

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

डा० एस. सीतालक्ष्मी, न्यायिक सदस्य एवं श्री गगन गोयल, लेखा सदस्य, के समक्ष
BEFORE: DR. S. SEETHALAKSHMI, JM & SHRI GAGAN GOYAL, AM

आयकर अपील सं./ITA No. 331/JPR/2017
निर्धारण वर्ष / Assessment Year : 2012-13

Smt. Suman Katta 18, Siyaram Street, Tonk Road, Durgapura, Jaipur.	बनाम Vs.	Deputy Commissioner of Income Tax, Central circle-3, Jaipur.
स्थायीलेखा सं./जीआईआर सं./PAN/GIR No.: ACBPK4356L		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

आयकर अपील सं./ITA Nos. 435 to 439/JPR/2018
निर्धारण वर्ष / Assessment Years : 2009-10 to 2013-14

Shri Satish Chandra Katta 18, Siyaram Street, Tonk Road, Durgapura, Jaipur.	बनाम Vs.	Deputy Commissioner of Income Tax, Central circle-3, Jaipur.
स्थायीलेखा सं./जीआईआर सं./PAN/GIR No.: ACVPK5266B		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

आयकर अपील सं./ITA No. 440/JPR/2018
निर्धारण वर्ष / Assessment Years : 2013-14

Siyaram Exports India Pvt. Ltd. 18, Siyaram Street, Tonk Road, Durgapura, Jaipur.	बनाम Vs.	Deputy Commissioner of Income Tax, Central circle-3, Jaipur.
स्थायीलेखा सं./जीआईआर सं./PAN/GIR No.: AAKCS1420R		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

आयकर अपील सं./ITA No. 145 & 151/JPR/2024
निर्धारण वर्ष / Assessment Years : 2011-12 & 2013-14

Siyaram Exports India Pvt. Ltd. 18, Siyaram Street, Tonk Road, Durgapura, Jaipur.	बनाम Vs.	The ITO, Ward-6(4), Jaipur.
स्थायीलेखा सं./जीआईआर सं./PAN/GIR No.: AAKCS1420R		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

आयकर अपील सं./ITA No. 467 & 468/JPR/2018
निर्धारण वर्ष / Assessment Years : 2012-13 & 2013-14

M/s Shantinath Buildcon Pvt. Ltd. 18, Siyaram Street, Tonk Road, Durgapura, Jaipur.	बनाम Vs.	Deputy Commissioner of Income Tax, Central circle-3, Jaipur.
स्थायीलेखा सं./जीआईआर सं./PAN/GIR No.: AAJCS1348B		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

आयकर अपील सं./ITA No. 352/JPR/2018
निर्धारण वर्ष / Assessment Years : 2008-09

Deputy Commissioner of Income Tax, Central circle-3, Jaipur.	बनाम Vs.	Shri Satish Chandra Katta 18, Siyaram Street, Tonk Road, Durgapura, Jaipur.
स्थायीलेखा सं./जीआईआर सं./PAN/GIR No.: ACVPK5266B		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assesseeby : Shri Rohan Sogani (C.A.)
राजस्व की ओर से / Revenue by: Shri Arvind Kumar (CIT-DR)

सुनवाई की तारीख /Date of Hearing :25/11/2024
उदघोषणा की तारीख /Date of Pronouncement: 30/12/2024

आदेश /ORDER

PER: DR. S. SEETHALAKSHMI, J.M.

All these above appeals by the different assesseees are directed against the separate orders of the CIT(Appeals)-4, Jaipur as per following details:

Asstt. Year	Appeal No.	Reference to the dated of order of the ld. CIT(A)	Reference to the order of the ld. AO date and section under which the order is passed	
2012-13	331/JPR/2017	20.03.2017	20.03.2015	u/s 144/153A
2009-10	435/JPR/2018	11.12.2017	31.03.2015	u/s 143(3) r.w.s. 153A
2010-11	436/JPR/2018	01.01.2018	31.03.2015	u/s 143(3) r.w.s. 153A
2011-12	437/JPR/2018	01.12.2017	31.03.2015	u/s 143(3) r.w.s. 153A
2012-13	438/JPR/2018	16.01.2018	31.03.2015	u/s 153A/144
2013-14	439/JPR/2018	16.01.2018	31.03.2015	u/s 142(1)/144
2013-14	440/JPR/2018	01.12.2017	31.03.2015	u/s 144/142(1)
2011-12	145/JPR/2024	13.12.2023	24.12.2018	147 r.w.s. 143(3)
2013-14	151/JPR/2024	20.12.2023	31.03.2015	u/s 144/142(1)
2012-13	467/JPR/2018	01.12.2017	23.03.2015	u/s 144 r.w.s 153A
2013-14	468/JPR/2018	02.02.2018	23.03.2015	u/s 144 r.w. 153B(1)(b)
2008-09	352/JPR/2018	01.01.2018	31.03.2015	u/s 143(3) r.w.s. 153A

2. Since the issues involved are common in all the above appeals and the appeals were heard together, therefore, these are being disposed off by this common order for the sake of convenience and brevity.

SUMAN KATTA ITA NO. 331/JPR/2017 AY 2012-13

3. This appeal has been filed by the assessee against the order of the CIT(A), Jaipur, dated 03.04.2017, for the AY 2012-13. The appeal arises from order passed under Section 144 r.w.s 153C of the Income-tax Act, 1961. The grounds taken by assessee are set out as under:

1. In the facts and circumstances of the case and in law the ld. CIT (A) has erred in confirming the action of the ld. AO in completing the assessment u/s 144 of Income Tax Act, 1961. The action of ld. CIT (A) is illegal, unjustified, arbitrary and against the facts of the case. Relief may please be granted by quashing the entire assessment order which is passed in gross violation of natural justice.
2. (a) In the facts and circumstances of the case and in law the ld. CIT(A) has erred in confirming the action of the ld. AO in taxing a sum of Rs. 58,88,857 as long-term capital gain in the hands of the assessee. The action of the ld. CIT(A) is illegal, unjustified, arbitrary and against the facts of the case. Relief may please be granted by deleting the said addition of Rs. 58,88,857.

