

आयकर अपीलिय अधिकरण, हैदराबाद पीठ में

**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES "B", HYDERABAD**

**BEFORE
SHRI RAMA KANTA PANDA, VICE PRESIDENT
&
SHRI LALIET KUMAR, JUDICIAL MEMBER**

Sl. No.	आ.अपी.सं / ITA Nos.	निर्धारण वर्ष / A.Y.	अपीलार्थी / Appellant	प्रत्यर्थी / Respondent
1 - 5	14 to 18/Hyd/2021	2010-11 to 2013-14 and 2015-16	M/s. Royal Engineering, Hyderabad. PAN : AATFR9338R	DCIT, Central Circle – 3(4), Hyderabad.
6-9	40 to 43/Hyd/2021	2010-11 to 2012-13 & 2015-16	ACIT, Central Circle – 3(4), Hyderabad.	M/s. Royal Engineering, Hyderabad. PAN : AATFR9338R
10-14	26 to 30/Hyd/2021	2010-11 to 2013-14 & 2015-16	M/s. ACE Constructions, Hyderabad. PAN : ABFFA0415K	DCIT, Central Circle – 3(4), Hyderabad.
15-18	50 to 53/Hyd/2021	2010-11 to 2012-13 & 2015-16	ACIT, Central Circle – 3(4), Hyderabad	M/s. ACE Constructions, Hyderabad. PAN : ABFFA0415K

निर्धारिती द्वारा/Assessee by: Shri P. Murali Mohan Rao, CA
राजस्व द्वारा/Revenue by: Shri K. Madhusudhan, CIT-DR.

सुनवाई की तारीख/Date of hearing: 04/10/2023
घोषणा की तारीख/Pronouncement on: 18/10/2023

आदेश / ORDER

PER BENCH :

The captioned (eighteen) cross appeals filed by two different assessees and Revenue are directed against the separate orders passed by the learned Commissioner of Income Tax (Appeals) – 11, Hyderabad dt.14.09.2020 and 15.09.2020 respectively, invoking the proceedings u/s 143(3) r.w.s. 153C of the Income Tax Act, 1961 (hereinafter referred as “the Act”) for the assessment years mentioned above. For the sake of convenience, we dispose-of all these appeals by this common order.

2. Out of the 18 appeals, appeals at Sl.Nos. 1 to 5 and 10 to 14 filed by the assessees are barred by limitation by 25 and 17 days, respectively. The assessees have moved condonation petitions explaining reasons thereof. We have heard both the parties on this preliminary issue. Having regard to the reasons given in the petition, we condone the delay and admit the appeals at Sl.Nos.1 to 5 and 10 to 14 for hearing.

3. The assessee has raised the following grounds in ITA 26/Hyd/2021 for A.Y. 2010-11 :

“1. The Ld. CIT (A) erred in not adjudicating the grounds urged by the assessee on correctness of additions / disallowance on merits.

2. The Ld. CIT (A) ought to have appreciated that the Assessing Officer has erred in invoking the provisions of section 153C of the Act to the year under reference which is beyond the period

of six years preceding the financial year in which the search took place.

3. The Ld. CIT(A) erred in not adjudicating the legal point that the search and seizure operation was carried out in July 2017 and that therefore, the cases to be covered are up to AY 2012-13 and not beyond and thus making the assessment for AY 2010-11 is beyond the law.

4. The Ld. CIT (A) ought to have appreciated that the A.O. erred in passing assessment u/s 153C for AY 2010-11 which is beyond time as provisions of section 153C did not empower the A.O. to make assessment for the A.Ys beyond six years preceding the financial year in which the search was made.

5. The Ld. CIT(A) erred in not adjudicating on addition of Rs. 3,09,94,700/- u/s 68 of the IT. Act as unexplained deposits in the assessment order made u/s 153C of the I.T. Act, without fairly appreciating the explanations / clarifications submitted by the appellant.

6. The Ld. CIT (A) ought to have appreciated the fact that the assessee has discharged its primary onus by providing required documents, clearly establishing the source of deposit in bank.

7. The Ld. CIT (A) failed to appreciate that the A.O. erred in passing the order u/s 143(3) r.w.s 153C of the Act dated 14.12.2019 without properly analyzing and appreciating the land procurement Agreements provided.

8. The ld.CIT(A) ought to have appreciated the fact that cash deposits for the Assessment year under consideration represents the amounts received back by the firm as per MOU, advanced by Partner for procurement of Lands, in the earlier years.

9. The Ld. CIT (A) failed to appreciate the fact that the Opening Balance of Land Advances for Syndication receivable which was carried forward from the AY 2007-08 was Rs.9,49,77,600/- and the same were received back by the appellant firm for Land Syndication Activity.

10. The Ld. CIT (A) failed to appreciate the fact that the deposits for the assessment year under consideration are nothing but the advances returned back which were given by Partner for Land Syndication Activity and it represents opening balances.

11. The Ld.CIT (A) ought to have appreciated the fact that the amount as credited in banks accounts represents the advances

returned back and such advance doesn't come under the purview of income of assessee. for this assessment year.

12. The Ld. CIT (A) ought to have appreciated the fact that as per the settled law any ambiguity in the material collected by the assessing officer must necessarily be read in favour of the assessee, particularly when the question is one of taxation, under a deeming provision.

13. The Ld. CIT (A) ought to have appreciated the fact that as per the provisions of the I.T. Act, mere cash flow of any amount cannot be considered as income in the hands of the assessee unless it is chargeable to tax as per the charging sections of the Act under any five heads of income.

14. The Ld. CIT (A) failed to appreciate that the A.O. erred in not considering the income declared u/s 183 of the Finance Act, 2016, in respect of the Income Declaration Scheme, 2016.

15. The Ld. CIT (A) failed to appreciate that the A.O. has erred by not allowing benefit of adjustment for the declaration made by assessee under Income Declaration Scheme, 2016 in respect of the Principal (Fixed Deposits) and interest from the cash credits.

16. The Ld. CIT (A) failed to appreciate that the A.O. ought to have given adjustment for the amount of fixed deposits and interest admitted under Income Declaration Scheme against the cash credits found in the bank accounts.

17. The Ld. CIT(A) erred in initiating the penalty proceedings u/s 271(1)(c) against concealment of income without appreciating the facts.

18. The Ld. CIT (A) has erred in charging interest u/s 234A, 234B and 234C of the Act basing on the income determined in the assessment proceedings and charged at higher rate.”

