आयकर अपीलीय अधिकरण, हैदराबाद पीठ
IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad 'B' Bench, Hyderabad

Before Shri Manjunatha, G. Accountant Member and Shri K. Narasimha Chary, Judicial Member

S. No	ITA No	Appellant	Respondent	A. Y
1	214/Hyd/2024	Giridhari Constructions, Hyderabad PAN: AAGFG5289D	A.C.I.T, Central Circle 1 (1) Hyderabad	2013-14
2	215/Hyd/2024	-do-	-do-	2014-15
3	216/Hyd/2024	-do-	-do-	2015-16
4	217/Hyd/2024	-do-	-do-	2016-17
5	218/Hyd/2024	-do-	-do-	2017-18
6	219/Hyd/2024	-do-	-do-	2018-19
7	275/Hyd/2024	A.C.I.T, Central Circle 1 (1) Hyderabad	Giridhari Constructions, Hyderabad PAN: AAGFG5289D	2013-14
8	278/Hyd/2024	-do-	-do-	2015-16
9	279/Hyd/2024	-do-	-do-	2016-17
10	280/Hyd/2024	-do-	-do-	2017-18

निर्धारिती द्वारा/Assessee by:	Shri P. Murali Mohan Rao, CA
राजस्व द्वारा/Revenue by::	Shri Kumar Pranav, CIT(DR)
सुनवाई की तारीख/Date of hearing:	11/07/2024
घोषणा की तारीख/Pronouncement:	28/08/2024

आदेश/ORDER

Per Manjunatha, G. A.M

This bunch of 10 appeals, 6 appeals by the Assessee and 4 appeals by the Revenue are directed against separate, but identical orders of the ld. Commissioner of Income Tax (Appeals) -

11, Hyderabad, all dated 19.01.2024 and pertains to Asst. Years 2013-14 to 2018-19. Since facts are identical and issues are common, for the sake of convenience, these appeals were heard together and are being disposed off, by this common order.

2. The assessee has, more or less raised common grounds of appeals for all the A.Ys. Therefore, for the sake of brevity, the grounds of appeal for the A.Ys 2013-14 are reproduced below.

S No	Grounds of Appeal	Tax effect
1	The order passed by the Ld. CIT(A) u/s 250 of the Act dated 19.01.2024 is erroneous both on facts and in law to the extent the order is prejudicial to the interest of the appellant.	General ground
2	The Ld. CIT(A) erred in appreciating the fact that no addition can be made u/s 153A of the Act in the absence of any incriminating material during the course of search u/s 132 of the Act which is duly supported by the decision of Supreme Court in the case of **[2023] 149 taxmann.com 399(SC) Pr. CIT vs Abhisar Buildwell P. Ltd.**	Technical ground
3	The Ld. CIT(A) erred in considering that the AO rightfully made the additions based on incriminating material and other material on record without appreciating the fact that the so-called incriminating material consists of unsigned and dumb material and the additions made are based on surmises, assumptions and on estimate basis, which is against to the provisions of sec 153A and is against to the principles of natural Justice.	Technical ground
4	The Ld. CIT(A) erred in confirming the additions made by the AO basing on the dumb material seized vide Annexure A/SRR/01 and Annexure A/GC/OFF/04, in the residential premises of Sri Sampath Raghupathi Reddy which are not covered under the provisions of Sec 132(4A) of the Act.	Technical ground
5	The Ld. CIT(A) ought to have considered that the amounts/ figures appearing in the alleged incriminating material had not tallied with the amounts received as per books of accounts of the appellant, and as such the said alleged material cannot be a material to take cognizance of statement recorded u/s 132(4) of the IT Act, 1961.	Technical ground

6	The Ld. CIT(A) ought to have considered that amounts/ figures as appearing in the so called alleged incriminating material are higher than the amounts appearing in some cases and are lesser than the amounts appearing in some other cases with reference to the books of accounts and this alleged incriminating material found and seized during the course of search u/s 132 of the Act cannot be considered as corroborative evidence to the statement recorded u/s 132(4) of the IT Act, 1961.	Technical ground
7	The Ld. CIT(A) ought to have considered that the additions made by the AO on the basis 132(4) statement basing on the alleged incriminating material as corroborative evidence to statement recorded u/s 132(4) of the Act wherein the said statement recorded u/s 132(4) was retracted later and as such the additions are not sustainable and deserves to be deleted.	Technical ground
8	The CIT(A) erred in not considering that the documents found wherein there was no mention of any date, no signature, the addition made by the AO ought to have been deleted as the said alleged documents were only dumb material and were not valid legally.	Technical ground
9	The CIT(A) erred in enhancing the amounts with reference to the alleged incriminating material as addition without giving an opportunity to the appellant to submit its objections at the time of appellant proceedings, which action is not permissible according to law and is against the principles of natural justice.	Technical ground
10	The Ld. CIT(A) erred in confirming the addition of Rs. 4,06,90,230/- for the AY under consideration towards suppressed sales of 75 flats out of the 100 flats sold during the block period of search i.e., from 01-04-2012 to 31-03-2018, wherein no material was found during the course of search to substantiate the above addition.	Technical ground
11	The Ld. CIT(A) erred in not appreciating the fact that the assessee has already offered the development income of Rs. 4,30,75,492/- for the 75 flats in the period prior to the block period of search i.e., well before this assessment year and as such no addition is needed to be made in this year, which results in double taxation.	Technical ground

12	The Ld. CIT(A) erred in confirming the addition of Rs. 6,08,71,000/- for the AY under consideration towards alleged suppressed sales of 25 flats out of the 100 flats sold during the block period of search, wherein no material was found during the course of search to substantiate the above addition.	Technical ground
13	The Ld. CIT(A) erred in enhancing the addition of Rs. 29,46,000/- towards suppression of sales in respect of H-706, which was not sold in the AY under consideration and therefore, the addition as well as the enhancement during this year is not sustainable.	Technical ground
14	The Ld. CIT(A) erred in setting aside the lumpsum amount offered by the appellant of Rs. 2,78,16,249/- for the AY under consideration for the 25 flats instead without considering the submissions made by the appellant and without appreciating the fact that the said lumpsum amount offered is genuine in nature and to be given for telescoping in suppression of sales.	Technical ground
15	The Ld. CIT(A) erred in confirming the addition made of Rs. 6,21,91,000/- in respect of 25 flats sold during the FYs 2012-13 & 2013-14 relevant to the AYs 2013-14 & 2014-15 by estimating the average rate of Rs. 2300/- per sft, without having any valid material and by taking into consideration of only two flats D-106 and D-706, wherein no names of the purchasers nor the sale prices were mentioned, and which these materials were dumb material.	Technical ground
16	The Ld. CIT(A) erred in not considering the fact that the appellant has offered development income for the AY under consideration of Rs. 14,55,47,796/- and has furnished the breakup of the same before the AO during the remand proceedings which was not considering the same, is against the provisions of the Act.	Technical ground
17	The Ld. CIT(A) erred in confirming the addition towards suppressed sales of Rs. 10,15,61,230/- (which includes Rs. 4,06,90,230/- towards 75 flats and Rs. 6,08,71,000/- towards 25 flats) without appreciating the fact that the said suppression of sales will suffer only estimate of profit.	Technical ground

18	The Ld. CIT(A) erred in confirming the addition of Rs. 2,73,00,000/- towards car parking income basing on estimate with reference to dumb material wherein the alleged car parking was stated to be mentioned at Rs. 3,50,000 in respect of 6 flats, even without considering that the car parking amounts were included in sales admitted as per books of accounts.	Technical ground
19	The Ld. CIT(A) erred in setting aside the appellant's claim that "120 car parkings are vacant as on date and have not been sold" instead of giving necessary relief to the appellant.	Technical ground
20	The Ld. CIT(A) erred in not considering the fact that car parking fees cannot be uniform for all the flats and addition cannot be made on uniform and estimate basis in the Assessment completed u/s 153A without having any incriminating material and without considering the submissions made by the appellant.	Technical ground
21	The Ld. CIT(A) erred in confirming the addition of Rs. 26,27,053/- towards club house collections without appreciating the facts of the case and submissions made by the appellant.	Technical ground
22	The Ld. CIT(A) erred in observing that the irregularities have been pointed out in the books of accounts regarding suppression of sales and car parking fees without appreciating the fact that the addition itself is based on surmises and assumptions and that does not make the books of accounts incorrect and defective and in the absence of any incriminating material found during the course of Search u/s 132 of the Act.	Technical ground
23	The Ld. CIT(A) erred in not giving telescoping effect towards the unexplained expenditure/ investment against the credits/ deposits and incomes by stating that the appellant has not substantiated his ground which is invalid as the appellant has filed all the information during the assessment proceedings and in appellate proceedings.	Technical ground
24	The assessee may add, alter, or modify or substitute any other points to the grounds of appeal at any time before or at the time of hearing of the appeal.	General ground

3. The Revenue has also raised more or less common grounds of appeal for all the A.Ys. Therefore, for the sake of brevity, grounds of appeal filed by the Revenue for the A.Y 2013-14 are reproduced hereunder:

1. The ld CIT(A) erred in giving relief on suppressionof sales pertaining to 75 flats based on the receipts in excel sheets and tally data though the same were not reconciled with the income admitted in the return of income.

2. The ld. CIT(A) erred in giving relief on suppression of sales pertaining to 75 flats on the basis of summary data submitted by the assessee whereas the addition of suppression of sales was made flat wise.

3. The ld CIT(A) erred in giving relief on suppression of sales pertaining to 75 flats though the assessee did not file the break up details of flat wise sales and development income flat wise admitted in the return of income for the AY 2013-14.