(b) In the facts and circumstances of the case and in law the ld. CIT(A) has erred in confirming the action of the ld. AO by not referring it to the Valuation Officer and adopting the market value of Rs. 90,06,776 without the said reference to the Valuation Officer. The action of the ld. CIT(A) is illegal, unjustified, arbitrary and against the facts of the case. Relief may please be granted by deleting the addition being illegal and without following the prescribed procedure of law.

(c) In the facts and circumstances of the case and in law the ld. CIT(A) has erred in confirming the action of the ld. AO in applying the provisions of section 50C of the IT

Act 1961, and adopting the sale consideration at Rs. 90,06,776 against the actual sale consideration of Rs.52,00,000. The action of the Id. CIT(A) is illegal, unjustified, arbitrary and against the facts of the case. Relief may please be granted by accepting the sale consideration at Rs. 52,00,000.

3. The appellant craves her rights to add, amend or alter any of the grounds on or before the hearing.

GROUND NO.1

4. At the time of hearing, the Id. AR of assessee stated at the Bar that he did not wish to press Ground No. 1 as raised in Form 36. Accordingly, Ground No. 1 is dismissed as not pressed.

GROUND NO.2

5. The case of assessee was taken up for scrutiny pursuant to a notice issued under Section 153A of the Income-tax Act, 1961, following a search conducted on the Katta Group on 31.07.2012. The assessee did not file any return of income in response to the notice issued under Section 153A. During the course of the assessment proceedings, the AO noted that assessee had sold an immovable property situated at Plot No. 5, Chandrakala Colony, Jaipur, to Shri Ram Babu Jhalani and Smt. Usha Jhalani, as evident from the seized documents found from the residence of assessee.

6. As per the registered deed, the property was sold by assessee for a consideration of Rs. 52,00,000. However, the AO determined the DLC value of the

property at Rs. 90,06,776, as adopted by the Sub-Registrar. Before the AO, assessee submitted that due to the debt burden of her husband, Shri Satish Chandra Katta, the property had to be sold under distress. It was submitted that the property had been mortgaged to a money lender, and as a result, the sale was made for a consideration lower than the DLC value. Assessee also requested the AO to refer the matter for valuation to the Departmental Valuation Officer (DVO) in terms of Section 50C (2) of the Act. However, the AO did not consider assessee's submissions and made an addition of Rs. 38,06,776 to the income of assessee, computing the sale consideration on the basis of the DLC value of the property.

Aggrieved by the addition, assessee preferred an appeal before the CIT(A), Jaipur, who dismissed the appeal. The assessee has now filed the present appeal before us challenging the addition made by the AO and confirmed by the CIT(A).

7. Before us, the Id. AR for assessee reiterated the submissions made before the lower authorities. It was argued that the sale of the property during the year under consideration was a distress sale undertaken on account of the mounting debt burden on assessee's husband, Shri Satish Chandra Katta. Accordingly, it was submitted that Section 50C should not be invoked in the present case. Attention was drawn to the registered sale deed, which mentioned that the sale was necessitated due to the inability to repay the loan amount taken from certain

individuals, to whom the property was ultimately sold as per the registered sale deed. Such registered sale deed has been placed before us as part of paper book.

Alternatively, the Id. AR contended that, despite making a specific request, the matter was not referred to the DVO for valuation of the property under Section 50C (2) of the Act. A written submission was also filed by assessee, which has been reproduced hereunder:

1. *During the relevant previous year, assessee sold a property situated at **Plot No. 5, Chandrakala Colony, Jaipur** to Shri Ram Babu Jhalani and Smt. Usha Jhalani for a consideration of Rs. 52,00,000, vide registered sale deed dated 08.08.2011. However, the sale consideration for the purpose of stamp duty valuation u/s 50C taken by the sub-registrar was for Rs. 90,06,776.*
2. *It was submitted before the lower authorities that when the debt burden of assessee's husband Shri Satish Chandra Katta piled up and he was not able to pay interest but rather needed further money to feed the daily requirements of his incomplete business ventures, he had to fall prey to the dictates of the money brokers. The money market brokers sensed the situation and they not only started dictating terms about rate of interest but whenever he could not clear the debt in time, they forced assessee's husband to sell the security provided in the form of mortgage of her properties. They compelled the assessee to execute sale deeds in favour of the persons referred by them at throwaway price. (AO Order Page 3)*
3. *It was further submitted that the above fact was also mentioned at Para No. 5 of sale deed executed for Plot No. 5, Chandra Kala colony, Jaipur. The sale deed was even registered with the Sub-Registrar, on 8.08.2011, well before the date of search on the assessee. Accordingly, Id. AO was completely wrong on leveling the allegation on the assessee of the fact being mentioned in the sale deed, being an after-thought.*
4. *This was a case of distress sale wherein the sale consideration was pre-decided and was not as per the wishes of the seller and thus section 50C cannot be applied in such a scenario.*

5. *It is submitted that Section 50C cannot be applied in an automatic manner. Section 50C was introduced on to the statute to curb the inflow of cash on cash of any immovable property over and above the amount mentioned in the sale deed. However, wherein the surrounding circumstances are such that it could be established that there is no chance of assessee receiving any consideration in cash, as in the present case, then there cannot be applicability of Section 50C. In this regard, reliance is placed on the below mentioned judicial pronouncements: -*

S.No	Particulars	CLC Page No.
1.	<i>Wenceslaus Josoph D'Souza, ITA No. 4732/Mum/2017 [Mumbai – ITAT]</i>	1-7
2.	<i>Krithika Lingappan, ITA No. ITA No.2959/Chny/2018 [Chennai – ITAT]</i>	8-20
3.	<i>Hari Om Gupta [2017] 82 taxmann.com 398 (Lucknow - Trib.)</i>	21-27
4.	<i>Krishi Utpanna Bazar Samittee, ITA No.2043/PN/2012 [Pune – ITAT]</i>	28-37
5.	<i>Southern Steel Ltd., ITA No. 1220/Hyd/2016 [Hyd – ITAT]</i>	38-46

