yard 4181534.625	1,60,04,300	7,78,12,652	9,38,16,952
Direct expenses		3,44,69,355	99,14,588	4,43,83,943
Direct expenses		1,36,36,756	3,05,47,064	4,41,83,820
Advance against Expenses		86,54,548	17,42,239	10,39,66,787

(p) As per page No. 31 to 38 of the exhibit-1 of the Annexure –AS seized from M/s.Shreya's India Pvt Ltd. the total cheque and cash amount received on sale of various plot Nature Form Scheme are as under:-

	Receipts	Amount (In Rs.)
Cheque received		2,42,16,053
Cheque received		2,41,46,187
Cheque receivable		43,72,848
Total		6,14,80,043

Total receipts of Rs.6,14,80,043/- is related to land already booked/sold upto May8 2008. The remaining land to be sold after May, 2008 as per the facts of the cases and material seized during the course of search.

Thus, when the revenue has already explained the page that against the unrecorded sales proceeds unrecorded expenditure is also found recorded and the same is already accepted in the proceeding in the settlement

commission by the revenue and thus, the income disclosed at 4 Cr was substantiated by the revenue even though the profit earned at Rs. 2,24,87,607/-. Thus, we found that action of taxing the assessee on based on the sales proceeds and that too without allowing the related expenditure on protective basis is not correct. Not only that when the action of the offering the income by Shri Sanjay Jain is accepted by the revenue and revenue since the stage of the assessment considered that the addition is not required to be made on substantive basis and choose to tax on protective basis. This action itself suggest that the revenue has choose to tax the income in the hands of Shri Sanjay Jain who is found in possession of all these records and has already accepted the undisclosed income which the revenue is accepting since the search proceedings. Based on the set of evidence and arguments made by both the parties is not disputed that the explanation made by Shri Sanjay Jain is found to be correct and he has already explained nature of income and expenditure related to these unrecorded sales for which he has also found in possession of the details of the unrecorded expenditure and the profit of the project is also found recorded at page 127 as extracted here in above for an amount of Rs. 2,24,87,607/- against which Shri Sanjay Jain has

disclosed a sum of Rs.4.00 crores wherein relevant question and answer is reproduced hereinbelow from the records produced before us

प्र. 5 अबआपकोAnnexure AS-1के page No.116 से 133 दिखायेजारहेहै कृपयाआपइसकेबारेमें टिप्पणी दें

उ. उपरोक्तपृष्ठ मैंने देख लियेहै।इनपृष्ठोंमेंमेरे द्वारातीनअन्य व्यक्तियों के साथमिलकर खरीदीगईतथाबेचीगईजमीन से संबंधितकागजातहै। यह भूमिDelhi roadपरस्थितहैऔर इसे Nature Farms के नाम से develop & promote कियागयाथा।page No. 116 से 126 पर इस project से विभिन्नplots के sale की detailsहैतथाpage No. 121 पर इस project का actual P & L A/C है। यह जमीनबेचते समय sale amount का कुछहिस्सानकदमेंलियागयाथा। इस नकद की राशि से further जमीन खरीदने के लियेuseकियागयाथा। इस प्रकारहमproject की कुछप्राप्तितथाकुल खर्चों की summary page no.127 परमौजूदहै। इस project की जमीन खरीद के लियेमेरे द्वारानिवेशसीमाजोpage No.132 से 133 से विदितहै।सन् 2008 मेंबाकिpartners से मेरामनमुटावहोगयाऔर उस समय तकलगभग 30-40 जमीन unsoldरहगईथीइसकेबाद इस projectमेंमेरेprofit एवंunsoldजमीन के stoke के बदले मुझे रकमप्राप्तहोनाबनताहै। इस सारेtransactions की actual workingअभीकरपानासंभवनहींहै।फिरभीमेरेहिसाब से इस project से मुझे चारकरोड का लाभहुआऔर इसे मैंनेआगेजमीन खरीद के लियेअग्रिम दे रखेहैं।इसकीdetailsमैआपकोप्रस्तुतकरदूंगा। इस चारकरोड रूपये की अघोषितलाभ एवंउसनेकियेहुए निवेशकोअघोषितआपकोकररोपणहेतु घोषणाकरताहूँ।

प्र. 6 अबआपकोAnnexure AS से page No. 01 से 18 दिखानेजारहेहै। कृपयाइनमेदर्जentriesकोस्पष्टकरें।

उ. उपरोक्तpagesमेंकुछcash receiptsतथाcash expenses से संबंधितdetailsहै।इनकेbooksमेंverifieकरानासंभवनहींहै।