4. The ld. CIT(A) erred in directing telescoping of income as claimed by the assessee, when in the same order the CIT(A) has held that the request for telescoping of income is without any basis.

5. The ld.CIT(A) erred in directing telescoping of income claimed by the assessee, though the assessee did not submit the flat wise details of income admitted in the return of income by which it could be discerned that the assessee admitted surplus income than required.

6. The ld. CIT(A) erred in detecting to verify the submissions of the assessee with respect to the addition made towards Car Parking which tantamount to setting aside the issue to the file of the AO which is not permissible as per the express provisions of Section 251 of the Act.

7. The ld. CIT(A) erred by allowing development expenses of Rs. 1,64,94,500/- claimed though the supporting evidence in the form of details of repayments were filed.

8. The ld. CIT(A) erred in allowing relief on five flats bearing nos G-202, G-302, G-402, G-502 and G-404 though the assessee did not file the supporting evidence in support of the admission of the income of the flats in the period prior to the search period i.e., before FY 2012-13.

4. The brief facts of the case are that the assessee is a partnership firm, which is engaged in the business of real estate development. The appellant has filed its return of income for the A.Y 2013-14 to A.Y 2018-19 u/s 139 of the Income Tax Act, 1961. A search and seizure operation u/s 132 of the I.T. Act, 1961 was conducted on 26.4.2018 in the business premises of the assessee. During search, at the residential premises of Shri Kadigiri Indrasena Reddy, certain loose sheets and documents were found and seized as per Annexure A-KIR/RES/1 containing pages from 1 to 182. Further, on page 91 to 97, certain notings regarding flat number, customer name, area, price per Sq. ft and basic cost and amount received in respect of Executive Park were mentioned. During search, it was further noticed that M/s. Giridhari Constructions executed project in the name of Executive Park and constructed 518 Flats, in about 8 acres 9 guntas of land under joint development agreement near Appas Junction, Rajendranagar Village & Mandal and the project was started in the year 2006 and was completed in the year 2017. It was further noted that the appellant firm entered into a Joint Development Agreement with Mohd. Bin Ahmed and others for development of land admeasuring about 19 acres 7 guntas situated at Jadcherla, Mahaboobnagar Distt. The project is developed in the name of Celebrity Town, and it consists of 193 Plots, and out of which landowner retained 22 flats. The appellant, being developer, has to sell the remaining flats and share the revenue with the landowner @ Rs.1100/- per Sq. ft.

5. During the course of search and seizure operation, certain loose sheets pertaining to this project were seized as per Annexure A-GC/OFF/04 page of 2-5, in which the details of Flat Nos, name of purchaser, rate per sq.ft, advance amount received, instalment received, balance amount received etc., A statement on oath u/s 132(4) of the Act was recorded from Shri Sampat Raghupati Reddy, partner of the appellant firm and confronted with the documents found during the course of search, where he has admitted additional income of Rs.7,29,32,620/- for the project "Celebrity Town". During the search, it was further noted that the firm has made cash payments of Rs.89,73,857/- towards purchase of metal – Rs.50,88,620/-, towards purchase of sand, Rs.37,50,214/-, towards purchase of dust and metals. The seized documents were confronted with the assessee to explain the same and produce bills and vouchers for which the assessee admitted additional income of Rs.1,78,12,691/- for the A.Y 2015-16. Thus, Shri Sampat Raghupati Reddy admitted additional income of Rs.9,07,45,111/-, i.e. Rs.7,28,32,620 for A.Y 2018-19 income from project Celebrity Town and Rs.1,72,12,691/- for A.Y 2015-16 towards possible discrepancies in payments made for purchase of metal, sand, dust etc.,

6. Consequent to the search, notice u/s 153A of the I.T. Act, 1961 dated 7.1.2019 was issued and served on the assessee. In response thereto, the assessee filed return of income on 15.02.2019. The case was selected for scrutiny and during the course of assessement proceedings, the Assessing Officer noticed

that as per seized document from the residential premises of Shri Kadigari Indrasena Reddy, it was noticed that certain information regarding flat numbers, customer name, and size of flat, price per sq. ft, basic cost and amount received in respect of Executive Park was mentioned. In this connection vide notice u/s 142(1) dated 10.09.2020, the Assessing Officer called upon the assessee to furnish the sale consideration recorded in the books in respect of flats sold during the last 6 A.Ys. In response thereto, the assessee has furnished vide letter dated 10.11.2020 year-wise details of flats sold, income offered under the head "Sales Income", Development Income, Car Parking and total revenue recognized for the period from Asst. Years 2009-10 to A.Y 2018-2019. The assessee had also furnished the relevant P&L account for each financial year. The Assessing Officer, on the basis of information submitted by the assessee has worked out year-wise suppressed sales in respect of sale of flats, car parking and called upon the assessee to explain as to why additions should not be made in respect of suppression of sales. In the said show-cause notice, the Assessing Officer has considered the details of flats sold during the A.Ys 2013-14 to 2018-19, income offered by the assessee towards basic cost, income offered by the assessee towards development income and then, compared with the higher of the basic cost or amount received as per seized document found in the residential premises of Shri Kadigari Indrasena Reddy and has worked out year-wise suppression of sales towards sale of flats and year-wise suppression of income from sale of car parking area. In response, the assessee submitted that the firm has duly

offered the sale value as per the sale deed under the head sales and the additional work to be carried out as per the requirement of the flat owners who purchased the flats has been recorded under the head "development income". The assessee further submitted that it has recognized income from Executive Park right from A.Y 2009-10 to 2018-19 and the total revenue recognized in the books of account was at Rs.168,21,71,905/-. The assessee further contended that the loose sheets contained various information regarding flats sold in the project Executive Park found in the premises of Shri Kadigari Indrasena Reddy who is not a partner of the appellant firm at the time of search cannot be relied on to make addition towards suppression of sales. The assessee further contended that assuming for a moment the said documents may be considered for the purpose of assessment, but the Assessing Officer cannot adopt higher of basic cost or amount received as per the said document, because in some cases, the appellant had received more than the amount of basic cost referred to in the said document and in some cases it has received lesser amount than the amount recorded in the said document, which means the actual amount received by the assessee towards sale of flats is the real income and the same has been accounted in the books of account for the respective A.Ys.

7. The Assessing Officer after considering the relevant submission of the assessee and also taken note of the seized material found during the course of search observed that the seized material found in the premises of Shri Kadigari Indrasena

Reddy who is one of the Partner of the firm at the relevant point of time cannot be treated as a dumb document and therefore, rejected the argument of the assessee and estimated suppression of sales by taking into account higher of basis cost or amount received as per the said seized document and estimated suppression of sales for all 6 A.Ys by reducing the actual amount of income recorded by the assessee in the books of account against sale of each flat. While arriving at the suppressed sales, the Assessing Officer rejected the explanation of the assessee with regard to the development income of Rs.14,55,47,786/- offered for the A.Y 2013-14 on the ground that the appellant could not furnish details of flat wise income offered under development income. The Assessing Officer had also estimated suppression of income towards sale of car parking area on the basis of document found in the premises of Shri. Sampat Raghupathy Reddy, more particularly page No.73 which contains details of certain flats sold including the amount received for car parking area and by adopting highest value referred in the said document towards car parking amounting to Rs.3,50,000/- has estimated income from suppressed sale of car parking. The Assessing Officer had also made addition towards club house expenses to Rs.26,27,053/-, on the basis of page No.91 of the document seized from the residences of Shri Sampat Raghupati Reddy, where certain jottings were recorded under club house expenses. The Assessing Officer had also made addition towards development expenses of Rs.1,64,94,500/- on the ground that the assessee has debited the development expenses in the P&L towards credit note issued to

customers who purchases the flats but could not substantiate said expenses with relevant evidences. Similarly, the Assessing Officer had also made addition towards suppression of sales on the basis of document found in the premises of Shri Sampat Raghupati Reddy on the ground that towards five flats, the assessee has not accounted sales income and thus, estimated suppression of sales of Rs.2,24,50,000/- and Rs.2,97,50,000/- respectively.

8. Being aggrieved by the assessment order, the assessee preferred an appeal before the learned CIT (A). Before the learned CIT (A), the assessee challenged the additions made by the Assessing Officer towards estimation of suppressed sales on the basis of document found and seized from the premises of Shri Kadigari Indrasena Reddy and argued that Mr. K. Indrasen Reddy was not a partner at the time of search and further, any document found and seized in his premises cannot be used in the assessment of the appellant. The assessee had also challenged the estimation of sales income towards sale of flats and car parking by extrapolating certain figures on the basis of said document found in the premises of ex-partner. The learned CIT (A) after considering the relevant submission and also taken note of various reasons given by the Assessing Officer for estimation of income from sale of flats, car parking, has allowed partial relief to the assessee in respect of estimation of suppression of sales from sale of flats, estimation of income from sale of car parking, however, allowed relief in respect of estimation of sales from 5

flats on the ground that the said flats has already been considered while estimating revenue from 25 flats and thus, further estimation of income from these 5 flats amounts to double addition. The ld. CIT(A) has discussed the issue at length in light of seized document, books of account maintained by the assessee and reasons given by the AO to adopt higher of basic cost or amount received as basis for adopting sales price for all flats sold during last six assessment years and appearing seized document and observed that, although there is evidence on which date said document was written, but there is sufficient reason to believe that there is suppression of income towards sale of flats and car parking. Therefore, the CIT(A) upheld then basis of higher of basic cost or amount received as the amount received by the assessee for sale of all flats and thus, estimated income `by extrapolating the amount and applied to all flats sold during last six assessment years from AY 2013-14 to 2018-19. The CIT(A) had also upheld addition made towards suppression of income from sale of car parking, but deleted double addition made by the AO towards five flats and also deleted addition made towards development income. Further, the ld. CIT(A), restricted addition towards disallowance of expenses incurred in cash for purchase of sand, dust and metal to 20% of total disallowance made by the AO. The CIT(A) had also, sustained addition towards club house collection.

