

आयकर अपीलिय अधिकरण, हैदराबाद पीठ में
**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES "A" , HYDERABAD**

BEFORE

**SHRI R.K. PANDA, VICE PRESIDENT
AND
SHRI LALIET KUMAR, JUDICIAL MEMBER**

आ.अपी.सं / **ITA Nos. 52 and 53/Hyd/2015**
(निर्धारण वर्ष / Assessment Years: 2007-08 and 2009-10)

The Income Tax Officer, Ward – 10(2), Hyderabad.	Vs.	Shri Dandamudi Avanindra Kumar, 88, Gunrock Enclave, Secunderabad. PAN : ACNPD1893R.
अपीलार्थी / Assessee		प्रत्यर्थी / Respondent

आ.अपी.सं / **ITA Nos.73 and 74/Hyd/2015**
(निर्धारण वर्ष / Assessment Years: 2007-08 and 2009-10)

Shri Dandamudi Avanindra Kumar, 88, Gunrock Enclave, Secunderabad. PAN : ACNPD1893R.	Vs.	The Income Tax Officer, Ward – 10(2), Hyderabad.
अपीलार्थी / Assessee		प्रत्यर्थी / Respondent

निर्धारिते द्वारा/Assessee by: Shri P. Jitendra Kumar, CA.
राजस्व द्वारा/Revenue by: Ms. T.H Vijaya Lakshmi, CIT-DR

सुनवाई की तारीख/Date of hearing: 28/06/2023
घोषणा की तारीख/Pronouncement on: 28/06/2023

आदेश / ORDER

PER LALIET KUMAR, JM:

These cross appeals filed by the assessee and Revenue are directed against the separate orders of Commissioner of Income Tax (Appeals) – VI, Hyderabad dated 29.09.2014 passed u/s 143(3) r.w.s. 147 of the Income Tax Act, 1961 (in short 'Act') for the assessment years 2007-08 and 2009-10.

2. As the facts of the case in all the captioned appeals are identical, we are reproducing the facts in ITA No.52/Hyd/2015 for A.Y. 2007-08 for the sake of brevity.

3. The grounds raised by the Revenue in ITA 52/Hyd/2015 for A.Y. 2007-08 read as under :

“1. The order of the CIT(A) is erroneous both on facts and in law.

2. The CIT(A) ought to have appreciated that the assessee is neither a GPA holder nor a partner in the firms, which have sold the land to M/s. Unitech.

3. The CIT(A) ought to have appreciated that the alleged caution deposit was much higher than the market value of the land sold to M/s. Unitech.

4. The CIT(A) ought to have appreciated that the assessee has not filed any documentary evidence in support of the claim that the sale consideration was passed on to the authorised sellers of the land.

5. The CIT(A) ought to have appreciated that the assessee utilized the money received as caution deposit for his personal investments.

6. *The order of the CIT(A) is erroneous to the extent of his failure to notice the element of income in the total advance received by the assessee from M/s. Unitech.*

7. *The CIT(A) erred by accepting the advance given for purchase of land as caution deposit which is only a dubious word used to camouflage the advances paid towards land sale.”*

4. The grounds raised by the assessee in ITA No.73/Hyd/2015 for A.Y. 2007-08 read as under :

“1. Orders of lower authorities are contrary to law under facts and circumstances of the case to the extent relating to denial of claim of the appellant that no services were rendered and therefore no income can accrue from services.

2. Lower authorities have erred to treat the advance of Rs.19,96,79,340/- as income purely based on tax deduction made by payer without establishing that income accrued.

3. Without prejudice for the claim that no income accrued in the advance of Rs.19,96,79,340/- the disallowance made is excessive and deserves to be set right.”