3.1 Similar grounds are raised by the two assessees in other appeals also except the amounts involved in.

4. The grounds raised by the Revenue in ITA No.50/Hyd/2021 for A.Y. 2010-11 reads as under :

"1. The ld. CIT(Appeal) erred both in law and on facts of the case in allowing relief to the assessee.

2. The ld. CIT (Appeal) erred in deleting the addition of Rs.3,09,94,700/- made u/s 68, without giving any credence to the material seized, post search enquiries made and the enquiries made during the assessment by the assessing officer.

3. The CIT (A) erred in holding that the proceedings u/s 153C were not validly initiated and that the incriminating seized material does not pertain to the A.Y.2010-11.

4. The ld. CIT (Appeal) erred in holding that the bank accounts found during the search were already declared to the Department though the assessee filed a return for assessment year 2010-11 till the completion of the search. Even in the return filed belatedly the only account number declared is 35217671044 of SBI and not 1274102000004657 of whose cheque book was found and seized during the search.

5. The ld. CIT (Appeal) erred in ignoring the fact that even the bank account number 62116115444 of SBH, in which cash deposits were made, was not declared in the return of income filed for the assessment year concerned.

6. The ld. CIT(Appeal) erred in not appreciating that the assessee filed return of income without declaring all bank accounts and their balances, therefore making it impossible for the Assessing Officer to examine whether the said transactions are declared to the department even if the Bank account was forming part of books of the assessee.

7. The ld. CIT(Appeal) erred in holding that the relevant transaction was accounted for by the assessee even though no return of income for A.Y. 2010-11 was filed upto 19.12.2017 i.e., 9 months after the search in the case of Mr. Ajaz Farooqi group on 20.03.2017 and 04.07.2017 and the same was treated as non est.

8. The ld. CIT(Appeal) erred in holding that there is no incriminating material even though evidence relating to cash deposits of Rs.3,09,94,700/- in the bank account during the previous year relevant to the A.Y. 2010-11 was found during the search and the proceedings u/s 153C were initiated based on the same."

5. Similar grounds are raised by the Revenue in other appeals also i.e., ITA 40 to 43/Hyd/2021 and ITA 51 to 53/Hyd/2021 for A.Y.s 2011-12, 2012-13 and 2015-16, respectively, except the amounts involved in.

6. First, we will take up the appeals filed by Revenue.

6.1. Before us, at the outset, both the parties submitted that the issues raised in all the appeals are identical. In view of the aforesaid submissions, we, for the sake of convenience proceed to dispose of all the captioned appeals by a consolidated order but however, refer to the facts in ITA No.40/Hyd/2021 for A.Y. 2010-11 filed by the Revenue.

7. The brief facts of the lead appeal are that assessee is engaged in the business of Realtors and Developers etc. A search and seizure operation was conducted in the case of Ajaz Farooqi, who is one of the partners of assessee firm and his related business concerns and other key persons on 04.07.2017 and seized some incriminating material. On verification of seized material, it was found that it pertains to assessee firm. Accordingly, notice u/s 153C of the Act was issued on 27.02.2019. In pursuance of the said notice, assessee filed its return of income on 09.05.2019 admitting total income of Rs.2,38,000/-. It is pertinent to mention here that assessee had filed his original return of income on 19.12.2017 declaring total income at Rs.2,38,000/- which is beyond the time limit u/s 139 of the Act was not processed and treated by the AO as

Non-est. During the course of scrutiny assessment, notices u/s 142(1) of the Act and show cause notices were issued to assessee on different dates asking for various details as required. With the information submitted by the assessee, AO had completed the assessment u/s 143(3) r.w.s. 153C of the Act by computing the total income at Rs.2,38,000/- by making an addition of Rs.3,09,94,700/- as unexplained cash credits u/s 68 of the Act. Subsequently, the Assessing Officer initiated penalty proceedings u/s 271(1)(c) for concealment of income on the above addition on account of cash deposits in the bank accounts. Paragraph 33 of the assessment order is reproduced hereinbelow for the completeness of the record.

“33.0 Accordingly an amount of Rs 3,09,94,700/- is brought to tax as unexplained cash credits of assessee firm for A.Y. 2010-11 u/s 68 of the provisions of the Income Tax Act.

(ADDITION: Rs 3,09,94,700/-)

Subject to the above, the assessment is completed as under.

After examining the details the total income for the **assessment year 2010-11** is computed as under:

Income returned	=	2,38,000/-
MAT Income		-
Loss		-
Add : Unexplained income u/s 68 (as discussed above)	=	3,09,94,700/-
Total INCOME ASSESSED		3,12,32,700/-
Agricultural Income Returned	=	0
Income on special rate (Capital Gain Tax) of Rs.	=	
Tax on normal rate on income		93,69,810/-
Total Tax there on		93,69,810/-
Less : Rebate on Agri. Income	=	0

Add surcharge @ 0%			0
	Total Tax (Tax+Surcharge)		93,69,810/-
Add: Education cess @ 3%		=	2,81,094/-
	Tax on total Income	=	96,50,904/-
Add: Interest u/s 234A			83,96,287/-
Interest u/s 234B			11,291,558/-
Interest u/s 234C			2,721/-
Interest u/s 234D			0
Interest u/s 234F			0
Total Interest			1,96,90,566/-
	Total tax +Interest	=	2,93,41,470/-
Less: TDS		=	0
Advance tax paid		=	0
Tax paid u/s 140A			0
Regular Tax Paid			0
	TOTAL TAXES PAID	=	0
Refund Issued U/s 143(1)/ 143(3)/ 154/ etc			0
	Balance tax payable Round off	=	2,93,41,470/-

8. Feeling aggrieved with the order of AO, assessee carried the matter before Id.CIT(A), who partly allowed the appeal of assessee after examining the material relied upon by the Assessing Officer to record satisfaction for issuance of notice u/s 153C of the Act by holding at Paras 6.1 to 7.0 as under :

“6.1 The relevant portion of satisfaction note recorded by the AO of the person referred in Section 153A and that of AO for issuing notice u/s 153C is as under :

(Satisfaction of AO of person referred to in section 153A)