6. *Even otherwise, A specific request was made to the lower authorities, during the course of assessment and appellate proceedings, to refer the case for valuation to DVO as prescribed in u/s 50C (2) of the Income Tax Act, 1961.*
7. *However, ld. AO denied the request stating that the case was getting barred by time. Thereafter ld. AO calculated the capital gain by taking the sale consideration as Rs. 90,06,776.*
8. *Ld. AO should have referred the case to the valuation officer. Even otherwise ld. AO, discharging the quasi-judicial function, was duty bound to refer the matter to the valuation officer u/s 50C(2) based on the claim made by the assessee . Reliance is placed on the Order of the Hon'ble Calcutta High Court in the case of **Sunil Kumar Agarwal [2014] 47 taxmann.com 158 (Calcutta)** in which it was held that “....For the aforesaid reasons, we are of the opinion that the valuation by the departmental valuation officer, contemplated under Section 50C, is required to avoid miscarriage of justice. The legislature did not intend that the capital gain should be fixed merely on the basis of the valuation to be made by the District Sub Registrar for the purpose of stamp duty. The legislature has taken care to provide adequate machinery to give a fair treatment to the citizen/taxpayer. There is no reason why the machinery provided by the legislature should not be used and the benefit thereof should be refused. Even in a case*

where no such prayer is made by the learned advocate representing the assessee, who may not have been properly instructed in law, the assessing officer, discharging a quasi-judicial function, has the bounden duty to act fairly and to give a fair treatment by giving him an option to follow the course provided by law....”

9. **Hon’ble ITAT Jaipur Bench** in the case of **Smt. Kamlesh Tiwari, ITA No. 587/JP/2013** followed the ratio laid down by the **Hon’ble Calcutta High Court** in the case of **Sunil Kumar Agarwal (Supra)** and held that even though the assessee simply challenged the sale consideration on the basis of the Stamp Valuation Authority but had not requested to refer this issue to the Valuation Officer, the Assessing Officer should have referred the matter to the Valuation Officer.
10. Further reliance is also placed on the following judicial pronouncements the extracts of which have been set out for the sake of convenience: -
 - 10.1. **Appadurai Vijayaraghavan vs. JCIT [2014] 49 taxmann.com 513 (Madras)**
“...Head Notes - Section 50C of the Income-tax Act, 1961 - Capital gains - Special provision for computation of full value consideration (Reference to Valuation Officer) - Assessment year 2007-08 - Whether where assessee made an objection with regard to adoption of market value under section 50C(1), Assessing Officer should have referred valuation of capital asset to Valuation Officer under section 50C(2) - Held, yes
 - 10.2. **Anil Kumar Jain vs. ITO [2013] 34 taxmann.com 258 (Delhi - Trib.)**
“..Head Notes - Section 50C of the Income-tax Act, 1961 - Capital gains - Special provision for computation of full value of consideration in certain cases [Reference to Valuation Officer] - Assessment year 2009-10 - Assessee earned short term capital gain on sale of property - Assessee made a claim before Assessing Officer that value adopted or assessed by stamp valuation authority was higher than fair market value - Value adopted by stamp valuation authority had not ever been disputed by assessee in any appeal or revision or otherwise to any other authority or Court as referred to in section 50C(2) - Whether it was incumbent upon Assessing Officer to refer matter for valuation to a Valuation Officer as provided in section 50C(2) - Held, yes..”
11. As per explanation (iia) to section 153B of the Income Tax Act, 1961, in computing the period of limitation of assessment u/s 153A the following period shall be excluded:

“The period commencing from the date on which the Assessing Officer makes a reference to the Valuation Officer under sub-section (1) of section 142A and ending

with the date on which the report of the Valuation Officer is received by the Assessing Officer”

Hence, the contention of the Assessing Officer that the assessment proceedings will become time barred due to reference being made to Valuation Officer was not valid in law.

8. Per contra, the ld. DR relied on the orders of the lower authorities and argued that the AO was justified in invoking the provisions of Section 50C. It was further submitted that there was no requirement for referring the property for valuation to the DVO under the circumstances of the case.

9. We have heard the rival contentions and perused the material available on record. In this case, the assessee sold an immovable property for a consideration lower than the DLC value during the relevant previous year. During the course of the assessment proceedings, the AO invoked the provisions of Section 50C of the Income Tax Act, 1961 and substituted the actual sale consideration with the DLC value of the property, for the purpose of computing the capital gain.

10. We noted that the assessee raised objections to the invocation of Section 50C during the assessment as well as the appellate proceedings. It was submitted that a request was made before both the lower authorities to refer the matter to the Departmental Valuation Officer (DVO) for determining the fair market value of the property. However, the request was rejected without any valid basis.

11. Further, the ld. AR of the assessee submitted that adequate opportunity was not provided to the assessee during the proceedings to substantiate its case. No reference to the DVO was made, despite the assessee's explicit request.

12. After considering the material on record, it is observed that the assessee was not afforded adequate opportunity to present its case. Furthermore, the rejection of the assessee's request for reference to the DVO was not justified.

13. In light of the above, the case is set aside to the file of the AO, *de-novo*, for fresh adjudication. The AO is directed to provide the assessee adequate opportunity to adduce necessary evidences/submissions before passing the order in the set aside proceedings.

In view of the above, appeal of the assessee is partly allowed for statistical purpose.

SATISH CHAND KATTA (FOR AY 2009-10 TO AY 2013-14)

14. These appeals have been preferred by the assessee against the orders passed by the CIT(A)-4, Jaipur, for AY 2009-10 to AY 2013-14. All the appeals for the respective years are being decided by us by passing a common order. The grounds taken by the assessee for each of the year are set out as under:

ITA No. 435/JPR/2018 (AY 2009-10)

1. In the facts and circumstances of the case and in law the ld. CIT (A) has erred in confirming the addition made by ld. AO of Rs. 7,00,000 to the total income of the assessee. The action of ld. CIT (A) is illegal, unjustified, arbitrary and against the facts of the case. Relief may please be granted by deleting the said addition of Rs. 7,00,000.

2. The appellant craves his rights to add, amend or alter any of the grounds on or before the hearing.

ITA No. 436/JPR/2018 (AY 2010-11)

1. In the facts and circumstances of the case and in law the ld. CIT (A) has erred in confirming the addition made by ld. AO of Rs. 11,80,000 to the total income of the assessee. The action of ld. CIT (A) is illegal, unjustified, arbitrary and against the facts of the case. Relief may please be granted by deleting the said addition of Rs. 11,80,000.