9. Aggrieved by the order of the learned CIT (A), the assessee and as well as, the Revenue is in appeal before the Tribunal.

10. The first issue that came up for our consideration from ground of appeal filed by the assessee for the A.Ys 2013-14 to 2015-16 and ground of appeal filed by the Revenue for the A.Ys 2013-14 to 2017-18 is the addition made by the Assessing Officer towards suppression of sales in project “Executive Park” and deletion of addition by the learned CIT (A).

11. The fact with regard to the impugned disputes are that during the course of search & seizure operation at the residential premises of Shri Kadigari Indrasen Reddy, certain loose sheets and documents seized as per Annexure A-KIR/RES/1 containing pages from 1 to 182. Pages 91 to 97 contains, information regarding flat number, customer name, area, rate per sq. ft, basic cost and amount received in respect of Executive Park. The Assessing Officer, based on seized document found during the course of search has estimated suppression of sales in the project “Executive Park” by considering the higher of basic cost or amount received as per said document and then adopted the said higher amount to all 322 flats referred to in the said document and then reduced the amount recorded in the books of account for the respective A.Ys to arrive at final suppression of sales for the A.Y 2013-14 to A.Y 2018-19. The year-wise suppression of sales computed by the Assessing Officer is as follows:

A.Y	Suppression of sales
2013-14	Rs.21,65,80,973/-
2014-15	Rs. 2,01,65,074/-
2015-16	Rs. 1.51,09,884/-
2016-17	Rs.10,67,82,300/-
2017-18	Rs. 1,18,63,192/-
2018-19	Rs. 64,68,967/-
TOTAL	Rs.37,69,70,390/-

12. In appeal, the learned CIT (A), for the reasons stated in their appellate order dated 19.01.2024 allowed partial relief in respect of additions made towards suppression of sales and out of addition made by the ld. AO for six Asst. Years for Rs.37,69,70,390/-, has deleted Rs.22,81,26,491/- and sustained addition of Rs.14,88,43,899/-. The learned CIT (A) has discussed the issue at length in light of documents found during the course of search, details submitted by the assessee and reasons given by the Assessing Officer to estimate the suppression of sales and further, he has sustained addition on 3 counts and has segregated the addition made by the Assessing Officer towards suppression of sales into 3 parts. The learned CIT (A) has considered addition towards suppression of sales of 75 flats which was sold for the A.Ys 2013-14 to A.Y 2015-16 and sustained the addition of Rs.5,61,07,730/-. The learned CIT (A) has discussed the remaining 25 flats sold for the block period and has sustained addition of Rs.6,21,91,000/-. The learned CIT (A) had also

sustained addition towards suppression of sales for 157 flats sold during the 6 A.Ys before the date of search, but not referred to in the seized document found in the residential premises of Sri K. Indrasen Reddy and sustained the addition of Rs.3,05,45,169/-.

13. The learned Counsel for the assessee submitted that the learned CIT (A) is erred in sustaining the addition made by the Assessing Officer towards suppression of sales on the basis of seized document No.Annexure-A/KIR/RES/1 found in the residential premises of Shri Kadigari Indrasen Reddy without appreciating the fact that Shri K. Indrasen Reddy was not a partner at the time of search and any document found in his premises should be treated as document found in the possession of 3rd party and said document cannot be used against the assessee. The learned Counsel for the assessee referring to the provision of section 132(4A) of the I.T. Act, 1961 and section 292C of the I.T. Act, 1961 submitted that, the provisions of section 132(4A), where any books of account, other documents, money, bullion, jewellery or other valuable article or thing or/is found in the possession or control of any person in the course of a search, it may be presumed-

(i)that such books of account, other documents, money, bullion, jewellery or other valuable article or thing belong or belongs to such person;

(ii)that the contents of such books of account and other documents are true; and

(iii)that the signature and every other part of such books of account and other documents which purport to be in the handwriting of any particular person or which may reasonably be assumed to have been signed by, or to be in the handwriting of, any particular person, are in that person's handwriting, and in the case of a document stamped, executed or attested, that it was duly stamped and executed or attested by the person by whom it purports to have been so executed or attested.

14. Therefore, as per section 132(4A) rw.s. 292C of the Act, it is presumed that, any document found in the possession of person belongs to said person and further the contents of said document is true and correct, then said document can be used against the said person. In case any document found in the possession of a 3rd person and the same has been used against any other assessee, then before using said evidences against any person, the contents of said documents should be confronted to the person against whom, said document is used. In the present case, the Assessing Officer and the learned CIT (A) went on a wrong presumption that Shri K. Indrasen Reddy was a partner of the appellant firm and that any document found in his possession can be sued against the assessee, ignoring the fact that although Shri K. Indrasen Reddy was a partner of the appellant firm in the past, but at the relevant point of search, he was neither a partner of the appellant form nor was employed with the assessee. Therefore, the document found from his possession cannot be used against the assessee and further on the basis of said

document, no addition can be made. The learned Counsel for the assessee further submitted that the document found in the possession of Shri K. Indrasen Reddy is a dumb document and this fact has been confirmed by the Assessing Officer and the learned CIT (A). The document does not contain any dates to say that it was written in a particular period. In absence of any date, the said document cannot be used for any particular A.Y. Although certain contents and said documents are matching with the books of account of the assessee maintained for the relevant A.Y, but fact remains that the Assessing Officer has considered said document for the purpose of estimating suppression of sales even though the presumption drawn by the Assessing Officer is totally contrary to the facts on record.

15. The learned Counsel for the assessee further referring to the document found in the course of search submitted that, if we go by the document found during the course of search, it contains details of 322 flats sold in the project called Executive Park. It also contain price per sq. ft, area of each flat, basic cost and amount received. The Assessing Officer has considered higher of basic cost or amount received and then compared with the amount recorded in the books of account of the assessee to arrive at suppression of sales. But, the Assessing Officer while arriving at the said conclusion has totally ignored the fact that the assessee has accounted sales revenue in two segments, i.e. (i) under the head sales towards basic flat as per registered sale deed and (ii) the balance amount under the head development income.

Further, wherever the documents contain no value against certain flats, the Assessing Officer has adopted average price per sq. ft and then compared with revenue record in the books, ignoring the fact that in this line of business, there cannot be any uniform selling price for all the flats sold in a project. Further, in the said document certain flats were given to land owner was also included. Further, certain flats given to one retiring partner Shri Rama Krishna was also included. Against this flat, there is no reference of any amount, but the Assessing Officer estimated sales revenue by adopting the average selling price of a flat @ Rs.3050 per sq.ft and has worked out suppression of sales. The learned Counsel for the assessee further submitted that the assessee has started this project in the year 2006 and recognized revenue from A.Y 2009-10 onwards. If we go by the revenue recognized by the appellant in the books of account right from A.Y 2009-10 to A.Y 2018-19, the appellant has recognized total revenue of Rs.168,21,71,905/- for all these A.Ys. Further, even assuming for a moment, the details contained in seized document is found to be correct, even then the revenue recognized by the appellant for the A.Y 2013-14 to A.Y 2018-19 is higher than the revenue computed by the Assessing Officer as per seized document. The appellant has offered total revenue of Rs.100,29,67,790/- for the last six A.Ys, whereas the revenue as per the seized document for the above period was at Rs.97,05,43,108/-. Therefore, even on this count also, estimation of turnover by the Assessing Officer by extrapolating the contents recorded in the said seized document cannot be sustained.

Therefore, he submitted that the addition made by the Assessing Officer and sustained by the learned CIT (A) towards estimation of suppression of sales should be deleted.

16. The learned DR, on the other hand, supporting the orders of the authorities below submitted that the Assessing Officer has considered the documents found during the course of search in the premises of Shri Kadigari Indrasen Reddy for estimating suppression of sales turnover for the A.Y 2013-14 to A.Y 2018-19. Shri K. Indrasen Reddy was a partner upto 2017. Therefore, document found in his possession is relevant for the assessment of A.Y 2013-14 to 1018-19. Therefore, argument of the ld Counsel for the assessee that the document found in the possession of 3rd party cannot be used against the assessment of appellant is devoid of any merit and deserved to be rejected. The learned DR further submitted that as per provisions of section 132(4A) r.w.s. 292C of the I.T. Act, 1961, it is undisputedly clear that where any books of account or other document found in the possession of any person, then it is presumed that the said document belongs to the person from whose possession said document was found and also the contents of said document is true and correct. Since the document was found in the possession of partner of appellant firm, the Assessing Officer has rightly used the said document for the purpose of assessment.

17. The learned DR referring to the addition made by the Assessing Officer towards suppression of sales submitted that the Assessing Officer has estimated suppression of sales by taking

into account higher of basic cost or amount received as per document found during the course of search. The Assessing Officer has considered higher of basic cost or amount received and then compared with the amount recorded against sale of each flats in the books of account of the assessee and then computed the excess or suppression of sales. Although the appellant claims to have accounted sales in 2 parts i.e. one under the head "sales income" and other under the head "development income" but the assessee fails to give details of flat-wise income recognized under the head sales and development incomes. In absence of any details, the Assessing Officer has rightly considered the amount recorded in seized document and then estimated suppression of sales. The learned DR further submitted that although the learned CIT (A) in principle agreed that as per the document found during the course of search, there is sufficient reason to believe that the said document indicate suppression of sales but erred allowing relief to the assessee by considering submission of the assessee towards 100 flats for the purpose of estimation of sales without appreciating the fact that the argument of the assessee in light of subsequent evidences and remand report of the Assessing Officer is contrary to the facts on record in the assessment order. Therefore, he submitted that the addition made by the Assessing Officer towards suppression of sales for all the A.Ys should be sustained.