5. The brief facts of the case are that assessee is an individual, who has not filed his return of income for A.Y. 2009-10 within the due dates as per Section 139(1) or section 139(5) of the Act. A notice u/s 148 of the Act was issued to the assessee on 04.01.2011 calling for return of income for the year under consideration. The notice was duly served on the assessee on 05.01.2011. In response to notice u/s 148 of the Act, assessee had filed its return of income on 08.08.2011 admitting his taxable income at Rs.63,62,662/-. Thereafter, the case was converted into scrutiny. Thereafter, assessee received show cause notice

dt.17.11.11 for which he had furnished information from time to time. Subsequently, after hearing the assessee's A.R and after verifying the information furnished and also basing on the material available on record, Assessing Officer had completed the assessment interalia by making certain additions / disallowances and finally assessed the total income at Rs.243,37,21,394/-.

6. Feeling aggrieved by the order passed by the assessing officer, assessee filed appeal before the Id.CIT(A), who after examining the facts on record had granted partial relief to the assessee and confirmed part of the additions granted by the Assessing Officer and therefore, both the assessee and the Revenue are now in appeal before us.

7. Before us, Id.DR had submitted that in the present case, the assessee despite various opportunities granted by the Assessing Officer had failed to produce any evidence pertaining to the ownership on the land or the General Power of Attorney, subject matter of MOU, thereby substantiating that the money received by the assessee was not the money of the assessee and was on the account of the advances / caution money received from M/s. Unitech Limited. Id. DR further submitted that the assessee was not able to demonstrate that the land have not been transferred either through Development Agreement or through the irrevocable GPA in favour of M/s. Unitech Limited within four corners of Section 53A of the Transfer of Property Act. In fact, during the course of appellate proceedings, the assessee had filed various fresh documents on record and also given reasons for filling such

documents. This fact was duly acknowledged by the ld.CIT(A) in his order vide Para 5.3 which is to the following effect :

“5.3 The appellant, during the appellate proceedings had further submitted that certain information could not be furnished during the assessment proceedings and as such the said information in the form of liaison agreements, copies of GPA granted by the firms to the assessee, balance sheets of partnership firms, account copy of Unitech Limited in the books of the firm, etc were furnished and requested to be treated as additional evidence. Accordingly, the Assessing Officer was requested to submit the report based on the said information and the salient features of the report by the Assessing Officer runs on the following lines, while reiterating the observations as made in the assessment order.

- (i) After going through the explanation and information produced by the assessee, it is observed that no evidence of having land bank worth received more than Rs.800 crores from M/s.Unitech Limited has been produced by the assessee and no evidence produced indicating the amounts were utilized in connection with the procurement of lands for Untiech Limited or for the firms.*
- (ii) As per the assessee the amount received from M/s.Unitech is a caution deposit for arranging lands which were owned by the firms in which the assessee is a partner, but as seen from the books of accounts produced by the assessee, it is clear that the assessee was not in procession of land worth more than Rs.800 crores and only an amount of Rs.194 crores out of the said amount was apportioned to the firm's account with the whereabouts of the balance amount of Rs.636 crores, not known. As per the bank statement, the assessee has utilized the amounts for investment in the individual name and for giving advances to several parties for which no relevance can be made to Unitech or the firms and for this reason the contention of the assessee that the amount received from Unitech represents caution deposit towards lands owned by the firm, is not acceptable.*
- (iii) The claim of the assessee that he is a partner in several firms and the amounts received by him on behalf of the firms is also not correct and as seen from the bank statements, the amount of Rs.259 crores received from Unitech during A.Y.2007-08 and 2009-10 is only in the name of the assessee and there is*

no evidence that the said amounts were distributed to the firms.”