2. The appellant craves his rights to add, amend or alter any of the grounds on or before the hearing.

ITA No. 437/JPR/2018 (AY 2011-12)

1.(a) In the facts and circumstances of the case and in law the ld. CIT (A) has erred in confirming the action of the ld. AO in not providing opportunity of cross examination of the persons whose statements have been used against the assessee and considering the relevant year as search year. The ld. CIT(A) has further erred in confirming the action of the ld. AO in not making available the evidences which have been used against the assessee. The action of ld. CIT (A) is illegal, unjustified, arbitrary and against the facts of the case. Relief may please be granted by quashing the entire assessment order which is passed in gross violation of natural justice.

(b) In the facts and circumstances of the case and in law the ld. CIT (A) has erred in confirming the action of the ld. AO in adding a sum of Rs. 1,75,00,000 as alleged unexplained income. The action of ld. CIT (A) is illegal, unjustified, arbitrary and against the facts of the case. Relief may please be granted by deleting the said addition of Rs. 1,75,00,000.

2. In the facts and circumstances of the case and in law the ld. CIT(A) has erred in confirming the action of the ld. AO in adding a sum of Rs. 20,00,000 of the alleged unexplained loan and interest thereon. The action of the ld. CIT(A) is illegal, unjustified,

arbitrary and against the facts of the case. Relief may please be granted by deleting the said addition of Rs. 20,00,000.

3. In the facts and circumstances of the case and in law the Id. CIT(A) has erred in confirming the action of the Id. AO in adding a sum of Rs. 1,16,00,000 to the total income of the assessee. The action of the Id. CIT(A) is illegal, unjustified, arbitrary and against the facts of the case. Relief may please be granted by deleting the said addition of Rs. 1,16,00,000.

The assessee craves his rights to add, amend or alter any of the grounds on or before the hearing.

ITA No. 438/JPR/2018 (AY 2012-13)

1. In the facts and circumstances of the case and in law the Id. CIT (A) has erred in not adjudicating Ground 1 before him, regarding the action of the Id. AO in completing the assessment u/s 144 of the Income Tax Act, 1961. The action of CIT(A) is illegal, unjustified, arbitrary and against the facts of the case. Relief may please be granted by quashing the entire assessment order which is passed in gross violation of natural justice.

2.(A) In the facts and circumstances of the case and in law the Id. CIT (A) has erred in confirming the action of the Id. AO in taxing a sum of Rs. 55,16,681 as long term capital gain in the hands of the assessee. The action of the CIT(A) is illegal, unjustified, arbitrary and against the facts of the case. Relief may please be granted by deleting the said addition of Rs. 55,16,681.

(b) In the facts and circumstances of the case and in law the Id. CIT (A) has erred in confirming the action of the Id. AO in adopting the market value of Rs. 84,44,842 without the referring the matter to the Valuation Officer. The action of the CIT(A) is illegal, unjustified, arbitrary and against the facts of the case. Relief may please be granted by deleting the addition being illegal and without following the prescribed procedure of law.

(c) In the facts and circumstances of the case and in law the Id. CIT (A) has erred in confirming the action of the Id. AO in applying the provisions of section 50C of the IT Act 1961, and adopting the sale consideration at Rs. 84,44,842 against the actual sale consideration of Rs.49,00,000. The action of the Id. CIT(A) is illegal, unjustified, arbitrary and against the facts of the case. Relief may please be granted by accepting the sale consideration at Rs. 49,00,000.

3. In the facts and circumstances of the case and in law the Id. CIT (A) has erred in confirming the action of the Id. CIT(A) in adding a sum of Rs. 98,82,400/- to the total

income of the assessee . The action of ld. AO is illegal, unjustified, arbitrary and against the facts of the case. Relief may please be granted by deleting the said addition of Rs. 98,82,400.

4. In the facts and circumstances of the case and in law the ld. CIT (A) has erred in confirming the action of the ld. AO in adding a sum of Rs. 25,00,000 to the total income of the assessee. The action of ld. CIT(A) is illegal, unjustified, arbitrary and against the facts of the case. Relief may please be granted by deleting the said addition of Rs. 25,00,000.

5. In the facts and circumstances of the case and in law the ld. CIT (A) has erred in confirming the action of the ld. AO in making a lumpsum addition of Rs. 1,00,00,000 as alleged unexplained cash expenses. The action of ld. CIT(A) is illegal, unjustified, arbitrary and against the facts of the case. Relief may please be granted by deleting the said addition of Rs. 1,00,00,000.

6. In the facts and circumstances of the case and in law the ld. CIT (A) has erred in confirming the action of the ld. AO in making following additions on estimate basis:

Particulars	Amount (Rs.)
Income from Salary	27,00,000
Income from House Property	8,17,320
Income from Other Sources	22,25,471
TOTAL	57,42,791

The action of ld. CIT(A) is illegal, unjustified, arbitrary and against the facts of the case. Relief may please be granted by deleting the said addition of Rs. 57,42,791.

The assessee craves his rights to add, amend or alter any of the grounds on or before the hearing.

ITA No. 439/JPR/2018 (AY 2013-14)

1. In the facts and circumstances of the case and in law the ld. CIT (A) has erred in not adjudicating the Ground No. 1 before him and confirming the action of the ld. AO in completing the assessment u/s 144 of Income Tax Act, 1961. The action of ld. CIT (A) is illegal, unjustified, arbitrary and against the facts of the case. Relief may please be

granted by quashing the entire assessment order which is passed in gross violation of natural justice.

2. In the facts and circumstances of the case and in law the ld. CIT(A) has erred in confirming the action of the ld. AO in adding a sum of Rs. 14,61,00,000 as alleged undisclosed income. The action of the ld. CIT(A) is illegal, unjustified, arbitrary and against the facts of the case. Relief may please be granted by deleting the said addition of Rs. 14,61,00,000.

3. In the facts and circumstances of the case and in law the ld. CIT(A) has erred in confirming the action of the ld. AO in adding a sum of Rs. 4,00,000 as alleged undisclosed cash of the assessee. The action of the ld. CIT(A) is illegal, unjustified, arbitrary and against the facts of the case. Relief may please be granted by deleting the said of Rs. 4,00,000.