18. We have heard both the parties, perused the material available on record and gone through the orders of the authorities

below. There is no dispute with regard to the fact that the project "Executive Park" was started in the year 2006 and was completed in the year 2017 and this fact has been accepted by both the authorities. It is also not in dispute that the said project consists of 518 flats. The appellant has furnished details of 518 flats sold. In fact, the learned CIT (A) has recorded categorical finding that out of 518 flats in Executive Park, the appellant has given 28 flats to land owners. In remaining 490 flats, 194 flats were sold before the search year i.e. from financial year 2008-09 to 2011-12. The Assessing Officer and the learned CIT (A) has accepted this fact and also, has not estimated any income towards suppression of sales on these flats given to the land owners and sold before the search year. The remaining flats left with are 256 and these 256 flats were sold during the search years, i.e. from AY 2013-14 to A.Y 2018-19. The incriminating material found during the course of search called A-1 Sheet records the basic cost and amount received by the appellant for 322 flats. Out of 322 flats, 28 flats were given to land owners and 194 flats were sold before search period. In other words, out of 322 flats as per Sheet A-1, the Assessing Officer has considered 222 flats for the purpose of making addition towards suppression of sales. The AO has thus, made addition with regard to 100 floats contained in Sheet A-1 and made addition of Rs.37,69,70,390/- for 6 A.Ys. The details of year-wise addition made by the Assessing Officer have been given in page 118 of the learned CIT (A)'s order. Therefore, in light of above facts, it is necessary to examine the additions made by the Assessing Officer towards suppression of sales in light of Sheet-A-

1 and arguments advanced by the learned Counsel for the assessee.

19. Admittedly, the seized document relied upon by the Assessing Officer to make addition towards suppression of sales was found in the residential premises of Shri Kadigari Indrasen Reddy and the same has been seized as per Annexure A/KIR/RES/1 pertaining to pages from 01 to 182. Page No.91 to 97 contains information regarding sale of 322 flats. It is the argument of the learned Counsel for the assessee that the Assessing Officer is erred in using document found in 3rd party possession to make addition towards estimation of suppression of sales. According to the assessee, Shri K. Indrasen Reddy was partner of the appellant firm, but he retired from the partnership firm in 2013. In other words, at the time of search on 27.04.2018, Shri K. Indrasen Reddy was neither partner of the appellant firm, nor was employed with the assessee. In fact, in the statement recorded u/s 132(4) of the Act, he introduced himself as Director of Giridhari Homes (P) Ltd and also Giridhari Constructions (P) Ltd. Therefore, when Shri K. Indrasen Reddy was retired from the partnership firm in the year 2013 itself, then the document found in his possession can be considered as document found in the possession of the assessee and further, any addition can be made on the basis said document needs to be examined in light of provisions of section 132(4A) r.w.s. 292C of the I.T. Act, 1961.

20. Provisions of section 132(4A) r.w.s. 292C of the I.T. Act, 1961 deals with presumption as to books of account or other documents, found during the course of search. As per section 132(4A) of the Act, where any books of account or other documents, money, bullion, jewellery or other valuable article or thing is found in the possession or control of any person in the course of search, it may be presumed that such books of account or other documents belonging/belongs to such person and that the contents of such books of account and other documents are true and correct. A plain reading of section 132(4A) r.w.s. 292C of the Act, is very clear inasmuch as, if any document is found in the possession or control of any person, during the course of search, then the said document and contents recorded there in are found to be belong to said person and also true and correct. In order to invoke provisions of section 132(4A) and 292C of the Act, document or material should be found in the possession of a person who is searched or his associate or an employee. If any document is found in the possession of a 3rd person during the course of search, then said document can be considered for assessment of that person or any other person, provided the document found during the course of search should be confronted to the person in whose possession said document was found and also calls for explanation with regard to the contents of said documents. Further, in case any document is found in the possession of 3rd person and belongs to a person other than the searched person, then before using said document against any person, the document should be confronted to the other person

and also record a statement from the person to whom said document belongs to. In other words, if the Assessing Officer wants to use any document which is found in the possession of 3rd person against the assessment of any other person, then said document should be first confronted to the person in whose possession said document was found and also, the person to whom said document belongs to. Unless, the Assessing Officer confronts said documents to the person from whose possession it was found and also to the other person to whom it belongs, said document cannot be used in an assessment. In the present case, the Assessing Officer and the ld. CIT(A), went on a wrong premise that Shri K. Indrasen Reddy was a partner of the appellant firm and further, any document found in his possession can be used against the appellant. But, fact remains that Shri K. Indrasen Reddy was retired from the partnership firm in the year 2013 and further, at the time of search, he was not a partner of the appellant firm and therefore, the document used by the Assessing Officer to make addition in the case of the appellant falls in the category of document found in the possession of 3rd party and thus, before using said document, the Assessing Officer ought to have confronted the said document to the assessee and calls for his explanation. Since, the Assessing Officer did not confront the said document to the appellant and also not given an opportunity to cross examine the person in whose possession the said document was found, in our considered view, the addition made by the Assessing Officer on the basis of said document cannot be sustained. Therefore, on this count itself, the addition made by

the Assessing Officer towards suppression of sales needs to be deleted.

21. Having said so, let's come back to the merits of the issue. Admittedly, the Assessing Officer estimated suppression of sales towards 100 flats found in Sheet A-1 by adopting higher of basic cost or amount received and then compared with the amount recorded against sale of each flat in the books of account of the assessee. The Assessing Officer observed that in some cases, the basic cost is more than the amount received by the appellant and in some cases; the amount received is more than the basic cost. According to the Assessing Officer, wherever basic cost is higher, the appellant had sold the flats for said rate and balance amount is receivable. Further, wherever the amount received is higher, the AO opined that the appellant has sold the flats for the amount received. In other words, the Assessing Officer ignored the amount received by the appellant and recorded in the very same sheet A-1 and has conveniently taken higher of basic cost or amount received for 100 flats and then compared with the income accounted by the assessee in the books of account. In our considered view, the Assessing Officer has committed an error in estimating suppression of sales by adopting higher of basic cost or amount received because, as per said document itself it is very clear that in some cases, the appellant has received more amount than basis cost, which means wherever the appellant receives more amount than basic cost, it means it has received higher selling price and wherever it received lesser

amount than basic cost, it means it has sold flats for lesser price. The AO and CIT(A) having noticed above facts, has conveniently turned the table on their side by misinterpreting the document and observed that in cases amount received is less than basis cost, the balance is receivable without any evidence. Further, in our considered view, there cannot be any uniform selling price for all flats because, selling price of any property is depending upon various facts, like, timing of sale, relationship between seller and buyer, terms of payment and requirement of the seller. Therefore, applying highest amount received for one flat and then extrapolating said price to all flats sold by the assessee ignoring timing difference is highly arbitrary and cannot be acceptable. We, further noted that the AO has not considered income offered by the assessee under the head development income only on the ground that the appellant has not given flat-wise details of development income accounted by the assessee. In other words, the Assessing Officer never disputed the fact that the appellant had offered development income of Rs.14,55,47,796/- towards sale of flats for the A.Y 2013-14. Had the Assessing Officer considered the development income offered by the assessee, then the suppression of sales computed by the Assessing Officer was much lesser than what was computed by the AO for the A.Y 2013-14.

22. Be that as it may, the Assessing Officer has considered the total of higher value of basic cost or amount received for 75 flats on the basis of Sheet A-1 at Rs.31,11,15,180/-. As per the

report submitted by the Assessing Officer during the remand proceedings, the appellant has offered income of Rs.26,36,36,540/- for 75 flats. Thus, there is a difference of Rs.4,74,78,640/-, being suppression of sale value as per the method followed by the Assessing Officer. Let's come back to the reasons given by the Assessing Officer to estimate suppression of sales. The sole basis for the Assessing Officer to consider higher of basic cost or amount received is presumption drawn by the Assessing Officer that wherever the amount received is less, the Assessing Officer and the learned CIT (A) presumed that the balance amount is receivable by the appellant firm. Wherever the basic cost is less and the amount received is higher, then the Assessing Officer and the learned CIT (A) presumed that the assessee has sold the flats for the value stated in the column "amount received". In our considered view, the method adopted by the Assessing Officer is incorrect and against the principles of estimation and extrapolating. First of all, there cannot be any estimation of income in search assessment based on evidences found for a year or part of year. In case the document is found for a part of year, then said document can be used for estimating income for remaining part of year, but said document cannot be used to extrapolate the suppression of income for remaining AYs. Therefore, in our considered view, the Assessing Officer is completely erred in adopting higher of basic cost or amount received as the basis for assuming suppression of sales turnover based on Sheet A-1 which contain details about 100 flats. Further, it is an admitted fact that in this line of business there

cannot be any uniform selling rate for a particular property or flats in any project. The selling rate is depending upon various factors, i.e. time difference, the relation between the buyer and the developer and further terms of sale etc,. In the present case, admittedly, the project spread over more than 10 years. It was started in the year 2006 and completed in 2017. Therefore, applying uniform selling rate based on a document which does not contain any details of date of sale is totally against the principles of estimation and extrapolation, and therefore, in our considered view on this count itself, the addition made by the Assessing Officer towards suppression of sales for all the 6 A.Ys cannot be sustained.