5. Specific details of the seized material on the basis of which action under sec.153 is proposed:	i) A/JKD/Res/01 (Cheque books) ii) A/JKD/Res/04 (pen drive) iii) A/JKD/Res/05 (copies of bank account statements and other loose sheets)
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<i>(f) Annexure/S.No. Page Number etc (Particulars to be specified)</i>	
	7. Satisfaction of the AO of the person referred to in sec.153A that the seized material referred to in s.no.5 belongs to the person referred to in s.no.4
i)	<i>During the course of search and seizure operation at the residential premises of Sri. Jayanta Kumar Datta at Flat No.402, GK's Crescendo, Plot No.558 & 559, Behind Neredmet Police Station, Neredmet, Secunderabad certain incriminating material/documents were found and seized. That contains cheque books, pend rives, copies taken from contents of pendriue, copies of bank account statements and other loose sheets annexed as A/JKD/Res/01, A/JKD/ Res/04, A/JKD/Res/05.</i>
ii)	<i>On perusal of the seized material, it is noticed that it contains details of bank accounts, fixed deposits, cash deposits' and other debits and credits. From the further analysis of seized material it is found that the information contained therein relates/pertains to M/ s. Orbit Ventures and M/s. Orbite Ventures is one of the firm related to Sri. Azaj Farooqi on whom a warrant u/s.132 of the act was executed on 04.07.2017.</i>
iii)	<i>In view of the above, findings, I' am satisfied that the information contained in the seized material pertains/ relates to M/s. Orbit Ventures and same is forwarded to DCIT, CC-3(4) for necessary action u/s.153C.</i>

(Satisfaction note for initiation of proceedings u/ s.153C):

"3.0 During the course of Search and seizure operation at the residence of Sri. Jayanth Kumar Datta, certain incriminating material in the form of cheque book of M/ s. Orbit ventures, pendrives, copies of contents in pendrives and loose sheets were found and seized as annexure (i) A/ JKD/ Res/ 0 1 (Cheque books) ii) A/ JKD/ Res/ 04(pen drive) iii) A/ JKD/ Res/ 05(Sheet no. 14-23) which contains the information/ details of fixed deposits and other debits and credits of the assessee firm M/ s Orbit Ventures.

4.0 On perusal and further examination, it is found that assessee from M/ s. Orbit Ventures has fixed deposits maintained at State Bank of Hyd, Tarnaka branch valued more than Rs.50,00,000 during a.y-2011-12. Further, from the evidences available, it is seen that assessee firm M/ s. Orbit Ventures has made cash deposit of Rs.2,00,09,000/- in its bank account in A.Y-2011-12.And from the records it is seen that assessee firm M/s. Orbit Ventures filed ROI for A.Y. 2011-

12 on 24.11.2016 by admitting income of Rs. 25,56,581 and same is not processed by ITD and non-est.

7.0 Further, the material/ documents seized during Search and Seizure operation conducted on 04.07.2017 in the case of Sri. Jayant Kumar Datta, vide annexure (i) A/ JKD/ Res/ 01 (cheque books) ii) A/ JKD/ Res/ 04(pen drive) iii) A/ JKD/ Res/ 05 (Sheet No. 14-23) and information contained therein has following contents.

a. The assessee firm M/ s. Orbit Ventures which did not file ROI for a.y-20 11-12 but has made cash deposits of Rs.2, 00,09,000/ -. Thus, I (AO) has in possession books of account or other documents or evidence which reveal that the income, represented in the form. of -asset, which has escaped assessment amounts to or is likely to amount. to fifty-lakh. rupees or more in the relevant a.y or in aggregate in the relevant a.yrs.

b. The said income has escaped assessment for a.y-2011-12 as assessee did not file ROI.

c. The search u/s.132 was conducted on 04.07.2017 i.e after 01.04.2017

6.2. On careful examination of the above satisfaction note recorded, it is seen that the material relied on by the AO to initiate proceedings u/s 153C is:

- i) A/JKD/Res/01 (Cheque books)
- ii) A/JKD /Res/04 (Pen Drive)
- iii) A/JKD/Res/05 (Sheets 14-23)

6.3 The annexure A/JKD/Res/01 (Cheque Books) was produced before me by the AO. It is seen that the same contains the current cheque books issued by the banks to the 6 different account holders, The assessee M/s. Orbit Ventures is one of them. On examination of the contents it is seen that all the cheques are blank cheques and the details contained in the record slip pertain to cheques issued from 19.11.2016 to 30.03.2017. The appellant has filed return for A.Y-2011-12 on 24.11.2016 and ,the bank account is disclosed in the books of account/balance sheet in the Return of Income. The above material can not be termed as 'incriminating seized material' pertaining to A.Y-2011-12.

6.3.1 The Annexure A/JKD/Res/04 contains working copies of back up of 4 pen drives seized during the course of Search. The annexure A/JKD/Res/05 (Sheets 14-23) contains details of the bank accounts maintained by 5 firms and the transactions in

the bank accounts of the firm during the period 25.09.2014 to 20.11.2014. These are the bank accounts discussed in relation to the cheque books above. The above bank accounts stands disclosed the accounts/balance sheet filed with the Return of Income for this year and for earlier years also. The sheets (14-23 of Annexure A/JKD/Res/05) and relevant copies of the material in the pen drive (A/JKD/Res/04) only. The above material can not be termed as 'incriminating seized material pertaining to A.Y-2011-12.

6.4 As the AO has relied on the above material only for recording satisfaction for initiating proceedings u/s.153C, it can not be said that the satisfaction is based on 'incriminating seized material' in relation to the A.Y. 2011-12.

6.5 In view of the factual position and finding as above, it is held that the proceedings u/s.153C are not validly initiated for the above years and the subsequent orders passed u/s 143(3) r. w. s 153C do not survive and are quashed.

7.0 As the proceedings initiated ss/ s.153C have been held to be invalid, the other grounds raised on merits/otherwise are academic and are not adjudicated.”

9. Feeling aggrieved with the order of ld.CIT(A), assessee and Revenue both are now in appeal before us for the grounds mentioned hereinabove.

10. Before us, ld.DR submitted that ld.CIT(A) erred in quashing section 153C proceedings as not based on any incriminating material found during the course of search conducted on 04.07.2017. It was submitted that the Assessing Officer recorded satisfaction on the basis of the material available on record and thereafter, made addition. He had drawn our attention to the order of ld.CIT(A), more particularly, Paras 6.1 to 6.3.1 wherein the ld.CIT(A) has wrongly deleted the addition made by the Assessing Officer on the pretext that no incriminating material was found during the course of the

search pertaining to the assessment year under consideration. He has sought to distinguish the decision of Hon'ble Supreme Court in the case of CIT Vs. Singhad Technical Educational Society and also the decision of co-ordinate Bench of the Tribunal in the case of M/s. GVK Enterprises Vs. DCIT in ITA Nos.20 to 25/Hyd/2021 and others dt.21.12.2021. It was the further contention of ld.DR that the decision in the case of M/s. GVK Enterprises (supra) is not applicable as in the said case, assessee had filed the return of income under the Income Declaration Scheme, 2016 on 04.08.2016 and thereafter, the search has taken place on 04.07.2017. It was submitted by the ld.DR that no return of income was filed under the Income Declaration Scheme by the assessee in the present case and therefore, the return of income filed by the assessee on 24.11.2016 is required to be treated as non-est. It was also the contention of ld.DR that the last date for availing the benefit under Income Declaration Scheme, 2016 was 31.07.2017. The ld.DR has also filed the written submissions along with the copy of the bank statement, seized documents etc., in support of the case of the Revenue. We are reproducing hereinbelow the written submissions filed by the Revenue.