8. The Id.CIT(A) had also called for remand report from the Assessing Officer wherein the Assessing Officer had categorically mentioned as under :

“The assessment of the assessee for the assessment year 2007-08 and 2009-10 were completed u/s 143(3) on 30th December, 2011. The assessee preferred an appeal before the Commissioner of Income Tax (Appeals)-VI, Hyderabad. The Commissioner of Income Tax (Appeals)-VI, Hyderabad called for the Remand Report in this case on the submissions made by the assessee Hence the assessee was asked to give the details in connection with the remand report on the additional evidence to be admitted and considered by the Commissioner of Income Tax (Appeals)-VI, Hyderabad. The details of submissions made by the assessee to be considered as under:

1 a) Liaison agreement - a copy, since assessing officer considered lack of agreement, had a bearing on the assessment. The rescinding letter was however already filed. However, to avoid technical short comings, treated and sought this permission.

b) Copy of GPA's created by the firms to the appellate, the GPA are referred to and in developing agreement, however, to avoid technical short comings treated and sought this permission.

c) Balance sheet of partnership firm - Balaji Firms showing capital account as well as caution deposit.

Account copy of Unitech Limited in the books of partnership firm, M/s. Balaji firms, M/s Dan.dmudi Estates, M/s Global colonizers and Developers. From the submissions made by the assessee and the details available from the assessment records, it is noticed that the assessee Sri Dandamudi Avanindra Kumar claims that the entire amount received from M/s Unitech Limited is belonging to the firms in which he is a partner and the money was received in connection with the arranging lands to M/s Unitech Limited by the firms. Further the assessee claims to have substantial lands in the possession of the firm in which he is a partner and therefore he entered into an MOU with M/s Unitech Limited and received money

on behalf of the firms as GPA holder. In view of this the assessee was asked to give the following information.

2(a) The details of land holdings in the name of all the firms in support of having land in their names so as to give GPAs to Sri Dandamudi Avanindra Kumar and their I.T. particulars along with copy of I.T. return filed. Copy of I.T. returns filed by M/s Balaji Firm wherein the assessee claims to have capital account and their books of accounts to examine the claims made by the assessee. The books of accounts of all the partnership firms of M/s Balaji firm, M/s Dandamudi Estates, and M/s Global colonizers & Developers. Global colonizers and Developers and their bank statement. Partnership deeds of all the firms along with copies of I.T. returns filed by them may also please be produced.

(b) Details of services rendered by the assessee to M/s Unitech Limited as per the Liaison agreement along with books of accounts relating to this activity.

(a) As seen from the bank statement, it is noticed that the payments were made to several parties, in view of this, the assessee was requested to give the details of all the parties explaining each transaction along with documents and their addresses. Account copy of all the parties from the books of the assessee were asked to be produced. The above information was called for vide this office letter dt.01.10.2012. The information was called for both the assessment years i.e., assessment year 2007-08 and 2009-10.

3. In response to the above, the assessee filed a letter stating that M/s Dandamudi Estates and M/s Global colonizers and Developers are filing their I.T. returns and all the Balaji Group firms are not filing return as they do not have income and stated that these firms do not have bank account. Regarding services rendered by the assessee to M/s Unitech Limited, it is stated that the assessee never rendered any services and stated that M/s Unitech Limited also confirmed this regarding payments paid to several parties from the bank account of assessee, in which the amounts received from M/s Unitech Limited were credited, it is stated that the receipts and payment reflected that were made for acquisition of lands for firms vis-à-vis Balaji Firms, Dandamudi Estates and Global Colonizers and Developers. Details of payments made are available with the firms. Since the assessee has rendered accounts to the firms, in respect of which the assessee is GPA holder. The assessee dealt with M/s Unitech Limited as a CPA holder in respect of inn transactions with M/s Unitech Limited relating to Development Agreement made for the property owned and held by the

Partnership firm. The payments made by the M Is Unitech Limited is towards caution deposit for development agreement and the assessee having received and managed the funds received from M/s Unitech Limited as a GPA holder of the firms.