23. Coming back to the reasons given by the learned CIT (A), to sustain estimation of suppression of sales. The learned CIT (A) has classified suppression of sales into 3 parts. The first part considered by the learned CIT (A) is on estimation of suppression of sales for 75 flats covered during the search period based on Sheet A-1. The learned CIT (A) also considered higher of basic cost or amount received by the appellant as per Sheet A-1. The learned CIT (A) further considered the amount received by the appellant towards basic cost which includes development income. The learned CIT (A) computed the sale value of Rs.31,11,15,180/- for 75 flats. The learned CIT (A) further noted that the appellant had offered net revenue income of Rs.26,36,36,540/- for 75 flats. Therefore, the learned CIT (A) noted that the appellant on a summary basis has offered less revenue of Rs.4,75,78,640/-. The

learned CIT (A) did not stop there. He further went on to compute the total revenue loss of Rs.5,61,07,730/- for 53 flats as per Sheet A-1. According to the learned CIT (A), the total revenue offered for these 53 flats has been works out to Rs.5,61,07,730/-. The learned CIT (A) further records that for the balance 25 flats, the income has been offered higher or same then what is recorded in the seized sheet A-1. From the observations of the learned CIT (A), for 22 flats, the income offered by the appellant is higher or equal to the amount recorded in the seized sheet A-1. From the above, it is undisputedly clear that the appellant has recorded sales revenue towards sale of flats and which is either higher in some cases or equal in some cases when compared to seized document Sheet-A1. Therefore, in our considered view, once the learned CIT (A) has recorded categorical finding that the revenue recognized by the appellant is higher or equal in some cases, he ought not to have estimated suppression of sales for remaining flats only on the basis of higher of basic cost or amount received, because as we have already stated in earlier part of this order, there cannot be any uniform selling price for all the flats. The selling price of any property may depend upon various factors i.e timing of sale, relationship between buyer and developer and the terms of payments etc., Unless there is a clear evidence to the effect that the appellant has sold flats at higher rate and accounted less sales in the books, the Assessing Officer and learned CIT (A) cannot estimate suppression of sales by taking higher of basic cost or amount received. Even if we go by the findings recorded by the ld. CIT(A), at one place the learned CIT (A) computed

suppression of sales for 75 flats at Rs.4,74,78,640/- and in another place quantifies suppression of sales at Rs.5,61,07,730/- for 53 flats. Finally, the learned CIT (A) had adopted suppression of sales for 53 flats at Rs.5,61,07,730/- and sustained addition for A.Y 2013-14 for Rs.4,06,90,230/-, Rs.1,36,46,000/- for A.Y 2014-15 and Rs.17,71,500/- for A.Y 2015-16. In our considered view, the reasons given by the learned CIT (A) to sustain the addition made towards suppression of sales is arbitrary and totally irrational. Although, at one point of time, the learned CIT (A) going on the basis of the findings of the Assessing Officer, has adopted higher of basic cost or amount received, but finally went on to sustain the addition for 53 flats only on the ground that for 53 flats the appellant has accounted less revenue of Rs.5,61,07,730/- by conveniently ignoring the fact that for the remaining 22 flats, the appellant had recorded higher revenue or a revenue which is as per amount recorded in sheet A-1. Therefore, on this count itself, the addition sustained by the learned CIT (A) cannot be sustained. Another important aspect needs to be considered is that the appellant had offered development income of Rs.4,30,75,492/- in prior search period relates to this 53 flats considered by the learned CIT (A) for estimation of suppression of income. If we consider the development income offered by the assessee for earlier period, then the estimation made by the learned CIT (A) reduced to Rs.1,30,32,238/- which is very minimum when compared to the total income recognized by the appellant from the project “Executive Park”. Therefore, we are of the considered view that the

additions made by the Assessing Officer and the additions sustained by the learned CIT (A) towards estimation of suppression of sales of 75 flats cannot be sustained. Thus, we direct the Assessing Officer to delete the addition made towards suppression of sales for 75 flats including addition sustained by the learned CIT (A).

24. Coming back to the estimation of suppression of sales of 25 flats recorded in Sheet A-1 and sold during the search period. Admittedly for 25 flats, the value in the A-1 sheet is zero. The appellant argued that the said 25 flats are allotted to the retiring partner Shri Rama Krishna. The Assessing Officer estimated suppression of sales of 25 flats at Rs.6,21,91,000/- by taking average rate of Rs.2300/- per sq. ft. The learned CIT (A) recorded a categorical finding that for these flats the appellant has recognized sale value of around Rs.11 to 12 lakhs, whereas the total sale value ranges between Rs.40 to Rs.45 lakhs. The Assessing Officer taking note of facts that these flats were sold to related parties, observed that the appellant has sold 25 flats for lesser rate and suppressed the sale value. We have gone through the reasons given by the Assessing Officer and the learned CIT (A) to estimate suppression of sales for 25 flats and we ourselves do not subscribe to the reasons given by the learned CIT (A) for the simple reason that, once again the Assessing Officer has considered higher of basic cost or amount received as per page 73 of Annexure A-SRR/1, where 5 flats were distributed to the partners and sale value has been recorded at Rs.41,40,000/- per

flat. The Assessing Officer has considered selling price of Rs.41,40,000/- per flat and has estimated sales value of Rs.6,21,91,000/- for 25 flats. The Assessing Officer justified the estimation of sales by considering average selling rate of Rs.2300 per sq. ft for remaining flats sold to outsiders during the search period. We find that admittedly, there is no value recorded in Sheet A-1 against these flats. The Assessing Officer is neither having any evidences to support his estimation of selling rate of 2300 per sq. ft. for computing average selling rate of remaining flat nor has any other evidences to prove that the appellant has received higher consideration on sale of these flats. There is no dispute with regard to the fact that certain flats were given to land owners and on said flats, the appellant has not recognized any income in his books of account. It is also an admitted fact that certain flats were given to retiring partner Shri Rama Krishna and sale value of the flats given to Shri Rama Krishna has been accounted in the books of account of the assessee and this fact has been confirmed by the Assessing Officer and the learned CIT (A). Once there is no undisputed with regard to the fact that the appellant has accounted revenue towards sale of 25 flats, then there is no reason for the Assessing Officer and the learned CIT (A) to estimate suppression of sales by adopting sale value of one per flat and extrapolating the value to the remaining flats. In our considered view, there is no scope for estimation of sales in search assessment de-hors the evidences. Therefore, in our considered view, the Assessing Officer and the learned CIT (A) are completely

erred in estimating suppression of sales at Rs.6,21,91,000/- for 25 flats.

25. Another important aspect needs to be considered while deciding the issue of estimation of suppression of sales for 25 flats is that the appellant had offered amount of Rs.4,97,04,500/- towards sale and development income for these 25 flats and this fact has not been disputed by the Assessing Officer and the learned CIT (A). In fact, the Assessing Officer and the learned CIT (A) have noticed the fact that the appellant has recorded sales value in the books for these 25 flats, but failed to give credit for sale value recorded by the assessee in the books of account. As noted by the learned CIT (A), in page 152 of his order, the appellant has accounted sales revenue of Rs.60,66,000/- for 5 flats given to Shri Rama Krishna. The learned CIT (A) further noted that the appellant has accounted sales revenue of Rs.2,59,22,000/- for remaining 20 flats covered in Sheet A-1 and sold to outsiders and thus the total revenue recognized by the appellant for sale of 25 flats was at Rs.3,19,88,000/- excluding the income recognized under for development income. If we consider development income recognized by the appellant for these flats, the total sales value accounted by the appellant is in excess of sales value computed by the Assessing Officer and the learned CIT (A). Therefore, on this count also, additions sustained by the learned CIT (A) towards estimation of suppression of sales for 25 flats cannot be sustained. Thus, we direct the Assessing

Officer to delete the addition made towards estimation of suppression of sales for remaining 25 flats.

26. Coming back to the suppression of sales for the remaining 156 flats which were not recorded in the Sheet A-1. The Assessing Officer made addition of Rs.13,46,26,754/- for remaining 156 flats during the A.Y 2015-16 to A.Y 2018-19 and one flat sold during A.Y 2014-15 which were not recorded in the Sheet A-1. The Assessing Officer has considered the average rate of Rs.3050/- per sq. ft on the basis of value recorded by the appellant for unsold inventory of 10525 sq. ft as mentioned in the Sheet A-2. The seized document Sheet A-2 contains various recording including unsold inventory of 10525 Sq. ft. The appellant has recorded value of Rs.3,21,00,000/- for 10525 sq. ft un sold inventories and the same works out to Rs.3050 per sq. ft. The Assessing Officer assumed that the appellant had sold 156 flats which were not recorded in the Sheet A-1 @ Rs.3050 per sq. ft and has computed a suppression of sales at Rs.13,46,26,754/-. The learned CIT (A) rejected the method followed by the Assessing Officer to estimate suppression of sales for 156 flats, but has adopted average rate of Rs.2300 per sq. ft on the basis of 75 flats sold during the search period to outsiders as per sheet A-1 and has sustained addition of Rs.2,90,49,835/-. The learned CIT (A) had also sustained Rs.14,95,333/- towards sale of 1 flat pertaining to Shri Konda Yadav by considering average rate of Rs.2300 per sq. ft and then reduced the sales income and development income accounted by the assessee and has arrived at

net suppression of sales at Rs.14,95,333/-. Thus, the learned CIT (A) sustained suppression of sales for 157 flats + one flat for Rs.3,05,45,169/-. In our considered view, neither the Assessing Officer has given any reason for adopting average rate of Rs.3050 per sq. ft, nor the learned CIT (A) has given any reasons for adopting average rate of 2300 per sq. ft. In our considered view, there cannot be any estimation of suppression of sales by taking average rate in absence of any evidences. Admittedly, for 156 + 1 flats there are no evidence with the Assessing Officer to allege that the assessee has sold those flats @ Rs.3050 per sq. ft. The learned CIT (A) having noticed the fact that the Assessing Officer has erred in adopting average rate of 3050 per sq. ft, but completely erred in considering average rate of Rs.2300 per sq. ft in absence of any evidences. In our considered view, the entry recorded in document A-2 Sheet cannot be considered as evidence, because there is no detail as to when the said entry was recorded. Assuming for a moment the said entry is correct, it must have been recorded after completion of project in the year 2017 considering the probable selling rate for remaining unsold inventory of 10525 sq. ft. Therefore, on the basis of said document, the Assessing Officer and the learned CIT (A) are erred in estimating suppression of sales of 156 flats + 1 which were sold in various years and the appellant has recorded revenue in books in respective financial years. Thus, we set aside the order of the learned CIT (A) on this issue and direct the Assessing Officer to delete the addition made towards estimation of suppression of sales in respect of 156 flats and one flat.