4. In the facts and circumstances of the case and in law the ld. CIT(A) has erred in confirming the action of the ld. AO in adding a sum of Rs. 43,56,284 as alleged unexplained investment. The action of the ld. CIT(A) is illegal, unjustified, arbitrary and against the facts of the case. Relief may please be granted by deleting the said of Rs. 43,56,284.

5. In the facts and circumstances of the case and in law the ld. CIT(A) has erred in confirming the action of the ld. AO in adding a sum of Rs. 7,00,000 to the total income of the assessee. The action of the ld. CIT(A) is illegal, unjustified, arbitrary and against the facts of the case. Relief may please be granted by deleting the said of Rs. 7,00,000.

6. In the facts and circumstances of the case and in law the ld. CIT(A) has erred in confirming the action of the ld. AO in adding a sum of Rs. 66,00,000 to the total income of the assessee. The action of the ld. CIT(A) is illegal, unjustified, arbitrary and against the facts of the case. Relief may please be granted by deleting the said of Rs. 66,00,000.

7. In the facts and circumstances of the case and in law the ld. CIT(A) has erred in confirming the action of the ld. AO in adding a sum of Rs. 2,67,000 as alleged unexplained cash expenses. The action of the ld. CIT(A) is illegal, unjustified, arbitrary and against the facts of the case. Relief may please be granted by deleting the said of Rs. 2,67,000.

8. In the facts and circumstances of the case and in law the ld. CIT(A) has erred in confirming the action of the ld. AO in adding a sum of Rs. 1,20,00,000 as alleged unexplained cash. The action of the ld. CIT(A) is illegal, unjustified, arbitrary and against the facts of the case. Relief may please be granted by deleting the said of Rs. 1,20,00,000.

9. In the facts and circumstances of the case and in law the Id. CIT(A) has erred in confirming the action of the Id. AO in making following additions on estimate basis:

Particulars	Amount (Rs.)
Income from Salary	27,00,000
Income from House Property	8,17,320
Income from Other Sources	23,00,000
Total	58,17,320

The action of the Id. CIT(A) is illegal, unjustified, arbitrary and against the facts of the case. Relief may please be granted by deleting the said of Rs. 58,17,320.

10. The appellant craves his rights to add, amend or alter any of the grounds on or before the hearing.

SATISH CHAND KATTA ITA NO. 435/JPR/2018 AND ITA NO. 436/JPR/2018

GROUND NO. 1

15. First, we take up the appeals filed by the assessee for the AY 2009-10 and AY 2010-11, ITA No. 435/JPR/2018 and ITA No. 436/JPR/2018 respectively.

16. Both appeals are being decided by us together as the additions made in both years are based on the same material found during the course of search conducted on Shri Satish Chandra Katta. For the AY 2009-10, an addition of Rs. 7,00,000 was made and for the AY 2010-11, an addition of Rs. 11,80,000 was made. Both such additions have been challenged by the assessee before us under Ground No. 1 in both the appeals preferred for AY 2009-10 and AY 2010-11. Additions for both

the years were based on Pages 14 and 15 of Exhibit 3 to Annexure-A, which were part of the seized material found during the search conducted at the residence of the assessee. The additions were subsequently upheld by the CIT(A) during the first appellate proceedings.

17. At the time of hearing before us, the Id. AR of the assessee submitted that the additions were made based on rough notings and jottings found in the seized material, which were neither corroborated with any other evidence nor verified by the AO. It was further submitted that the notings in the documents pertained to Shri Ram Sharan Katta, the brother of the assessee, and not the assessee himself. The Id. AR also argued that the additions were made in a unilateral manner, without the AO examining the brother of the assessee and providing an adequate opportunity to the assessee to rebut the contents of the seized material during the assessment proceedings. The relevant extract of the submissions filed by the assessee, which are identical for both assessment years on the legal issue, along with the contentions raised, is set out hereunder:

“ 1.4 In the case of Central Bureau of Investigation v. V. C. Shukla & Ors. 1998 3 SCC 410 popularly known as Jain Hawala Case where Section 34 of the Evidence Act, 1872 has been explained. In this case it is held that entries in Jain Notebooks held on facts admissible under Section 34, but file containing loose sheets of papers are not "book" and hence entries therein not admissible under Section 34. Further it was also held in this case that entries in books of account shall not alone be sufficient evidence to charge any person with liability. Entries even if relevant are only corroborative evidence. Independent evidence as to trustworthiness of those

entries is necessary to fasten the liability. In view of these facts it was held by the Honourable Supreme Court, that entries made in the Jain Hawala diaries are under Section 34, but truthfulness thereof not proved by any independent evidence. It was also held in this case that "books" ordinarily mean a collection of sheets of paper or other material, blank, written, printed, fastened or bound together so as to form a material whole. Loose sheets or scraps of paper cannot be termed as "book" for they can be easily detached and replaced. The Supreme Court further went on to state that even correct and authentic entries in books of account cannot without independent evidence of their trustworthiness fix a liability upon a person.

1.5 The Hon'ble Tribunal in the case of S. P. Goyal v. Dy. CIT (2002) 82 ITD 85 (TM) has held that mere entry on loose sheet of paper not supported by actual cash cannot be considered to be sufficient evidence to treat the same as Cash credits under Sec. 68. This decision has been arrived at by considering the Supreme Court decision in the case of CBI v. V.C. Shukla, popularly known as the Jain Hawala Case.

1.6 In the case of Satnam Singh Chhabra v. Deputy CIT (2002) 74 TTJ (Luc) 976 held that loose paper cannot be construed as books and therefore Section 34 of the Evidence Act would not apply and therefore it cannot be a basis for addition. It was also held in this case that the loose paper found in the premises of the assessee during search of which, the assessee categorically denied the authorship and the transaction noted therein, cannot be considered as sufficient evidence. In the case of S. K. Gupta v. DCIT (1999) 63 TTJ (Del.) 532 also held that addition made on the basis of loose sheet and torn papers found during the search were unwarranted. The case of Prarthana Construction (P) Ltd. v. DCIT (2001) 70 ITJ (Ahd.) 122 also states that addition on the basis of loose papers without any corroborating evidence cannot be the basis for addition.