4. *After going through the above explanation and the information produced it is observed that no evidence of having land bank worth receiving more than Rs.800 crores from M / s Unitech Limited has been produced by the assessee and no evidence being produced indicating that the amounts from M/s Unitech Limited are utilised in connection with the procurement of land to M/s Unitech Limited or for the firms.*

5. *Therefore the assessee was asked to produce evidence as to how the assessee's name is incorporated as owner in the MOU entered into by Sri Dandamudi Avanindra Kumar as a GPA holder on behalf of the firms with M/s Unitech Limited and was asked to clarify the word owner mentioned in the MOU. Further assessee was asked to explain that why all the transactions appearing in the bank are in the name of Sri Dandamudi Avnindra Kumar alone as the assessee states that only firms are the owners of lands and why payments are not made in the names of firms and why firms do not have bank accounts.*

6. *To this it is submitted that initially the MOU made with M/s Unitech Limited is intended to Ink covenants between M/s Unitech Limited and the assessee is in the representative capacity. The focus was on making available suitable land bank for operation of M/s Unitech Limited. M/s Balaji Estates, Global Colonizers & Developers and Balaji Firms are having lands at Moulali, Alwal and Shamshabacl and the assessee, Sri Dandamudi Avanindra Kumar being a partner in all the firms and as a GPA holder entered into MOU with M/s Unitech Limited and his name was mentioned as owner. Regarding bank transaction, it is explained that as a GPA holder and partner of the firm the assessee acted as an agent and represented partnership firms and collected amounts from M/s Unitech Limited. The assessee rendered accounts to the respective firms as a partner and firms have filed their return wherever firm have earned income. Regarding payments appearing from the bank, do not have any relevance to the firms and the assessee submitted that the receipts and payments accounts for the assessment year 2007-08 and 2009-10 are submitted during the assessment proceedings. It is further mentioned that the payments were made for the real estate business of the partnership firm. The assessee enclosed payments statement to the letters submitted.*

7. Ledgers produced are examined and the details are tabulated to show the investments of the firm in the land and attribution of amounts received from M/s Unitech to the firm accounts to examine the claim made by the assessee. From the enclosed tabulation it could be seen that the investment of all the firms in the land at different places in which the assessee claims to be a partner as on 1.4.2006 was Rs.9,40,00,000/- and it was Rs.16.38 Crores as on 01.04.2008. Further it is seen that the assessee has invested Rs.1,50,00,000/- by M/s Dandamudi Estates in the year relevant for the assessment year 2007-08 and Rs.60,43,00,000/- by M/s Global Colonizers and Developers during the year relevant for the assessment year 2009-10. Out of the above land acquired by M/s Global Colonizers and Developers, the firm has sold major portion of the lands in the same year for about Rs.53.00 Crores. After considering the investment as on 1.4.2006 and the investment made during the year 2007-08 and 2009-10 and sale of lands, the entire investment made by all the firms was about Rs.20.00 Crores only, whereas the amount credited to the account of M/s Unitech Real Estates Builder Pvt. Ltd., was Rs.76.67 Crores as on 31.03.2009 and it was 62.99 Crores to the account of M/s Unitech as performance caution deposit as on 31.3.2009. In addition to this, Rs.55.13 Crores was credited to the account of M/s. Unitech. Thus, the total amount of credited to M/s Unitech group works out to Rs.194 Crores. However, no basis of crediting particular amount to the account of M/s Unitech in respect of the firm is furnished. At this juncture it is pertinent to mention year wise amounts received from M/s Unitech i.e.,

Assessment Year	Amount
2007-08	Rs.222,76,79,398
2008-09	Rs.569,81,00,000
2009-10	Rs. 37,50,10,000
Total	Rs.830,07,89,398

In the above statement, it is noticed that the amount received by the M/s Unitech is about Rs.830/- Crores. As per the assessee the amount received from M /s Unitech is caution deposit for arranging land which was owned by firms, in which the assessee is a partner. However, as seen from the books of accounts produced by the assessee it is clear that the assessee was not in possession .and worth receiving more than Rs.830 Crores. More important. aspect is that out Rs.830 Crores received from M/s Unitech by the assessee, it

is seen that Rs.194 crores was apportioned to the firms accounts. Then what happened to the balance amount of Rs.636 Crores. As seen from the bank statement the assessee has utilised i.e amounts for investment in his individual name in Mutual funds, RCD's and giving advances to several parties. No relevance either to Unitech or to the firms is found from the payments appearing from the bank statement. In view of this, the contention of the assessee that the amount received from M / s Unitech represents caution deposit and it is towards land owned by the firms is not acceptable and hence the contention may please be not accepted. (Relevant ledger extracts of the firms are enclosed to this report)