27. To sum up, the addition made by the Assessing Officer and sustained by the ld. CIT(A) towards estimation of suppression of sales on the basis sheet A-1 for all assessment years is deleted. Accordingly, the grounds raised by the assessee for Asst. Years 2013-14 to 2018-19 are allowed and grounds raised by the revenue for Asst. Years 2013-14 to 2017-18 are rejected.

28. The next issue that came up for our consideration from appeal of the assessee for the A.Ys 2013-14 to 2018-19 is addition towards unaccounted income from sale of car parking. The fact with regard to the impugned dispute are that during the search & seizure operation at the residential premises of Shri Sampat Raghupati Reddy, partner of the firm, as per the document which was seized vide page No.73 in the Annexure A/SRR/01 indicates that the appellant has sold car parking at Rs.3,50,000/- per flat for five flats and Rs. 2,50,000/- for few flats. Further, it was observed that the appellant has accounted car parking revenue of only a sum of Rs.1,34,421/- on an average per flat for the search period. The seized document contains details of 16 Flats, out of which 5 flats are mentioned on top of the sheet, which were sold prior to search period and the remaining 9 flats mentioned in the bottom of the document were sold during the search period. For 5 flats mentioned at the top of the page, it is observed that the car parking extra to the company at Rs.1 lakh each. The remaining 9 flats mentioned in the bottom of the document, the car parking charges was ranging from

Rs.2,50,000/- to Rs.3,50,000/-. The remaining 9 Flats were sold to related parties by AGPA and the cost of the flat was taken at Rs.41,40,000/- and car parking price was taken at Rs.2,50,000/- to Rs.3,50,000/- per flat. The Assessing Officer, based on the said document observed that the appellant has sold car parking spaces @ Rs.3,50,000/- per flat, whereas not recognized any income in respect of sale of car parking. Therefore, called upon the assessee to explain as to why suppression of income from sale of car parking should not be estimated by taking into account Rs.3.50 lakhs per car parking space. In response, the assessee submitted that the car park facility is ancillary to the sale of flat and the value is included in the sale as development income and in some cases it was recorded separately. The assessee further submitted that the car parking price varies from customer to customer and depending upon the size of the flats and it cannot be uniform for all the flats. Therefore, based on one document which contain some flats given to related party through Agreement cum GPA it cannot be said that the appellant has charged Rs.3.50 lakhs for car parking for all flats sold during search period. The appellant further contends that in some cases, customers not purchased car parking space and in some cases, the car parking is included in selling price of flat. Therefore, it is incorrect to estimate car parking income uniformly @ Rs.3.50 lakh per car parking.

29. The Assessing Officer however, was not convinced with the explanation furnished by the assessee. According to the

Assessing Officer, the assessee has sold each car parking @ Rs.3.50 lakhs per car parking, but not accounted any income from car parking sales. Therefore, adopted Rs.3.50 lakhs per car parking and by taking into account number of car parking space sold for the A.Y 2013-14 to A.Y 2018-19, has estimated unaccounted income from sale of car parking and added to the total income. The details of year-wise additions made by the Assessing Officer towards unaccounted income from sales of car parking are, as under:

A.Y	Suppression of sales(Rs.)
2013-14	2,97,50,000
2014-15	42,00,000
2015-16	32,90,000
2016-17	2,64,87,290
2017-18	69,70,000
2018-19	28,00,000
Total	7,34,97,290

30. Being aggrieved by the assessment order, the assessee preferred an appeal before the learned CIT (A). Before the learned CIT (A), the assessee has filed sample copies of sale deed of few flats and argued that out of 518 flats, 120 customers not opted for parking place and kept idle. Remaining 196 Flats were sold before search years and the assessee has accounted car parking income in the sale price or development income. The appellant had offered income from car parking at Rs.1,70,52,710/- for 125 flats. The remaining 77 flats car parking space is included in selling

price and separately not charged. Therefore, the Assessing Officer is erred in estimating unaccounted income from car parking sales by taking uniform rate of Rs.3.50 lakhs per car parking space.

31. The learned CIT (A) after considering relevant submission of the assessee and also taking note of seized document found during the course of search observed that, when the seized document indicated car parking space was sold at Rs.3.50 lakhs per car parking, the appellant's argument that it has sold car parking space at an average price of Rs.1,34,421/- is not acceptable. Further, there is no error in the reasons given by the AO to adopt uniform rate of Rs.3.50 lakhs because, said rate is supported by incriminating document. Further, the appellant has failed to file details of flat-wise car parking space sold to various customers and the amount received from sales. Although, the appellant claims that certain flat owners not purchased car parking and are kept idle, but said claim is not supported by necessary evidences. Although the appellant filed declarations from Giridhari Executive Park Owners Welfare Association and claimed that 120 car parking space were kept idle and not sold, but said claim is unsubstantiated going by the fact that the seized document clearly indicate sale of car parking space at Rs.3.50 lakhs per car parking. Therefore, rejected the argument of the assessee and sustained additions made by the Assessing Officer towards car parking for all the A.Ys except for the AY 2013-14, where the learned CIT (A) given relief in respect of 7 car parking

space where the appellant filed relevant sale deed copies to prove that the car parking is included in selling price of flats.

32. The learned Counsel for the assessee submitted that the learned CIT (A) is erred in sustaining the addition made by the Assessing Officer towards estimation of unaccounted income from sale of car parking without appreciating fact that, the appellant has accounted income from sale of car parking of Rs.1,70,52,710/- towards 125 car parking spaces. The learned Counsel for the assessee further referring to the seized document submitted that the said document is a dumb document which does not contain the exact amount received for sale of car parking. The learned Counsel for the assessee further submitted that the appellant has constructed 518 flats, out of which 120 customers not opted for parking and kept idle. Further, 196 number of flats were sold before the search period and the income from sale of car parking is either included in basic cost or in development income. The appellant had already offered sum of Rs.1,70,52,710/- for 125 flats covered during the search period. Remaining 77 flats sold during search period starting from AY 2013-14 to A.Y 2018-19, car parking space is included in selling price for which the appellant has filed sample sale deed copies and the Assessing Officer has accepted. Therefore, it is incorrect on the part of the Assessing Officer and the learned CIT (A) to estimate car parking @ Rs.3.50 lakhs for all the flats sold by the firm during the financial year 2012-13 to 2017-18. He further submitted that the car parking facility being ancillary to the sale

of flats, the value of car parking was included in the registered sale deed and was not charged separately. Therefore, the Assessing Officer and the learned CIT (A) erred in making additions towards car parking by adopting Rs.3.50 lakhs uniformly for all the flats sold during the last 6 A.Ys. Therefore, he submitted that the addition made by the Assessing Officer should be deleted.

33. The learned DR, on the other hand, supporting the orders of the learned CIT (A) submitted that there is clear evidence in the form of seized document which shows car parking was sold @ Rs.2.50 lakhs to Rs.3.50 lakhs per flat. The appellant has not accounted income from car parking separately. Although the appellant claims to have accounted sum of Rs.1,70,52,710/- towards sale of car parking, but no details has been filed to prove said income is from sale of car parking. The argument of the assessee that 120 customers not opted for car parking is not supported by any evidences. Although the appellant claims to have included car parking price in sale price, but has furnished only 7 sale deed copies for which the learned CIT (A) has already given relief. Therefore, the ld. CIT-DR submitted that the argument of the assessee that it had not sold car parking @ Rs. 3.50 lakhs per flat is incorrect and devoid of any merit. The learned CIT (A) after considering relevant fact has rightly estimated car parking charges and their order should be upheld.

34. We have heard both the parties, perused the material available on record and gone through the orders of the authorities below. We have also carefully considered page No.73 of the seized document Annexure A/SRR/01 and said document contain details of 16 flats. The first part of document contains 5 flats sold to one related party and the car parking price was stated at Rs.1.00 lakh per flat. The bottom part of the said document contain details of 11 flats which were sold through AGPA to one Mr. Raja Babu and the car parking price was stated at Rs.2.50 lakhs each for 5 flats and Rs.3.50 lakhs each for 6 flats. The Assessing Officer, based on the said document estimated unaccounted income from sale of car parking for 258 flats sold during the search period right from A.Y 2013-14 to 2018-19 and made additions for all the 6 A.Ys. It was the argument of the assessee that out of 518 flats in Executive Park, 196 flats were sold prior to search years and income from sale of car parking is either included in basic cost or development income. The appellant further claims that 120 customers not opted for car parking space and the same has been kept idle. The appellant further claims that it has offered Rs.1,70,52,710/- towards sale of car parking for 125 flats @ rs.1,34,421/- per flat. The remaining 77 flats, car parking space is included in basic cost for which the appellant filed 7 sample copies of sale deed to prove its claim.