Assessee firm was formed on 01.04.2009 as a partnership firm.

Partners	Joining Date	Retirement Date
<i>Ajaz Farooqi</i>	<i>01.04.2009</i>	<i>01.08.2015</i>
<i>Mohd Hasim</i>	<i>01.04.2009</i>	<i>18.01.2016</i>
<i>Qutbuddin</i>	<i>01.04.2009</i>	<i>11.03.2016</i>
<i>Amit Bansal</i>	<i>18.01.2016</i>	<i>NA</i>
<i>Mohd Hyder Yar Khan</i>	<i>11.03.2016</i>	<i>01.03.2017</i>

P.N. Pathak	01.03.2017	NA
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As of now Amit Bansal and PN Pathak are the partners of the Firm
ACE Constructions

AO Order for the relevant AY's

AO added cash deposits as unexplained income.

Sl.No.	Assessment Year	Bank	Cash Receipts as undisclosed Income (Amount in Rs.)
1	2010-11	SBH	3,09,94,700
2	211-12	SBH	2,00,08,900
3	2012-13	SBH	1,90,08,100
4	2013-14	SBH	99,58,900
5	2015-16	SBH	1,50,07,000
6	2017-18	SBH	2,35,67,000 (During the period of demonetization)

CIT Order :

CIT(A) allowed the appeal of the assessee by stating that there is no incriminating material in the assessee's case for initiating proceedings u/s 153C.

Facts of the Case:

a) Ajaz Farooqi, who is a key partner of assessee is railway contractor and having various group concerns involved in the business of Real Estates, Logistics and railway contracts. He is also director in many of his group companies namely Zainab Investments Pvt Ltd, Zara Investments Pvt Ltd e.t.c., and also a main partner in group firms like Ankaa Realtors, Royal Engineering, Ace Constructions e.t.c.,

b) During demonetisation (Nov 2016) it was noted that Ankaa Realtors related to assessee firm has made cash deposits in, its bank account and based on such information and further enquiries a warrant of authorisation u/s 132 of the act executed earlier

c) A Search and Seizure operation was conducted subsequently in the case of Ajaz Farooqi and his related business concerns and other key persons on 04.07.2017

d) During the search proceedings in the case of Jayanta Kumar Dutta (GM Finance of KVR Rail infra projects pvt ltd and Accounting Manager in concerns promoted by Ajaz Farooqi), certain incriminating material found and seized which pertains/relates to assessee (ACE Constructions) and due satisfaction note was recorded.

e) During the search proceedings it was noted that the assessee firm has made following cash deposits during the relevant AY in the assessee firm SBH bank account and IDBI Bank.

f) In addition, during the search, cheque books of the firms related to Ajaz Farooqi were seized from the car of Jayant Kumar Dutta (GM finance of KVR Rail Infra Projects pvt ltd). As per the statement recorded Dutta stated that the cheques were signed by Amit Bansal and Hyder Yar Khan, partners of the firm and that he fills the payee details on the blank signed cheques on the directions of Ajaz Farooqi.

Amit Bansal Submissions:

a) During the Search and Seizure operation, Amit Bansal, Managing Partner of assessee as on today firm had claimed that the source of cash deposits are the cash advances received from M/s. Sonic Battery India Pvt Ltd based in Delhi for Land Syndication. Initially he claimed that he has received Rs.25 Crores in cash from Sonic Battery and out of which he has given Rs.10 Crores to Ankaa Realtors (firm related to assessee firm) when he was not a partner.

b) However, on questioning further Amit bansal confessed to the fact that he is working as an employee for KVR Rail Infra Projects Pvt Ltd for a monthly salary of Rs.40,000/- and submit that he has not received any amount from Sonic Battery India Pvt Ltd nor he has given any cash amount to Ankaa Realtors as per the agreement entered into.

c) He further confirms and submit that both the alleged land syndication agreement and Loan agreement are not genuine and are arranged recently by the Ajaz Farooqi, the major shareholder of KVR Rail Infra projects pvt ltd and he has signed on these agreements recently as directed by Ajaz Farooqi.

d) When the recorded statement of Amit Bansal confronted to the Ajaz Farooqi, he gave evasive replies as Amit Bansal has already submitted the source of funds and the source of funds as declared by him is Clutch Auto Ltd (as per the agreement submitted by Amit Bansal dt 04.06.2022 that he has received Rs.29 Crores in cash from Clutch Auto Ltd.

e) During the post search operation, Amit Bansal again submitted that he had received cash advances of Rs.25 Crores from M/s. Sonic Battery India Pvt Ltd based in Delhi as per Land Syndication agreement dt 05.04.2006 and Rs.29 Crores from Clutch Auto Ltd as

per Land Syndication agreement dt 04.06.2002. He further claimed that he has advanced the same to different people and farmers for land syndication and the same are received back from them and later deposited into assessee firm bank accounts.

Survey u/s 133A in the case of Sonic Battery India Pvt Ltd

a) Accordingly a survey u/s 133A of the act conducted at registered address of Sonic Battery India Pvt Ltd (now known as Uniview Infracon Pvt Ltd) at Delhi on 04.07.2017 and it was found that the said premises were rented out to MDP TIM Tech Industries pvt ltd on 01.06.2017 and as per the statement recorded from Kuldeep sharma employee of the MTTIPL, there is no such company operating from the said premises. Enquiries were also conducted at other known addresses of the Sonic Battery, but it did not reveal any information about the whereabouts of the company and its directors. And it seen from the financial statement of the Sonic Battery for the FY 2005-06, that the cash and bank balances of the company as on 31.03.2006 is Rs.2,74,680/- only.