प्र. 7 आजsearch की कार्यवाही के दौरानकुललगभग 35 लाख रूपयेनकद (विभिन्न स्थानों पर) तथालगभग 1-20 करोड की jewelleryपायीगईहै। कृपयाइसकाSource स्पष्टकरें।

उ. 7 जहां तक नकद का सवाल है लगभग 10 – 12 लाख रुपये का cash है और बाकी के बारे में मैं बताने में असमर्थ हूँ।

प्र. 8 आपको कुछ और कहना है।

उ. 8 आज मेरे विभिन्न premises पर search की कार्यवाही के दौरान बहुत सारे ऐसे transactions एवं दस्तावेज पाये गये हैं जिनका मैं स्पष्टीकरण देने में असमर्थ रहा हूँ। इन दस्तावेजों में कई प्रकार के cash receipts एवं cash expenses जैसे लेन-देन भी दर्ज हैं।

The Id. AR of the assessee further explained that the basis of calculating the profit at Rs.4.00 crores and therefore, to substantiate this we have to rely upon the working as it is available in seized record and the same is reproduced herein below

<u>Income of Nature Farms</u>				
<u>Profit on Sale of Land Traded</u>				
<u>Nature Farms Area Sold</u>	214,783,070			
<u>Saleable Area</u>	354,842,140			
<u>Balance</u>	140,059,070			
				<u>215,269,109 (A)</u>
<u>Expenses of NF Hill Retreat</u>				
<u>Land Purchase</u>		<u>Book I</u>	<u>Book II</u>	<u>Total</u>
Bigha	159.185	16,004,300	77,812,652	93,816,952
Sq Yard	481534.625			
<u>Direct Expenses</u>		34,469,355	9,914,588	44,383,943
<u>Indirect Expenses</u>		13,636,756	30,547,064	44,183,820
<u>Advance Against Expenses</u>		8,654,548	1,742,239	10,396,787
				<u>192,781,502 (B)</u>
				<u>Difference of Income &amp; Expenses (A-B)</u>
				<u>22,487,607</u>

The Id. AR of the assessee thus substantiates the total on money recorded which is under dispute against this, the assessee has incurred various expenses in connection with these properties which is also made out unrecorded sales and, therefore, even these details and submission were shared by the revenue Rule 9, the Revenue has accepted the fact that Shri Sanjay Jain has incurred the expenditure on this project. Our of the profit

so determined Shri Sanjay Jain has already offered the sum of Rs.4.00 crores to justify the error and omission in making the profit of these entities. It is also not disputed that the assessee firm and their partners made claim of the money embezzled for which a FIR for recovery of the money is pending for the money that he has collected behind the back of other partners / directors. This fact is also not disputed by the Revenue which is clear in taxing Shri Sanjay Jain on substantive basis. The fact is that Shri Sanjay Jain has offered Rs.4.00 crores as it is evidently clear from the findings recorded in para 8.10 of Hon'ble Settlement Commission which is reproduced as under:-

" 8.10 Issue regarding addition made u/s 153C in the case of M/s. SUMS Exim Pvt Ltd. and M/s. S.M. Developers to be added in the hands of Shri Sanjay Jain:

In her Rule 19, report, the Principal CIT has stated that substantive addition should be made in the hands of Shri Sanjay Jain in various assessment years, of the amounts already added protectively in the assessments of M/s SUMS Exim Pvt. Lid, and M/s S.M. Developers. The Principal CIT has further stated that these additions course are warranted in view of incriminating documents seized during the of search from Sh. Sanjay Jain's premises, as these papers pertain to M/s SUMS Exim Pvt. Ltd. and M/s S.M. Developers in which Sanjay Jain was one of the directors and the key person till financial year 2009-10. The Principal CIT has also stated that additions of Rs.21,82,51,846/- and Rs.38,96,63,496/- were made u/s 153 C of the I.T. Act in the hands of M/s SUMS Exim Pvt. Ltd. and M/s S.M. Developers on protective basis.

The learned counsel for the applicant has submitted that purposed addition in respect of incriminating documents found and seized in respect of activities of M/s SUMS Exim Pvt. Ltd. and M/s S.M. Developers is not justified as the Principal CIT as himself noted in his report that these incrimination documents/paper pertain to M/S SUMS Exim Pvt. Ltd. and M/s S.M. Developers. It is, however, clarified that M/s S.M. Developers is a partnership firm wherein M/s SUMS Exim Pvt. Ltd. and M/s Mamonspat Pvt. Ltd. are partners. It is submitted that these documents were found as the accountant of the firm was maintaining in the firms office in the applicants premises. Shri Sanjay Jain was only having 25% share holding in M/s Sums Exim Pvt. Ltd. The Ld. AR further submitted that M/S SUMS Exim Pvt. Ltd. and M/s S.M. Developers are separated entities for tax purposes, therefore, any income which is earned by company or firm does not become the income of the partner or share holder thereof. It is therefore submitted that the undisclosed income in the hands of firm or company cannot be charged to tax in the hands of partner or shareholder as they are separate entities for the purpose of taxation.