7. (a) Coming to the claim of submission made by the assessee that the assessee has not rendered any services to M/s Unitech and confirmation given by the M/s Unitech is not acceptable for the reason that the assessee in his return of income for the assessment year 2007-08 has admitted Rs.58,92,600 as brokerage income. This amount is claimed to have been received by the assessee towards reimbursement of expenditure. According to the assessee this amount which was offered as brokerage income is reimbursement expenditure. This claim itself establishes the fact that the assessee has rendered services to M/s Unitech for which he was paid an amount of Rs.58,92,600/- and therefore there is no merit in the contention of the assessee and confirmation of M/s Unitech that no services are rendered by the assessee. Hence the stand of the assessee also may please be rejected. In addition to this, it is pertinent to mention here that during the course of assessment proceedings, the assessee has produced some details vide assessee's letter dt.30th December, 2011 enclosing correspondence made by Sri Dandamudi Avanindra Kumar with Vice Chairman, HUDA, Hyderabad and Fire Services Department, wherein it is noticed that the plan approvals, fire permission etc., in respect of the project plan at Moulali and Alwal. The process of obtaining approvals from Government and Government agencies in respect of the above project involves many services. The details furnished by the assessee establishes the fact that the assessee has rendered several services in connection with the proposed project at Moulali and Alwal. Therefore, the claim that the assessee has not rendered any services to M/s. Unitech is mis-representing the facts. Hence, it is requested not to admit the additional evidence submitted by the assessee.

(b) In addition to this, the claim that the assessee is a partner in several firms and the amounts received by him on behalf of the firms is also not correct. as seen from the bank statements, it is noticed that the entire amount of Rs.259 Crores received during the

assessment year 2007-08 and 2009-10 from Unitech is in the name of Sri Dandamudi Avanindra Kumar and there is no evidence that the amount have been distributed to the firms except producing ledger extracts and un-registered partnership deeds. The assessee was repeatedly asked to give the details of party-wise payments appearing from the bank accounts and relevance of payments to the lands owned by the firms. However, the assessee did not furnish any evidence except stating that the money belonging to the firms and the assessee has acted as GPA holder. The money involved is more that Rs.250 Crores for the assessment year 2007-08 and 2009-10.

From the observation, the submissions made by the assessee as additional evidence appears to be not genuine and misrepresenting the facts. Hence the Commissioner of Income Tax, (Appeals-VI), Hyderabad is requested to kindly reject the additional evidence made during the course of appeal proceedings.”

9. The Id.CIT(A) though mentioned some of the portion of the remand report but however failed to contradict the remand report and facts brought out by the Assessing Officer showing that the money belonged to the assessee. Despite the above noted facts, Id.CIT(A) accepted the version of assessee, though the assessee failed to prove that the money received by the assessee was of the M/s. Unitech Limited and not of the assessee. The Ld. DR had submitted that the onus lies on the assessee to prove that the money credited in his account did not belong to the assessee or it had not taken the character of the income. Despite the above said legal presumption against the assessee in accordance with section 68 of the Act, the Id.CIT(A) had wrongly granted relief to the assessee.

10. The Id.DR had further submitted that the order passed by the Id.CIT(A) was cryptic, non-speaking order and perfunctory order as neither details were provided by the assessee nor the

details were examined by the ld.CIT(A). The ld.CIT(A) had merely accepted the version of the assessee as gospel truth. In the light of the above, it was submitted that the order passed by the ld.CIT(A) is required to be set aside.