Survey u/s 133A in the case of Clutch Auto Ltd

a) Accordingly, another survey u/s 133A of the act conducted at registered address of Clutch Auto Ltd at Delhi on 25.09.2017 and as per the statement recorded from Manish Rai, Legal advisor of the company stated that the company is presently under liquidation process before NCLT, New Delhi. He further stated that he was not aware of any land syndication agreement with Amit Bansal for Rs.29 Crores. And it seen from the annual reports and cash flow statement of the Clutch Auto from FY 2002-03 to FY 2005-06, no such cash advances are reflected in the Financial statements of the company.

b) Further Vijay Krishan Mehta, MD of the Clutch Auto Ltd stated in his statement recorded on oath on 27.09.2017 that he never met Amit Bansal and the Clutch Auto Ltd never entered into any kind of agreement with him for land syndication. He further stated that the company never made any payments to Amit Bansal and the agreement said to have been signed by him is false and fabricated.

Assessee Submissions:

a) In view of the facts gathered, during the assessment proceedings, the assessee firm was asked to substantiate the sources of the said cash deposits, **where assessee submits that the opening balances of advances for syndication receivable which was carries forward from AY 20017-08 and the advances got started receiving back to the firm from AY 2010-11 onwards and for subsequent AY's.**

b) In support of its claim assessee files copies of –

-Land Syndication agreement dt 15.12.2005 which states that Amit Bansal as a investor investing Rs.30 Crores with Mohd Afzal, who is syndicator for acquisition of agricultural lands anywhere in India for conversion into residential or commercial use.

- Cancellation of Land syndication agreement dt 16.01.2009 of Amit Bansal with Mohd Afzal which states that syndicator Mohd Afzal could not adhere to the agreement made as per land syndication agreement hence agreed to return the Investment made of Rs.29 Crores to Amit Bansal, Investor.

- MOU dt 25.03.2008 purportedly entered by Amit Bansal with assessee firm, where Amit Bansal agreed to transfer the advances given for land syndication to Mohd Afzal to assessee firm (ACE Constructions), where MOU was signed by Amit Barisal and Ajaj Farooqi.

Assessee submits on 11.10.2019 in response to the above **that Mohd Afzal had returned the funds and those amounts were deposited in the bank accounts and filed a death certificate of Mohd Afzal and a copy of affidavit retracting statement given by Amit Bansal during search and seizure operation.**

Points for Contention:

a) **The Sonic Battery India Pvt Ltd is not existing or operating from the address given and the information gathered during the survey u/s 133A of the act in the case of Sonic Battery also gives credence to the inference that it is merely a paper company and the claim of Rs.25 Crores given by it for land syndication to Amit Bansal cannot be considered as a genuine transaction.**

b) Further land where it is seen from **the land syndication agreements with the Sonic Battery Clutch Auto that in the event that the Investor fails to pay the balance sum of money to the syndicator, the initial advance shall be forfeited by the syndicator and the investor shall have no right to claim the said sum are so vaguely written that no prudent investor would agree to such terms and conditions with his money running into crores of rupees** and also it was surprising to note that the two agreements, statedly entered into different points of time and with different companies but the language of the clause about forfeiture are same, which is quite improbable.

c) **The above said land syndication agreements entered above were not registered and no originals were produced during search or post search proceedings.**

d) Further **when the findings of the survey on the above two companies were confronted to the assessee vide SCN dt 15.11.2019, the assessee vide letter dt 02.12.2019 has stated that we are not aware of the data mentioned by you relating Sonic Batteries and Clutch Auto, we are not connected with the data also.** Which clearly shows that in view of these evidences, the assessee firm has now distanced itself about all claims made earlier by Amit Bansal during search operation, which were also confronted to Ajaz Farooqi.

e) **During the statement recorded from Amit Bansal he confessed to the fact that he is working as an employee for KVR Rail Infra Projects Pvt Ltd for a monthly salary of Rs.40,000/- and submit that both the alleged land syndication agreement and Loan agreement are not genuine and are arranged recently by the Ajaz Farooqi and he has signed on these agreements recently as directed by Ajaz Farooqi. The ROI filed by Amit Bansal also shows he earned salary from KVRRIPL and interest on fixed deposits and nowhere in hid ROI filed earlier shows any business income or that he was doing any land syndication activity.**

e) Assessee firm **neither addressed the discrepancies identifies in land syndication agreements not filed any supporting evidences of the advances given to Mohd Afzal.** Wherein it was mention as Rs.30 Crores in the land syndication agreement and Rs. 29 Crores in the cancellation of land syndication agreement. And it was **noted from the income tax records verified that Mohd Afzal never filed any income tax return in his life time and nothing has been brought on record to show his financials or his income tax records nor assessee submits any financials/evidences which reflects advances given or returned.**

f) And interestingly that though the **ACE Constructions was formed on 01.04.2009 but the MOU was stated to have been entered by ACE Constructions with Amit Bansal on 25.03.2008.**

g) The affidavit (on which date given as 11.10.2019) retracting statement given by him during the search operation and now filed on 11.10.2019, **which was never filed before the Investigation wing and the affidavit is filed after 2 years, which itself raises questions on its credibility and evidentiary value.**

h) The whole transactions were stated to be done in cash and the **assessee has never produced any document/evidence to support any of these transaction** have ever been done through banking channels except cash deposits found in the bank account, from which FD's were made.

i) Therefore, from the above findings, **it is clear that purported documents were fake and created in desperation to explain cash deposits found in the bank account of the assessee** and the conduct of the firm, its partners and other associates and their statements have inconsistencies and unsubstantiated versions. And it can be **observed that all the said agreements are only after thought or pre-planned tax evasion of assessee with fabricated documents, as created in desperate attempt to explain the unexplained cash deposits.** Therefore, it is to be treated as unexplained income of the assessee.”

10.1. Ld. DR filed the copy of Proforma for Recording Satisfaction of Assessing Officer and also Satisfaction Note for Notice u/s 153C at Pages 3 to 5 of the paper book, which are to the following effect :

FOR RECORDING SATISFACTION OF ASSESSING OFFICER

(To be filled by the Assessing Officer of the person referred to in section 153A)

1	Name of the Group searched	Sri Ajaz Farooqi and others
2	Name and PAN No. of the person referred in the section 153A	Sri Ajaz Farooqi PAN : AAFPF5292G
3	Date of initiation of search in the case of the person referred to in section 153A	04.07.2017
4	Name, address and PAN No. of the person in whose case action under section 153C is proposed	M/s. ROYAL ENGINEERING PAN ; AATFR9338R
5	Specific details of the seized material on the basis of which action under sec.153 is proposed: (a) Nature of the seized material (money / bullion/jewellery/other valuable article or thing / books of account / documents)	Documents (A bundle of loose sheets)