35. We have given our thoughtful consideration to the reasons given by the Assessing Officer to make addition towards unaccounted income from sale of car parking and also reasons

given by the learned CIT (A) to sustain the additions made by the Assessing Officer. We find that the sole basis for the Assessing Officer and the learned CIT (A) to make additions towards unaccounted income from sale of car parking for 6 A.Ys is a document found during the course of search in the residential premises of Shri Sampat Raghupathi Reddy. As per the said document vide page No.73, it contains details of sale of 16 flats, out of which 5 flats were sold to one related party and car parking amount was stated at Rs.1.00 lakh per flat. Further, said 5 flats were sold before the search years and the Assessing Officer has not made any addition. Therefore, the top part of the seized document of page No.73 is not relevant to the present issue. The bottom part of the document contain sale of 11 flats to one Mr. Raja Babu. As per the said document, 11 flats are sold to Raja Babu by AGPA and the amount of car parking was stated Rs.2.50 lakhs for 5 flats and Rs.3.50 lakhs for 6 flats. Except details for 16 flats, the Assessing Officer and the learned CIT (A) does not have any evidence with them to allege that the appellant has sold remaining 247 flats @ Rs.3.50 lakhs per flat. Therefore, it is necessary to examine the contention of the assessee in light of fact that there cannot be any uniform selling price for car parking space in a complex of residential premises going by the general trend in the industry. The car parking facility being ancillary to the sale of flats, the value of car parking may be included in the basic cost as claimed by the assessee. The argument of the assessee is further strengthened by few sample sale deeds where the car parking facility was included in selling price and the

assessee has not separately received any amount for sale of car parking. In fact, this fact has been accepted by the Assessing Officer and further relief has been granted by the learned CIT (A) in respect of 7 flats for the A.Y 2013-14. Further, the car parking sale is depending upon customers to customers and terms of conditions between the buyer and seller. Further, the rate of car parking also varies from size of the flats and number of car parking space purchased by the customers. Therefore, there cannot be any uniform selling rate for all car parking spaces. Therefore, to this extent, in our considered view, the Assessing Officer and the learned CIT (A) are erred in adopting uniform rate of Rs.3.50 lakhs per car parking for all flats sold during the search Asst. Years.

36. Having said so, let us come back what is the claim of the assessee. The assessee claims that out of total 518 numbers of flats in Executive Park, 120 customers did not purchased car parking space. The appellant has filed a declaration from Executive Park Owners Welfare Association and as per the said declaration, 50 car parking spaces are allotted for visitors to the society and 70 flat owners did not opt for car parking facility. The Assessing Officer did not dispute the argument of the assessee that 120 car parking spaces were not sold, but ignored the argument of the assessee for the simple reason that the assessee is not able to file details of flat-wise car parking space allotted during search period. In our considered view, when the claim of the appellant is supported by the declaration from the Residents

of Flats that they have not opted for car parking facility and further 50 car parking facility is kept for visitor space, the Assessing Officer ought not to have estimated income towards car parking sales for 120 flats. Further, going by the general understanding of trade, in our considered view the claim of the assessee that 120 car parking slots are not sold appears to be bona-fied and acceptable, because in many instances flats were sold without car parking. Further, in some cases, car parking is not separately charged. Therefore, in absence of any clear evidence it is difficult to accept reasons given by the AO and CIT(A) that the appellant has sold car parking at higher rate and booked income for lesser amount. Therefore, we are of the considered view that, the learned CIT (A), even though noticed that the flat owners have filed a declaration and stated that 120 car parking space is kept idle, but erred in estimated the income by taking higher rate. Therefore, we direct the Assessing Officer to delete the addition made towards 120 number of car parking space.

37. As regards balance 125 numbers of flats, the appellant has offered income from sale of car parking for 3 A.Ys starting from A.Y 2014-15 to 2016-17. The appellant has offered sum of Rs.1,70,52,710/- for sale of 125 car parking space at an average rate of Rs.1,34,421/- per car parking space. The Assessing Officer and the ld. CIT(A) does not dispute the fact that the appellant has offered income of Rs.1,70,52,710/- for 3 A.Ys. However, further estimated income from sale of car parking @ Rs.3.50 lakhs each

for 125 car parking only on the ground that the appellant has not produced any documentary evidence for recording of revenue for the balance amount (Rs.3,50,000 Minus Rs.1,34,421/-). First of all, the rate adopted by the Assessing Officer and the learned CIT (A) is totally incorrect. As we have already stated in earlier part of this order, there cannot be any uniform selling rate for car parking and it depends upon customer to customer, terms of agreement between buyers and sellers and size of the flats. Therefore, the learned CIT (A) having noticed that the appellant has offered income from sale of car parking for 125 flats @ Rs.1,34,421/- is erred in further estimating unaccounted income @ Rs.3.50 lakhs per car parking without there being any evidence with him to allege that the appellant has sold all car parking space @ Rs.3.50 lakhs only. In our considered view, there is no scope for estimation of income by extrapolating certain data available in a seized paper to total number of flats sold by the assessee during the relevant A.Ys. In the present case, except a piece of paper where certain amount is recorded for sale of car parking space for 11 flats, the Assessing Officer and the learned CIT (A) are not having any evidence to allege that the remaining car park space is sold by the appellant @ Rs.3.50 lakhs per flat. Therefore, we are of the considered view that the Assessing Officer and the learned CIT (A) are completely erred in estimating income from sale of car parking for 125 flats @ Rs.3.50 lakhs and thus, we direct the Assessing Officer to delete the addition made towards estimation of income from sale of car parking for all the A.Ys.

38. Coming back to the remaining 77 flats sold during the search period, the appellant claims that for 77 flats the selling price of flat is inclusive of car parking space. To support its argument, the appellant has furnished 7 sample copies of sale deeds and as per the said sale deed, it was specifically mentioned that the selling rate is inclusive of car parking and separate amount is not collected for car parking space. The Assessing Officer and the learned CIT (A) never disputed these facts, but went on to estimate the income by adopting Rs.3.50 lakhs per flat for remaining 77 flats only on the ground that the appellant could not furnish details of remaining 77 flats sold to various customers in which there is no separate charges for car parking. In our considered view, the Assessing Officer and the learned CIT (A) are completely erred in coming to the conclusion that the appellant has received amount towards sale of car parking for 77 flats without there being any evidence contrary to the claims of the assessee. On the other hand, the assessee has filed sample copies of invoices to prove its argument that in few cases selling price of flats are inclusive of car parking spaces. Further, going by the general practice in real estate sector, in our considered view, the argument of the assessee that few flats were sold to customers which is inclusive of car parking space appears to be reasonable and acceptable, more particularly when the Assessing Officer and the learned CIT (A) are not having any contrary evidences to disprove the claim of the assessee. Therefore, in our considered view, once the assessee claims that it has not received any

amount towards car parking sales for 77 flats, the Assessing Officer and the learned CIT (A) ought not to have estimated income from sale of car parking for 77 flats by taking higher rate of Rs.3.50 lakhs based on a document. Therefore, we direct the Assessing Officer to delete the addition made towards estimation of car parking income for 77 flats also.

39. To sum up, in our considered view, the Assessing Officer and the learned CIT (A) having noticed the fact that there is complete details of flats sold during search period with car parking space and without car parking space and also the fact that the appellant has offered a sum of Rs.1,70,52,710/- towards sale of car parking for 125 slots, are erred in estimating unaccounted income from sale of car parking for 258 flats sold during the 6 A.Ys starting from A.Y 2013-14 to A.Y 2018-19. Thus, we direct the Assessing Officer to delete the additions made towards estimation of income from sale of car parking space for A.Y 2013-14 to A.Y 2018-19.

40. The next issue that came up for our consideration from Ground No.21 to 23 of assessee's appeal is addition made towards unaccounted income from club house collection. During the search & seizure operation at the residential premises of Shri Sampat Raghupati Reddy, Partner of the firm, one document was seized vide page No.91 in Annexure A/SRR/01. The said document contains details of expenditure and income of Gridhari Constructions. The Assessing Officer noticed that the appellant has received club house collection of Rs.26,27,053/- and not

accounted in the books of account. Therefore, made additions of Rs.26,27,053/- as unexplained income towards club house collection.

41. On appeal, the learned CIT (A) upheld the additions made by the Assessing Officer.

42. The learned Counsel for the assessee submitted that the Assessing Officer is erred in making addition towards club house collection of Rs.26,27,053/-, even though the appellant explained with evidence that the said amount pertains to amount received towards electricity charge payable for club house and the same has been collected from residents and paid to the concerned authority. The learned Counsel for the assessee further submitted that the appellant has filed ledger account of electricity expenses and also bills for Rs.9,94,764/-. The Assessing Officer and the learned CIT (A) even failed to consider the details filed by the assessee and made addition of Rs.26,27,053/-. Therefore, he submitted that the addition made by the Assessing Officer should be deleted.

43. The learned DR, on the other hand, supporting the order of the learned CIT (A) submitted that the assessee could not furnish necessary evidence to prove that sum of Rs.26,27,053/- pertains to collection from flat owners towards electricity charges of club bouse. The learned CIT (A) after considering relevant facts

has rightly rejected the explanation of the assessee and sustained the addition made by the Assessing Officer.