11. Per contra, the ld.AR had submitted that the requisite information's / evidence were provided to the Assessing Officer as well as the ld.CIT(A). It was submitted that the order passed by the Ld. CIT(A) is in accordance with law. The Ld. AR had fairly submitted that, the ld.CIT(A) relied upon certain documents filed by the assessee at the stage of appeal and the ld.CIT(A) had granted the relief to the assessee based on some of these documents. It was submitted that though the amount was credited in the account of the assessee, however the said amount was duly accounted for by the assessee in the appellate proceedings and were not having the attributes of income. It was fairly admitted by the ld.AR that all the documents were not provided by the assessee to the Assessing Officer.

12. We have heard the rival submissions and perused the material on record. The ld.CIT(A) while granting relief to the assessee had mentioned in Para 5.6 as under :

*“5.6 Thus, as could be seen from the above information, the amounts were flown into the bank account of the appellant during various years including the A.Y. 2007-08, 2008-09, 2009-10, 2010-11 & 2011-12. The amounts though flown into the bank account of the assessee, it could not be proved conclusively by the Assessing Officer to show that the said amounts belong to the assessee, and constitutes income **since it has been established and explained** that the assessee was only acting as the **authorized representative of the firms**. It is a fact that the firms were not*

having bank accounts and the transactions could not be explained initially with the reasonable information to link the same to the firms resulting in the conclusion by the Assessing Officer that the money belongs to the assessee. **It is also a fact that such amounts were deposited into the bank accounts of the assessee which were utilized for the investments in the individual hands, but, the said instances alone may not prove that the incomes were accrued to the assessee out of the said funds without establishing the ownership of the lands.** It is also a fact that as brought on record, the said amounts received by the firms through the appellant and credited into the bank account of the assessee would. in fact adjusted against the sale of the lands by the firms, (M/s.Dandamudi Estates, M/s. Global Developers & Colonizers & Balaji Group of Firms) for which the returns of income were filed by the said firms. It was also examined that the said MOU dated 01.11.2005 was replaced by Joint Development Agreements which were not recognized by the Assessing Officer and these agreements and the related information brought on record clearly indicate that the appellant was only acting as authorized representative of the firms in which he is a partner. It is also a fact that the existence of the firms were neither questioned nor disproved by the Assessing Officer. It is also a fact that subsequently the MOU as well as the Joint Development Agreements dated 26.04.2006, 01.06.2006 and 09.02.2007 were replaced by Collaboration Agreements dated 18.02.2006, 09.02.2007 and 23.09.2012 entered by the Unitech Group and the firms, as represented by the assessee, for development of the lands on profit sharing basis. Though it is a fact there is no res-judicata applicable to the income tax assessment proceedings but with the facts remaining the same for the A.Y. 2008-09 for which there is similar receipts which were neither examined nor treated as income, it appears there is no ground for the Assessing Officer to question such transactions and treat the same as income for A.Ys. 2007-08 and 2009-10. Judicial decisions also support this view. It was also explained that the appellant was paying interest on the utilization of funds of firms. It is also a fact which was accepted by the Assessing Officer that a substantial portion of the amounts under reference were repaid to the Unitech Group either during the year of receipt or subsequent years as could be notice from the Fund Flow Chart indicated. To be specific, for the year under reference as against the amounts of Rs.84.69 crores received from M/s.Dandamudi Estates and an amount of Rs.22.82 crores were shown / explained as the amounts adjusted against sale of lands by the said firm. Similarly, against the amount of Rs.66.40 crores received by: M/s.Global Developers & Colonizers with an equal amount of Rs.66.40 crores shown.to have been ... adjusted against sales. Further, ownership of the lands was

established with the firms of the group, except to a small extent of acres 3.45 guntas which also appears to have been shown against the name of the assessee wrongly. If at all any receipt to be attributed to the assessee, the same would be confined to the land of acres 3.45 guntas standing in the name of the assessee, as per the record. However, the confirmation from M/s.Unitech Group as submitted before the Assessing Officer, established that the transactions were only between the firms under reference and Unitech Group where the appellant has been recognized as a partner with the existence of the firms neither questioned nor disproved. Under the circumstances, it is reasonable to hold that the amounts of Rs.222,76,79,398/- was failed to be established as income of the assessee for the year under reference. Having failed to establish that the amounts of Rs.222,76,79,398/- received during the year constitute income to the assessee, the addition is held to be unsustainable. On this ground the appeal is treated as Allowed.