	<p>(b) Description of the seized material</p> <p>(c) Address of premise / place from where such material was seized</p> <p>(d) Date of seizure of such material</p> <p>(e) Particulars of the relevant Panchanama</p> <p>(f) Annexure/S.No. / Page Number etc (Particulars to be specified)</p>	<p>Bank account statement copies.</p> <p>1. Sri Jayanta Kumar Datta Flat No.402, GK's Crescendo, Plot No.558 & 559, Behind Neredmet Police Station, Neredmet, Secunderabad</p> <p>04.07.2017</p> <p>Panchanama in the case of Sri Jayanta Kumar Datta</p> <p>(I) A/JKD/Res/01 (Cheque books)</p> <p>(II) A/JKD/Res/04 (pen drive)</p> <p>(III) A/JKD/Res/05 (copies of bank account statements and other loose sheets)</p>
6	Relationship of the person referred in S.No.4 with the person referred in S.No.2	Sri Jayanta Kumar Datta is an accounting manager in Sri Ajaz Farooqui companies / concerns and Sri Ajaz Farooqi was a partner of M/s. Royal Engineering.
7	Satisfaction of the AO of the person referred to in sec.153A that the seized material referred to in s.no.5 belongs to the person referred to in s.no.4	
	(i) During the course of search and seizure operation at the residential premises of Sri. Jayanta Kumar Datta at Flat No.402, GK's Crescendo, Plot No.558 & 559, Behind Neredmet Police Station, Neredmet, Secunderabad certain incriminating material/documents were found and seized. That contains cheque books, pen drives, copies taken from contents of pendrive, copies of bank account statements and other loose sheets annexed as A/JKD/Res/01, A/JKD/ Res/04, A/JKD/ Res/05.	

	<p>(ii) On perusal of the seized material, it is noticed that it contains details of bank accounts, fixed deposits, cash deposits and other debits and credits. From the further analysis of seized material it is found that the information contained therein relates/pertains to M/s. Orbit Ventures and M/s. Orbite Ventures is one of the firm related to Sri. Azaj Farooqi on whom a warrant u/s.132 of the act was executed on 04.07.2017.</p> <p>(iii) In view of the above, findings, I am satisfied that the information contained in the seized material pertains/ relates to M/s. Orbit Ventures and same is forwarded to DCIT, CC-3(4) for necessary action u/s.153C.</p>
Assessment Years involved	2010-11, 2011-12, 2012-13, 2013-14, 2015-16, 2017-18

Date 12.02.2019

Sd/-
(THAMBA MAHENDRA, I.R.S.)
Deputy Commissioner of Income Tax,
Central Circle 3(4), Hyderabad.

SATISFACTION NOTE FOR NOTICE U/S 153C FOR AY 2010-11

A copy of satisfaction note and seized material pertains/relates to M/s. Royal Engineering pertains to AY 2010-11 was received from Dy. Commissioner of Income Tax, Central Circle 3(4), Hyderabad, (being the same assessing officer), on 14.02.2019 .

2.0 As per the details, a Search & seizure operation U/s 132 of IT Act, 1961 was conducted in the case of Sri Ajaz Farooqi and his related concerns and persons on 04.07.2017 also covering residential premises of Sri Jayanth Kumar Dutta.(who is GM finance in M/s KVR Rail infra projects pvt ltd-promoted by Sri Aijaz Farooqi)

3.0 During the course of search and seizure operation at the residence of Sri Jayanth Kumar Dutta, certain incriminating material in the form of cheque book of M/s Royal Engineering, pendrives , copies of contents in pendrives and loose sheets were found and seized as annexure (i) A/JKD/Res/01 (cheque books) (ii) A/JKD/Res/04(pendrive) (iii) A/JKD/Res/05 (sheet no 14-23) which contains the information/ details

of fixed deposits and other debits & credits of the assessee firm M/s Royal Engineering.

4.0 On perusal and further examination, It is found that Assessee firm M/s Royal Engineering has fixed deposits maintained at State Bank of Hyderabad, Tarnaka branch valued more than Rs 50,00,000/- during AY 2010-11. Further from the evidences available, it is seen that Assessee firm M/s Royal Engineering has made cash deposit of 3,29,94,300/- in its bank account **in AY 2010-11 And from the records it is seen that Assessee firm M/s Royal Engineering filed ROI for AY 2010-11 on 19.12.2017 by admitting income of Rs 2,30,000/- and same is not processed by ITD and Non-est. (emphasis supplied by us).**

5.0 It is further noted that the search operation u/s 132 in the above group had taken place on 04.07.2017 (FY 2017-18) and the date of handing over of seized documents for necessary action u/s 153C is on 14.02.2019. Accordingly, the instant AY 2010-11 falls in the category "**relevant assessment year**" as defined by explanation 1 to section 153A of Income Tax Act.

6.0 And as per the amended provisions, the latest provisions of section 153A and 153C of Income Tax Act to issue notice for relevant Assessment year are as follows.

"Assessment in case of search or requisition.

153A. (1) Notwithstanding anything contained in section 139, section 147, section 148, section 149 section 151 and section 153, in the case of a person where a search is initiated under section 132 or books of account, other documents or any assets are requisitioned under section 132A after the 31st day of May, 2003, the Assessing Officer shall—

(a) issue notice to such person requiring him to furnish within such period, as may be specified in the notice, the return of income in respect of each assessment year falling within six assessment years and for the relevant assessment year or years referred to in clause (b), in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed and the provisions of this Act shall, so far as may be, apply accordingly as if such return were a return required to be furnished under section 139;

(b) assess or reassess the total income of six assessment years immediately preceding the assessment year relevant to the previous year in which such search is conducted or requisition is made and for the relevant assessment year or years :

Provided that the Assessing Officer shall assess or reassess the total income in respect of each assessment year falling within such six assessment years and for the relevant assessment year or years :

Provided further that assessment or reassessment, if any, relating to any assessment year falling within the period of six assessment years and for the relevant assessment year or years referred to in this sub-section pending on the date of initiation of the search under section 132 or making of requisition under section 132A, as the case may be, shall abate :

Provided also that the Central Government may by rules made by it and published in the Official Gazette (except in cases where any assessment or reassessment has abated under the second proviso), Specify the class or classes of cases in which the Assessing Officer shall not be required to issue notice for assessing or reassessing the total income 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:

Provided also that no notice for assessment or reassessment shall be issued by the Assessing Officer for the relevant assessment year or years unless—

(a) the Assessing Officer has in his possession books of account or oilier documents or evidence which reveal that the income, represented in the form of asset, which has escaped assessment amounts to or is likely to amount to fifty lakh rupees or more in the relevant assessment year or in aggregate in the relevant assessment years;

(b) the income referred to in clause (a) or part thereof has escaped assessment for such year or years; and

(c) the search under section 132 is initiated or requisition under section 132A is made on or after the 1st day of April, 2017.