44. We have heard both the parties, perused materials available on record and gone through orders of the authorities below. We have carefully considered the reasons given by the Assessing Officer to make addition towards club house collection of Rs.26,27,053/- on the basis of incriminating documents found during the course of search in the residential premises of Shri Sampat Raghupati Reddy. We have gone through the documents relied upon by the Assessing Officer to make addition and we found that, in the said document various jottings were recorded including details of various expenditure and revenue of Giridhari Constructions for Phase-II project. The Assessing Officer ignored all the contents of said document and only picked up club house collection which states that sum of Rs.26,27,053/- is received towards club house collection. Going by the nature of document, the addition made by the Assessing Officer towards club house collection cannot be sustained, because the said document does not throw any light on income of the assessee towards maintaining club house. Further, it is an admitted fact that in a complex of residential society, club house is normally maintained by owners association. Any collection towards club house is income of the Apartment owners association and any expenditure incurred towards maintenance of said club house is also for the apartment owners association. Therefore, no addition can be made in the hands of the assessee. Therefore, on this count itself,

the addition made by the Assessing Officer cannot be sustained. But, fact remains that the assessee shows club house collection of Rs.26,27,053/- and considered it as its revenue from said project. Since there is no clear finding as to what is the nature of revenue, in our considered view, the argument of the assessee that the said amount pertains to collection from flat owners towards electricity charges of club house appears to be bonafide and acceptable. Therefore, we are of the considered view that the said collection needs to be considered as amount received from flat owners towards electricity charges of club house.

45. Having said so, let's come back what is the evidence filed by the assessee to prove that the amount received towards electricity charges of club house has been paid to the respective authorities. The appellant has filed a ledger account along with electricity bill for Rs.9,94,764/- and claimed that the amount received towards club house collection is fully paid towards electricity charges. Since the appellant has filed evidence towards Rs.9,94,764/- only, we cannot accept the argument of the assessee that the entire club house collection of Rs.26,27,053/- is pertains to electricity charges. Therefore, out of club house collection of Rs.26,27,053/-, we direct the Assessing Officer to allow deduction towards electricity charges paid towards club house for Rs.9,94,764/-. In other words, the appellant gets relief of Rs.9,94,764/- and the balance amount of Rs.16,32,289/- is hereby confirmed.

46. The next issue that came up for our consideration from Ground No.6 of assessee's appeal for A.Y 2015-16 is addition towards unaccounted income on cash expenses relating to purchase of sand, metal, dust etc., During the course of search & seizure operation, certain documents were seized vide page Nos 10, 19, 20 & 21 of Annexure A/GC/OFF/04 which are ledger account of Giridhari Construction pertains to purchase of sand, dust and metals etc., The said pages contain audited cash book ledger extract of the appellant for the A.Y 2015-16. During the course of search, the appellant was asked to explain the total cash payment of Rs.1,78,12,691/- with supporting bills and vouchers. In response, Shri Sampat Raghupati Reddy, partner of the appellant firm could not produce supporting bills & vouchers and he has offered the said amount of Rs.1,78,12,691/- as additional income in the hands of the appellant firm for the A.Y 2015-16 in a statement recorded u/s 132(4) of the I.T. Act, 1961. However, in the return of income filed for the A.Y 2015-16, the appellant has not offered the same as additional income. The Assessing Officer taking note of relevant document found during the course of search and also statement recorded from the assessee, has made addition of Rs.1,78,12,691/- towards cash payment made for purchase of materials.

47. The assessee carried the matter in appeal before the learned CIT (A). Before the learned CIT (A), the assessee submitted that the seized document pertains to audited books of account of the appellant and the same was subject to assessment u/s 143(3)

of the I.T. Act, 1961, where the Assessing Officer has disallowed 20% of said expenses and made addition. Therefore, once again making addition on the basis of audited books of account is incorrect. The learned CIT (A) after considering the relevant facts and also taken note of the assessment order passed by the Assessing Officer u/s 143(3) of the Act dated 28.12.2017 accepted the argument of the assessee that the said expenditure is part of assessement proceedings before the Assessing Officer in regular assessement proceedings u/s 143(3) of the I.T. Act, 1961. However, considering the nature of the expenditure and cash payments, directed the Assessing Officer to sustain the disallowance to the extent of 20% of the total cash expenditure of Rs.1,78,12,691/-.

48. Aggrieved by the order of the learned CIT (A), the assessee is in appeal before the Tribunal.

49. The learned Counsel for the assessee submitted that the additions made by the Assessing Officer on the basis of so called incriminating material being audited cash book and ledger account of sand, metal and dust purchase account is incorrect, because assessment for the impugned A.Y 2015-16 is unabated as on the date of search going by the date of search in the present case on 26.04.2018 and as on the date of search, the assessment for the A.Y 2015-16 was completed u/s 143(3) on 28.12.2017 itself. Therefore, he submitted that the addition sustained by the learned CIT (A) should be deleted.

50. The learned DR, on the other hand, supporting the order of the learned CIT (A) submitted that the learned CIT (A) after considering relevant facts has rightly sustained the addition made by the Assessing Officer and their order should be upheld.

51. We have heard both the parties, perused the material available on record and gone through the orders of the authorities below. Admittedly, the so called incriminating material found during the course of search is nothing but audited cash book ledger account of the assessee firm for the A.Y 2015-16. The assessment for the A.Y 2015-16 was completed u/s 143(3) of the Act, on 28.12.2017. The Assessing Officer has considered very same expenditure incurred in cash towards purchase of sand, metal and dust etc., and after considering the relevant details has made 20% adhoc disallowance for cash expenditure. In the present assessment, the Assessing Officer has considered very same audited books of account and made addition towards cash payment of Rs.1,78,12,691/- made for purchase of material. First of all, the addition made by the Assessing Officer cannot be sustained for the simple reason that the assessment for the impugned A.Y is unabated/concluded as on the date of search which is evident from the date of search in the present case on 26.04.2018 and the assessment for the impugned A.Y has been completed u/s 143(3) on 28.12.2017 itself. In other words, before the date of search, the assessment is completed and in absence of any incriminating material, no addition can be made as held by

the Hon'ble Supreme Court in the case of PCIT vs. Abhisar Buildwell P. Ltd. [2023] 149 taxmann.com 399 (SC). Since the document relied upon by the Assessing Officer cannot be treated as incriminating material because of audited books of account, the addition made towards cash expenditure by the Assessing Officer and sustained by the learned CIT (A) cannot be upheld. Thus, we direct the Assessing Officer to delete the addition made towards disallowance of cash expenditure of Rs.1,78,12,691/-.

52. The next issue that came up for our consideration from Ground No.7 of assessee's appeal for the A.Y 2013-14 is addition of Rs.1,64,94,500/- made on account of disallowance of development expenditure. The learned Counsel for the assessee at the time of hearing submitted that the appellant has got relief from the learned CIT (A) on this issue and the order of the learned CIT (A) is acceptable. Therefore, Ground No.7 of assessee's appeal is dismissed as not pressed.

53. The next issue that came up for our consideration from Ground No.8 of Revenue's appeal for A.Y 2013-14 is deletion of addition made by the Assessing Officer towards estimation of income for 5 flats bearing No.G-203, G-304, G 405, G 502 and G 404. The learned Counsel for the assessee submitted that although the Assessing Officer has considered the issue in the assessment order, but no addition has made separately on this issue which is evident from page No.32 & 33 of the order of the Assessing Officer. As no addition was made on this issue, the

assessee had no occasion to raise a ground before the learned CIT (A) and even the Revenue has not raised any ground before the learned CIT (A). Since the issue was not borne out from the file of the Assessing Officer as well as from the file of the learned CIT (A), the Revenue has no right to raise a fresh ground before the Tribunal. Therefore, he submitted that the ground raised by the Revenue may be dismissed.

54. The learned DR, on the other hand, supporting the ground of appeal filed by the Revenue submitted that the issue has been discussed by the Assessing Officer in the assessment order, but no separate addition made because addition was made towards suppression of sales in respect of total number of flats sold during last six Asst. years. Therefore, the Revenue has rightly taken ground and the same needs to be adjudicated.

55. We have heard both the parties and considered the relevant ground of appeal raised by the Revenue in light of discussion by the Assessing Officer on this issue in page 32 & 33 of the assessment order for the A.Y 2013-14. The Assessing Officer has made addition towards estimation of suppression of sales income for 5 flats on the basis of a document found during the source of search, but separate addition was not made on the issue, since there is separate addition on this issue of suppression of sales for flats as per sheet A-1 by the Assessing Officer. Therefore, the ground of appeal raised by the Revenue on this issue becomes infructuous. Thus, ground of appeal No.8

raised by the Revenue for the A.Y 2013-14 is dismissed as infructuous.

56. In the result, appeal filed by the assessee for A.Y 2013-14 is partly allowed and appeals filed by the assessee for the A.Ys 2014-15 to 2018-19 are allowed. The appeals filed by the Revenue for the A.Ys 2013-14 to 2017-18 are dismissed.

Order pronounced in the Open Court on 28th August, 2024.

Sd/-	Sd/-
(K. NARASIMHA CHARY) **JUDICIAL MEMBER**	**(MANJUNATHA, G.)** **ACCOUNTANT MEMBER**

Hyderabad, dated 28th August, 2024.

Vinodan/sps

Copy to:

S.No	Addresses
1	Giridhari Constructions, C/o P Murali & Co. CAs, 6-3-655/2/3 Somajiguda, Hyderabad 500082
2	ACIT Central Circle 1(1) Hyderabad
3	Pr. CIT – Central, Hyderabad
4	DR, ITAT Hyderabad Benches
5	Guard File

By Order