1.7 In the case of Ashwani Kumar v. ITO (1991) 39 ITD 183 held that "document" which was found at the time of search and which did not indicate whether the figures referred to quantities of money or to quantities of goods, was a "dumb" document and no addition could be made on the basis of such document. In this decision it was also held no addition could be made on the basis of sample analysis report which showed that assessee sold adulterated cement.

1.8 The aforementioned submissions were made in the first appellate proceedings, which were, without any cogent basis, dismissed by the ld. CIT(A).

1.9 It is submitted that the document was nothing but rough notings of Shri Ram Sharan Katta, the brother of the assessee. The ld. AO examine the brother of the assessee and in a unilateral manner made additions to the income of the assessee. Further, ld. AO also did not provide any opportunity to the assessee to cross examine his brother, as to what prompted him to write such letter to the assessee.

1.10 Cross-examination is one of the most efficacious methods of establishing truth and exposing falsehood. The assessee should have been provided with an opportunity of cross examination. Principles of natural justice have an ancient ancestry.

1.11 In the case of Ashwani Gupta [2010] 322 ITR 396 (Delhi), addition was made on the basis of the statement of a third party and seized documents. Neither the seized documents were provided to the assessee nor was any opportunity of cross-examination of the adverse party given. Hon'ble Delhi High Court, following its own judgment in the case of SMC Share Brokers Ltd. [2007] 288 ITR 345 (Delhi) deleted the addition on the ground that there was violation of the principles of natural justice.

1.12 Hon'ble Supreme Court in the case of Andaman Timber Industries (CIVIL APPEAL NO. 4228 OF 2006) held that "...not allowing the assessee to cross-examine the witnesses by the Adjudicating Authority though the statements of those witnesses were made the basis of the impugned order is a serious flaw which makes the order nullity inasmuch as it amounted to violation of principles of natural justice because of which the assessee was adversely affected"

1.13 Hon'ble Supreme Court in the case of Sunita Dhadda, vide its order dated 28.03.2018, in SPECIAL LEAVE PETITION (403 ITR 183) upheld the ratio laid down by Hon'ble Rajasthan High Court and also Hon'ble ITAT, Jaipur Bench as below –

"Their Lordships ADARSH KUMAR GOEL and ROHINTON FALL NARIMAN Ji.- dismissed the Department's special leave petition against judgment dated July 31, 2017, of the Jaipur Bench of the Rajasthan High Court in D.-B,L_TA. No. 197 of 2012 whereby the High Court held that the Tribunal was justified in deleting the addition of Rs. 4,07,00,000 of "on money" said to have been received with respect to subject land of the assessee holding that the question what was the price of the land at the rel-levant time, was a pure question of fact and that unless it was established on record by the Department, that as a matter of fact, the consideration did pass to the seller from the purchaser, the Department had no right to make any additions, especially since none of the witnesses were examined before the Assessing Officer, and the assessee did not have any opportunity to cross-examine them" [Emphasis Supplied]

1.14 Further, if the ld. AO would have himself examined the brother of the assessee, he would have come to the conclusion that this was nothing but an emotional letter written by the brother to the assessee, without any basis and was nothing but dumb document."

18. Per contra, the ld. DR relied upon the decision of the lower authorities and submitted that the order of the CIT(A) should be upheld.

19. We have heard the rival contentions, perused the material available on record, and considered the submissions filed by the assessee before us. Upon reviewing the material available on record, we observed that the AO did not provide adequate opportunity to the assessee during the assessment proceedings. Additionally, the notings in the seized pages were not corroborated with any other evidence or material found during the course of the search. No inquiry was conducted by the AO to examine the brother of the assessee, who was allegedly the person who had recorded such notings. Furthermore, there was no proper verification or corroboration of the transactions mentioned in the seized material.

20. In light of the above, and in the interest of justice, we set aside the matter for both assessment years, i.e., AY 2009-10 and AY 2010-11, to the file of the AO for fresh adjudication. The AO is directed to provide adequate opportunity to the assessee during such proceedings and consider all evidence and submissions made by the assessee.

In view of the above, appeal of the assessee is allowed for statistical purpose.

SATISH CHAND KATTA for ITA No.437/JPR/2018 (AY 2011-12)

GROUND NO.1

21. For the AY 2011-12, Ground No. 1 pertains to an addition of Rs. 1,75,00,000 made to the income of the assessee based on the statements recorded from one Shri Kewal Chand Jain, who was also subjected to search proceedings along with assessee. As per the AO, Shri Kewal Chand Jain, during the course of the search conducted on him, admitted in his statement recorded under Section 132(4), and later affirmed in a statement under Section 131, that he had infused funds as share capital into various companies belonging to Shri Satish Chand Katta and that such money had been received by him, in cash, from Shri Satish Chand Katta. Based on this statement, the AO made additions in the hands of the assessee during the assessment proceedings.

22. Before us, it was submitted by the Id. AR that the additions were made solely on the basis of statements recorded from a third party and not on any direct evidence pertaining to assessee. It was further brought to our notice that all funds infused by Shri Kewal Chand Jain into the group companies of Shri Satish Chand Katta were through banking channel. Alternatively, it was contended that, if any addition were to be made, it should have been made in the hands of the respective group companies and not assessee.

23 The ld. DR relied upon the orders of the lower authorities and submitted that the additions have been properly made by the AO and confirmed by the CIT(A). Accordingly, the same should be sustained.

24. We have heard the rival submissions and perused the material available on record. Upon reviewing the material on record and the orders of the lower authorities, we note that the additions have been made solely based on the statement of Mr. Kewal Chand, recorded during the course of a search under Section 132. There is no corroborative evidence supporting the additions beyond these statements. In the interest of justice, we find it appropriate to set aside the matter to the file of the AO for further inquiry. The AO is directed to conduct a detailed investigation and decide the matter afresh, considering all evidence provided by the assessee. If required, the AO may seek additional submissions or explanations from the assessee. Needless to mention, the AO should provide adequate opportunity to the assessee to present their case before passing a fresh order. This would ensure adherence to the principles of natural justice.