Explanation 1.—For the purposes of this sub-section, the expression "relevant assessment year" shall mean an assessment year preceding the assessment year relevant to the previous year in which search is conducted or requisition is made which falls beyond six assessment years but not later than ten assessment years from the end of the assessment year relevant to the previous year in which search is conducted or requisition is made.

Explanation 2.—For the purposes of the fourth proviso, "asset" shall include immovable property being

land or building or both, shares and securities, loans and advances, deposits in bank account.....”

Assessment of income of any other person.

153 C. [(1)J [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]”

7.0 Further, the material/documents seized during search and seizure operation conducted on 04.07.2017 in the case of Sri Jayanta Kumar Dutta, vide annexure (i) A/JKD/Res/01(chèque books) (ii) A/JKD/Res/04(pendrive) (iii) A/JKD/Res/05 (sheet no 14-23) and information contained therein has following contents

(a) The assessee firm, M/s Royal Engineer , which did not file ROI for AY 2010-11 but has made cash deposits of Rs 3,29,94,300/- in its bank account and subsequent Fixed deposits and thus, I (assessing officer) has in possession books of account or other documents or evidence which reveal that the income, represented in the form of asset, which has escaped assessment amounts to or is likely to amount to fifty lakh rupees or more in the relevant assessment year or in aggregate in the relevant assessment years.

(b) The said income has escaped assessment for AY 2010-11 as assessee did not file return of income.

(c)The search u/s 132 was conducted on 04.07.2017, i.e after 01.04.2017.

8. In view of the above facts, I am satisfied that all the three conditions specified in Sub section 1 of Section 153A of the Income Tax Act being

same also for notice u/s 153C to issue notice for relevant assessment year AY 2010-11 are met and the material seized and information contained therein has bearing on the determination of the total income of assessee firm, M/s Royal Engineering for the relevant A.Y. 2010-11 as specified in Sub Section 1 of Section 153C of the Income Tax Act. Accordingly proceedings u/s 153C are initiated and notice u/s 153C is being issued."

11. Per contra, ld.AR submitted that ld.CIT(A) has rightly held that there was no incriminating material found during the course of search belonging to the assessee as stipulated u/s 153C of the Act. Besides that ld.AR submitted that the Assessing Officer was aware of the return of income filed by the assessee, which is clear from the satisfaction note reproduced hereinbelow wherein the Assessing Officer mentioned that the return of income was filed by the assessee during the demonetization period and also mentioned that the details of the accounts disclosed by the assessee in the said return of income.

12. The ld.AR also submitted that the documents mentioned in Para 6.2 of the order of ld.CIT(A) in ITA 34/Hyd/2021 do not pertain to the years under consideration and that the document No.1 is the cheque book of the IDBI Bank which does not pertain to the assessment year under consideration and it pertains to A.Y. 2014-15. Similarly, the details of documents in the pen drive and five sheets do not pertain to the years under consideration. The above said aspects have been duly examined by the learned ld.CIT(A) in Paras 6.3 and 6.3.1 of his order.

13. We have heard the rival submissions and perused the material on record. This is a case where incriminating material was found and seized during the course of search operation conducted in the case of one of the partners of assessee firm by name, Ajaz Farooqui and his related business concerns. During the course of assessment, Assessing Officer, based on verification of entire records of assessee firm and also on the reply submitted by the assessee firm in pursuance to notice u/s 153C made an addition of Rs.3,09,94,700/- as unexplained cash credits u/s 68 of the Act and also initiated penalty proceedings for concealment of income on the above addition. The Id.CIT(A) in Paras 6.3 and 6.3.1 of his order (reproduced hereinabove) had examined the documents found during the course of alleged search, thread bear and held that none of the documents / pen drive belong to / pertain to the years under consideration.

14. The Id.DR for the Revenue has failed to point out any incriminating document found during the course of search pertaining to / belonging to the assessee firm relevant to the assessment years under consideration from the records of Assessing Officer which formed basis of making the addition in the hands of assessee. The law is fairly settled that no addition can be made in the hands of assessee u/s 153C in the absence of any incriminating material pertaining to the assessee firm for the years under consideration. Further, the assessee in this case had filed return of income which was duly noticed by the Assessing Officer at the time of recording satisfaction, however,

despite knowing the return of income and alleged non-disclosure of the bank account in the return of income, the Assessing Officer has not resorted to proceed u/s 147 / 148 of the Act. In the present case, as mentioned above, a search was carried out in the premises of Ajaz Farooqui, one of the partners of the assessee firm, and his related business concerns and some incriminating material / documents were found and seized. However, the documents so found do not pertain to the years under consideration and therefore, cannot form the basis for making an addition in the hands of assessee under section 153C of the Act.

15. Further, we find that the facts of the present case are identical to the facts of the case in ITA No.34/Hyd/2021 (DCIT, Central Circle – 3(4), Hyderabad Vs. M/s. Orbit Ventures, Hyderabad for A.Y. 2011-12), wherein the Tribunal vide Paragraphs 15 to 22 held as under :

“15. We have heard the rival submissions and perused the material on record. This is a case where incriminating material was found and seized during the course of search operation conducted in the case of one of the partners of assessee firm by name, Ajaz Farooqui and his related business concerns. During the course of assessment, Assessing Officer, based on verification of entire records of assessee firm and also on the reply submitted by the assessee firm in pursuance to notice u/s 153C made an addition of Rs.2,00,09,000/- as unexplained cash credits u/s 68 of the Act and also initiated penalty proceedings for concealment of income on the above addition. The ld.CIT(A) in Paras 6.3 and 6.3.1 of his order (reproduced hereinabove) had examined the documents found during the course of alleged search, thread bear and held that none of the documents / pen drive belong to / pertain to the years under consideration.

16. The ld.DR for the Revenue has failed to point out any incriminating document found during the course of search pertaining to / belonging to the assessee firm relevant to the assessment years under consideration from the records of Assessing Officer as well as from the record of the Tribunal which formed basis of making the addition in the hands of assessee. The law is fairly settled that no addition can be made in the hands of assessee u/s 153C in the absence of any incriminating material pertaining to the assessee firm for the years under consideration. Further, the assessee in this case had filed return of income which was duly noticed by the Assessing Officer at the time of recording satisfaction, however, despite knowing the return of income and alleged non-disclosure of the bank account in the return of income, the Assessing Officer has not resorted to proceed u/s 147 / 148 of the Act. In the present case, as mentioned above, a search was carried out in the premises of Ajaz Farooqui, one of the partners of the assessee firm, and his related business concerns and some incriminating material / documents were found and seized. However, the documents so found do not pertain to the years under consideration and therefore, cannot form the basis for making an addition in the hands of assessee under section 153C of the Act.