13. From the perusal of the reasoning given by the Id.CIT(A), it is crystal clear that the Id.CIT(A) has glossed over the remand report and had given a contradictory finding. Nothing has been brought on record to substantiate the deletion of addition of Rs.222.76 crore. No material was available on record to prove either the firms do not have the bank account at the relevant time or the assessee was partner/managing partner of these firms at the relevant time. Further no evidence has been produced, which proves that the assessee had purchased the land from the funds received by the assessee from M/s Unitech after entering into MOU/Joint Development Agreement. In our view, it was required for the Id.CIT(A) to examine the various facts by exercising the power vested in him under the Income Tax Act and should have brought on record the correct facts backed by evidence as held in the case of Jansampark Advertising & Marketing Pvt. Ltd reported in (2015) 56 Taxmann.com 286 (Delhi). No justification was brought on record by the Ld. CIT(A), while granting the relief to the

assessee. In our view, the order passed by the Id.CIT(A) is a sketchy, non-speaking order and non-reasoned order. Hence, we cancel the order passed by the Id.CIT(A) being bad in law.

14. In view of the above noted facts and more particularly when the assessee had filed a fresh document before the Ld. CIT(A), we deem it appropriate to remand back both the appeals of assessee and the Revenue to the file of Assessing Officer for a denovo adjudication. While doing so, the Assessing Officer shall keep in mind the details of the owner-ship of the land, the funds received by the assessee and the investment made by the assessee for purchasing the land. Further the evidence of purchase of land, receive of payment, development of land, and payment made for purchase of land should be brought on record. The assessing officer is directed to cross check date of purchase of the land and receive of amount forming part of the MOU, from the M/s. Unitech Limited, if any, for the said lands. Assessing officer shall also keep in mind whether the assessee was owner / registered partner of the partnership firm in whose names the lands were in existence or not. After keeping all the above said aspects and other relevant aspects in mind, the Assessing Officer shall decide the issue in accordance with the law after affording opportunities of hearing to the assessee. The assessee is also directed to participate in the proceedings and furnish the documents including the title document, Partnership Deed, bank statements, cash flow statements etc. to prove its case. In the light of the above, both the appeals of assessee and Revenue are allowed for statistical purposes.

15. In the result, the appeals of Revenue and assessee for A.Y. 2007-08 are allowed for statistical purposes.

16. As far as the other appeals i.e., ITA Nos.53 and 74/Hyd/2015 for the assessment year 2009-10 are concerned, in view of the submission of both the parties that the issues raised in A.Y. 2007-08 are identical to the other assessment year, we for the reasons stated hereinabove while deciding the appeal in ITA Nos.52 and 73/Hyd/2015 and for similar reasons, allow these appeals with similar directions for statistical purposes.

17. In the result, the appeals of Revenue and assessee in ITA Nos.53 and 74/Hyd/2015 for A.Y. 2009-10 are allowed for statistical purposes.

18. To sum up, all the appeals of assessee and Revenue are allowed for statistical purposes. A copy of the same may be placed in respective case files.

Order pronounced in the Open Court on 28th June, 2023.

Sd/- (R.K. PANDA) VICE PRESIDENT	Sd/- (LALIET KUMAR) JUDICIAL MEMBER
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Hyderabad, dated 28th June, 2023.
TYNM/SPS

Copy to:

S.No	Addresses
1	Shri Dandamudi Avanindra Kumar, 88, Gunrock Enclave, Secunderabad.
2	The Income Tax Officer, Ward 10(2), Hyderabad.
3	The Director of Income Tax (IT & TP), Hyderabad.
4	CIT-V, Hyderabad.
5	DR, ITAT Hyderabad Benches
6	Guard File

By Order