GROUND NO. 2 AND 3

25. Grounds No. 2 and 3 pertain to certain documents found during the course of the search. The AO alleged that assessee had taken loans and paid interest on such

loans, resulting in an addition of Rs. 20,00,000 based on Pg. No. 116 and 142 of Exhibit 1 to Annexure-A, and Rs. 1,16,00,000 based on Pg. No. 24 and 25 of Exhibit 2 to Annexure-A. It was submitted before us that no addition could be made based on the alleged loans, as the documents were rough notes without substantive corroborative evidence. At best, any addition, if warranted, could only pertain to the interest expenditure incurred, if any, and not the principal amount. It was further argued that the documents relied upon by the AO were mere rough notes, and no substantive evidence was placed on record to justify the additions. On the other hand, ld. DR argued for sustaining order of lower authorities.

26. We have heard the rival contentions and perused the material available on record. The seized material, on the basis of which, the additions have been made require proper analysis, establishing the nexus between the seized material and assessee's income. In the interest of justice, we set aside the matter related to Grounds No. 2 and 3 to the file of the AO for fresh adjudication.

Needless to mention, for all three grounds pertaining to the AY 2011-12, where the case has been set aside to the file of the AO, adequate opportunity should be provided to assessee to make requisite submissions during the set-aside proceedings. Assessee is also directed to cooperate fully during the proceedings.

In view of the above, appeal of the assessee is allowed for statistical purpose.

SATISH CHAND KATTA for ITA No. 438/JPR/2018 (AY 2012-13)

GROUND NO. 1

27. During the course of the hearing before us, the Id. AR of the assessee stated at the bar that he did not wish to press Ground No. 1. Accordingly, Ground No. 1 is dismissed as not pressed.

GROUND NO. 2

28. In relation to Ground No. 2, the facts as emerge from the documents before us are that during the year under consideration, the assessee sold an immovable property situated at Plot No. 4, Chandrakala Colony, Jaipur, to Shri Ram Babu Jhalani and Smt. Usha Jhalani for a consideration of Rs. 49,00,000. However, the sale consideration for the purpose of stamp duty valuation under Section 50C was determined by the sub-registrar at Rs. 84,44,842. During the assessment proceedings, the Id. AO invoked Section 50C, adopted the DLC value as the deemed sale consideration, and made addition to the income of the assessee.

29. During the course of the hearing before us, the Id. AR submitted that the assessee had to sell the property under financial distress due to a grave debt burden

and the inability to pay interest obligations. The ld. AR explained that the assessee was compelled to sell the mortgaged property to meet the requirements of his business. It was further stated that the brokers involved in the transaction dictated the terms of the sale due to the assessee's financial position. Our attention was drawn to the registered sale deed, which specifically mentioned that if the dues were not cleared within the agreed timeframe, the property would be sold to the lender at a consideration decided between the parties. It was submitted that the sale was made under distress.

30. The ld. AR further submitted that during the course of the assessment proceedings, specific request was made to the AO to refer the matter for valuation to the Departmental Valuation Officer (DVO) under Section 50C(2) of the Income Tax Act, 1961. However, this request was not accepted, and the assessment order was passed without such reference. The same submissions were reiterated before the CIT(A), but the CIT(A) did not accept the contentions raised by the assessee. Before us, the ld. AR of the assessee reiterated the submissions made before the lower authorities. The written submissions filed are reproduced hereunder:-

12. *During the relevant previous year, assessee sold a property situated at **Plot No. 4, Chandrakala Colony, Jaipur** to Shri Ram Babu Jhalani and Smt. Usha Jhalani for a consideration of Rs. 49,00,000, vide registered sale deed. However, the sale consideration for the purpose of stamp duty valuation u/s 50C taken by the sub-registrar was for Rs. 84,44,842.*

13. *It was submitted before the lower authorities that when the debt burden of assessee piled up and he was not able to pay interest but rather needed further money to feed the daily requirements of his incomplete business ventures, he had to fall prey to the dictates of the money brokers. The money market brokers sensed the situation and they not only started dictating terms about rate of interest but whenever he could not clear the debt in time, they forced assessee to sell the security provided in the form of mortgage of his properties. They compelled the assessee to execute sale deeds in favour of the persons referred by them at throwaway price.*
14. *It was further submitted that the above fact was also mentioned in the sale deed executed for Plot No. 4, Chandra Kala colony, Jaipur. The sale deed was even registered with the Sub-Registrar, well before the date of search on the assessee. Accordingly, ld. AO was completely wrong on leveling the allegation on the assessee of the fact being mentioned in the sale deed, being an after-thought.*
15. *This was a case of distress sale wherein the sale consideration was pre-decided and was not as per the wishes of the seller and thus section 50C cannot be applied in such a scenario.*
16. *It is submitted that Section 50C cannot be applied in an automatic manner. Section 50C was introduced on to the statute to curb the inflow of cash on cash of any immovable property over and above the amount mentioned in the sale deed. However, wherein the surrounding circumstances are such that it could be established that there is no chance of assessee receiving any consideration in cash, as in the present case, then there cannot be applicability of Section 50C. In this regard, reliance is placed on the below mentioned judicial pronouncements:-*

S No.	Particulars
1.	<i>Wenceslaus Josoph D'Souza, ITA No. 4732/Mum/2017 [Mumbai – ITAT]</i>
2.	<i>Krithika Lingappan, ITA No. ITA No.2959/Chny/2018 [Chennai – ITAT]</i>
3.	<i>Hari Om Gupta [2017] 82 taxmann.com 398 (Lucknow - Trib.)</i>
4.	<i>Krishi Utpanna Bazar Samittee, ITA No.2043/PN/2012 [Pune – ITAT]</i>
5.	<i>Southern Steel Ltd., ITA No. 1220/Hyd/2016 [Hyd – ITAT]</i>

17. *Even otherwise, a specific request was made to the lower authorities, during the course of assessment and appellate proceedings, to refer the case for valuation to DVO as prescribed in u/s 50C (2) of the Income Tax Act, 1961.*