It has been submitted that M/s SUMS Exim Pvt. Ltd. had a real estate project "Nature Farms" where as per seized records a profit of Rs 16 crores was revealed. Accordingly, the applicant holding 25% shareholding had offered Rs.4 crores in the present application.

Commission Findings:

We have considered the facts carefully, the material facts relevant are that during the course of search documents/papers were found pertaining to activities M/s SUMS Exim Pvt. Ltd. and M/s S.M. Developers relating to period before F.Y. 2008-09 and that Sh. Sanjay Jain had left the company M/s SUMS Exim Pvt. Ltd. during F.Y. 2008-09. In support of these facts, the following documents were filed by the AR:

- a) Copy of memorandum settlement arrived at between Shri Sunil Mehta and the applicant Shri Sanjay Jain.
- b) Copy of resignation from M/s. SUMS Exim Pvt. Ltd.
- c) Board Resoluton regarding resignation of Sh. Sanjay Jain

Considering that Shri Sanjay Jain had left M/s Sums Exim Pvt Ltd. in FY 2009-10 also that the supporting evidence filed is not controverted by the CIT, the income of the company cannot be taxed in the heads of Sh. Sanjay Jain. Similarly, M/s.S.M. Developers being a Regd. Firm and separately assessed where Shri

Sanjay Jain is not a partner, its income after AY 2010-11 cannot be included in Sanjay Jain hand. **For the earlier period, the applicant Sanjay Jain has already accounted for the income in the SoF as started by the AR. We find the disclosure made in this regard to be full and true.** The Department may examine modification, if any, in the hands of the other partners/ shareholders who continue to be partners / shareholders any stay invested in properties.”

12.5 In the light of detailed deliberations as recorded in above para 12.4, we are of the considered view that the protective addition made upon the assessee is not sustainable when the revenue in the case of Shri Sanjay Jain accepted the income on substantive basis based on incriminating material and in the case of assessee since at the assessment stage Department made protective additions which we hold is not warranted based on the set of facts as discussed here in above. In the result , ground no. 2 raised by the revenue is dismissed.

12.6 The decision take by the bench in the ITA NO. 430/JP/2017 for A.Y. 2008-09 shall apply mutatis mundis in the following appeal of the revenue :-

Name of the assessee	ITA Nos.	CIT(A)	Date of order	A.Y.
M/s.SUMS Exim Pvt. Ltd.	428/JP/2017 to 429/JP/2017	CIT(A)-4, Jaipur	30-03-2017	2006-07 to 2008-09
M/s.SUMS Exim Pvt. Ltd.	860/JP/2016 to 863/JP/2016	CIT(A)-4, Jaipur	26-07-2016	2009-10 to 2012-13
M/s. S.M. Developers	431/JP/2017 to 433/JP/2017	CIT(A)-4, Jaipur	30-03-2017	2006-07 to 2008-09
Ms/s. S.M. Developers	864/JP/2016 to 867/JP/2016	CIT(A)-4, Jaipur	26-07-2016	2009-10 to 2012-13

13.0 In the result, all the appeals of the revenue are partly allowed as indicated here in above.

Order pronounced in the open court on 24 /04/2023.

Sd/-

(संदीप गोसाईं)

(Sandeep Gosain)

न्यायिक सदस्य / Judicial Member

Sd/-

( राठोड कमलेश जयन्तभाई )

(Rathod Kamlesh Jayantbhai)

लेखा सदस्य / Accountant Member

जयपुर / Jaipur

दिनांक / Dated:- 24 /04/2023

\*Mishra

आदेश की प्रतिलिपिअग्रेषित / Copy of the order forwarded to:

1. The Appellant- The DCIT, Central Circle-3, Jaipur
2. प्रत्यर्धी / The Respondent- M/s. Sums Exim Pvt. Ltd., Jaipur
3. आयकरआयुक्त / The Id CIT
4. आयकर आयुक्त(अपील) / The Id CIT(A)
5. विभागीय प्रतिनिधि, आयकरअपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur
6. गार्डफाईल / Guard File (ITA No. 860 to 863/JP/2016)

आदेशानुसार / By order,

सहायकपंजीकार / Asstt. Registrar