17. The ld.DR had filed the written submissions along with the documents on 20.09.2022 (the written submissions are reproduced hereinabove). The copy of the relevant extract from the working of the seized pen drives and also the other seized material are filed and the same are placed at pages 26 to 45.

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19. The perusal of the assessment order clearly shows that the addition was made in the hands of the assessee on account of cash deposit made on 13.04.2010 to 05.03.2011 as mentioned in Paragraphs 5 to 7 of the assessment order which is to the following effect :

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20. From the perusal of the assessment order and the seized material, it is clear that no addition has been made by the Assessing Officer based on the incriminating material. Therefore, the plea of the Revenue that the additions were made on the basis of the seized material is without any basis. Further, we may point out that the Assessing Officer had also examined the return of income filed by the assessee in response to the notice which was duly considered by him and the income already been declared was considered while computing the total income for Rs. 2,25,65,581/-. Thus, the additions made by the Assessing Officer were not based on the incriminating material and hence, the action on the part of the ld.CIT(A) in our opinion is in accordance with the law.

21. We also draw support from the decision of the Tribunal in the case of the sister concern of the assessee titled as *M/s. G.V.K. Enterprises Vs. DCIT (ITA Nos.20 to 25/Hyd/2021 and others dt.21.12.2021)* wherein the co-ordinate Bench of the Tribunal had deleted the addition u/s 153C of the Act by holding as under :

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22. In view of the above discussions and in view of the support drawn from the decision of Co-ordinate Bench of the Tribunal in the case of *M/s. G.V.K. Enterprises (supra)*, we dismiss the appeals filed by the Revenue. Though, the ld.DR had sought to distinguish the decision on the pretext that the assessee has not gone to the Income Declaration Scheme, 2016. However, we have already mentioned that once the assessee had filed the return of income and the same was also considered by the Assessing Officer at the time of assessment, therefore, non-availing of IDS will not be a reason to distinguish the case. Further, we do not find any material on record to demonstrate that the order of Tribunal in the case of *M/s. G.V.K. Enterprises (supra)* has been set aside / stayed / overruled by any higher judicial forum. No other ground has been adjudicated by us, as the appeals of the assessee are liable to be dismissed on the sole ground adjudicated by us while deciding Revenue appeal. Accordingly, the appeal of Revenue in ITA No.34/Hyd/2021 for A.Y. 2011-12 is dismissed.”

16. Before us, both the parties submitted that the facts of the present case are identical to the facts of the case in the case of *M/s. Orbit Ventures, Hyderabad (supra)* and on perusal, we find that the said case is identical to the case on hand, and further, the said decision is not stayed or over-ruled by any of the higher Judicial Forums. Further, our above said decision is now supported by the decision in the case of *DCIT Vs. U. K. Paints (Overseas) Ltd. Reported in [2023] 150 taxmann.com 108 (SC)*, wherein the Hon’ble Supreme Court held as under :

“2. As observed hereinabove, as no incriminating material was found in case of any of the Assessee either from the Assessee or from the third party and the assessments were under section 153-C of the Act, the High Court has rightly set aside the Assessment Order(s). Therefore, the impugned judgment and

order(s) passed by the High Court do not require any interference by this Court. Hence, all these appeals deserve to be dismissed and are accordingly dismissed.

3. However, so far as the prayer made on behalf of the Revenue to permit them to initiate the re-assessment proceedings is concerned, it is observed that it will be open for the Revenue to initiate the re-assessment proceedings in accordance with law and if it is permissible under the law”

16.1. In view of the above circumstances, we respectfully following the decision of the co-ordinate Bench of the Tribunal passed in the case of ITA No.34/Hyd/2021, wherein we have already decided the issue against the Revenue and also the decision of Hon'ble Supreme Court in the case of U.K. Paints (supra), we dismiss the appeal of Revenue in ITA No.40/Hyd/2021 for A.Y. 2010-11.

17. In the result, appeal of Revenue in ITA No.40/Hyd/2021 is dismissed.

18. As far as the other appeals of Revenue are concerned, in view of the submission of both the parties that the issues raised in A.Y. 2010-11 are identical to the other assessment years, we for the reasons stated hereinabove while deciding the appeal in ITA 40/Hyd/2021 and for similar reasons, dismiss the other appeals of Revenue.

19. In the result, all the captioned appeals filed by the Revenue are dismissed.

20. Now coming to the appeals of assesseees, the same are dismissed in view of the findings recorded in the Revenue's captioned appeals. No other ground has been pressed before us.

21. In the result, all the captioned appeals filed by the assesseees are dismissed as infructuous.

22. To sum up, all the captioned appeals filed by the Revenue are dismissed and the appeals of assesseees are dismissed as infructuous. A copy of this common order is placed in respective case files.

Order pronounced in the Open Court on 18th October, 2023.

Sd/- (RAMA KANTA PANDA) VICE PRESIDENT	Sd/- (LALIET KUMAR) JUDICIAL MEMBER
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Hyderabad, dated 18th October, 2023.

TYNM/sps

Copy to:

S.No	Addresses
1	M/s. Ace Constructions, Flat No.S-5, Ballad Estates, H.No.12-5-35/A/B, Tarnaka, Hyderabad.
2	M/s. Royal Engineering, C/o. P. Murali & Co., Chartered Accountants, 6-3-655/2/3, Somajiguda, Hyderabad – 500082.
3	Deputy Commissioner of Income Tax, Central Circle – 3(4), Hyderabad / ACIT, Central Circle 3(4), Hyderabad.
4	PCIT (Central), Hyderabad.
5	DR, ITAT Hyderabad Benches
6	Guard File

By Order

S.No.	Details	Date
1	Draft dictated on	16.10.2023
2	Draft placed before author	18.10.2023
3	Draft proposed & placed before the Second Member	
4	Draft discussed/approved by Second Member	
5	Approved Draft comes to the Sr. PS/PS	
6	Kept for pronouncement	
7	File sent to Bench Clerk	
8	Date on which the file goes to Head Clerk	
9	Date on which file goes to A.R.	
10	Date of Dispatch of order	