18. *However, ld. AO denied the request stating that the case was getting barred by time. Thereafter ld. AO calculated the capital gain by taking the sale consideration as Rs. 90,06,776.*
19. *Ld. AO should have referred the case to the valuation officer. Even otherwise ld. AO, discharging the quasi-judicial function, was duty bound to refer the matter to the valuation officer u/s 50C(2) based on the claim made by the assessee . Reliance is placed on the Order of the Hon'ble Calcutta High Court in the case of **Sunil Kumar Agarwal [2014] 47 taxmann.com 158 (Calcutta)** in which it was held that “...For the aforesaid reasons, we are of the opinion that the valuation by the departmental valuation officer, contemplated under Section 50C, is required to avoid miscarriage of justice. The legislature did not intend that the capital gain should be fixed merely on the basis of the valuation to be made by the District Sub Registrar for the purpose of stamp duty. The legislature has taken care to provide adequate machinery to give a fair treatment to the citizen/taxpayer. There is no reason why the machinery provided by the legislature should not be used and the benefit thereof should be refused. Even in a case where no such prayer is made by the learned advocate representing the assessee, who may not have been properly instructed in law, the assessing officer, discharging a quasi judicial function, has the bounden duty to act fairly and to give a fair treatment by giving him an option to follow the course provided by law....”*
20. *Hon'ble ITAT Jaipur Bench in the case of **Smt. Kamlesh Tiwari, ITA No. 587/JP/2013** followed the ratio laid down by the **Hon'ble Calcutta High Court** in the case of **Sunil Kumar Agarwal (Supra)** and held that even though the assessee simply challenged the sale consideration on the basis of the Stamp Valuation Authority but had not requested to refer this issue to the Valuation Officer, the Assessing Officer should have referred the matter to the Valuation Officer.*
21. *Further reliance is also placed on the following judicial pronouncements the extracts of which have been set out for the sake of convenience:-*
- 21.1. ***Appadurai Vijayaraghavan vs. JCIT [2014] 49 taxmann.com 513 (Madras)**
“...Head Notes - Section 50C of the Income-tax Act, 1961 - Capital gains - Special provision for computation of full value consideration (Reference to Valuation Officer) - Assessment year 2007-08 - Whether where assessee made an objection with regard to adoption of market value under section 50C(1), Assessing Officer should have referred valuation of capital asset to Valuation Officer under section 50C(2) - Held, yes*
- 21.2. ***Anil Kumar Jain vs. ITO [2013] 34 taxmann.com 258 (Delhi - Trib.)***

“..Head Notes - Section 50C of the Income-tax Act, 1961 - Capital gains - Special provision for computation of full value of consideration in certain cases [Reference to Valuation Officer] - Assessment year 2009-10 - Assessee earned short term capital gain on sale of property - Assessee made a claim before Assessing Officer that value adopted or assessed by stamp valuation authority was higher than fair market value - Value adopted by stamp valuation authority had not ever been disputed by assessee in any appeal or revision or otherwise to any other authority or Court as referred to in section 50C(2) - Whether it was incumbent upon Assessing Officer to refer matter for valuation to a Valuation Officer as provided in section 50C(2) - Held, yes..”

22. *As per explanation (iia) to section 153B of the Income Tax Act, 1961, in computing the period of limitation of assessment u/s 153A the following period shall be excluded:*

“The period commencing from the date on which the Assessing Officer makes a reference to the Valuation Officer under sub-section (1) of section 142A and ending with the date on which the report of the Valuation Officer is received by the Assessing Officer”

Hence, the contention of the Assessing Officer that the assessment proceedings will become time barred due to reference being made to Valuation Officer was not valid in law.

31. Per contra, the ld. DR relied on the orders of the lower authorities.
32. We have heard the rival submissions and perused the material on record. It is noted that during the course of the assessment proceedings, a specific request was made by the assessee to refer the matter for valuation to the DVO under Section 50C(2). However, this request was not accepted by the AO, nor was it considered by the CIT(A) during the first appellate proceedings. In our considered view, once a specific request is made by the assessee, it is incumbent upon the AO to refer the valuation of the property to the DVO. Accordingly, in the interest of justice, we set aside the matter to the file of the AO for the purpose of making a reference to the

DVO for valuation of the property. The AO is directed to also consider the submissions made by the assessee, the legal position, and the valuation report, and thereafter make additions, if any, required. The matter is set aside to the file of the AO for de novo verification of all factual aspects. The assessee is also directed to cooperate fully during the reassessment proceedings.

GROUND NO. 3

33. In relation to Ground No. 3, an addition of Rs. 98,82,400 has been made to the income of the assessee. As per the factual position emerging from the order of the lower authorities and the material before us, at the time of search being conducted a rough paper was found, marked as Page No. 1 of Exhibit 2 to Annexure A. Based on this document, the AO concluded that the assessee had taken a loan on interest amounting to Rs. 98,82,400 for a period of two months and added the same to the income of the assessee.

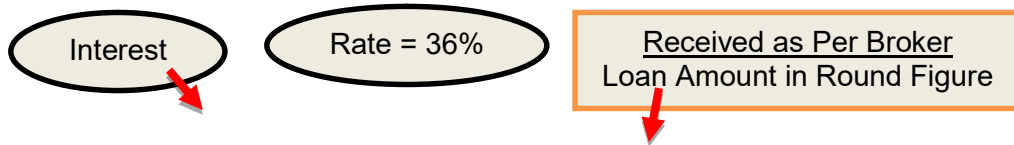
34. The assessee preferred an appeal before the CIT(A), which was also dismissed. Before us, the Id. AR of the assessee submitted that there cannot be any addition on account of the loan taken in cash, as the loan itself does not constitute income. The Id. AR further submitted that, at most, the interest expenses incurred on such a loan could have been subject to scrutiny. It was stressed that the seized

document alone does not conclusively establish any undisclosed income.

Submissions made by the ld. AR of the assessee are reproduced hereunder:-

1. *During the course of search on the assessee, a rough paper was found, which was marked as **Page No. 1 of Exhibit-2 to Annexure-A [PB : 18]**.*
2. *On the basis of such document it was alleged by the ld. AO that the assessee had taken loan on which interest amounting to Rs. 98,82,400 had been paid by the assessee for two months. Accordingly, ld. AO made additions of Rs. 98,82,400 to the income of the assessee. The said additions made by the ld. AO were thereafter sustained by ld. CIT(A)-IV.*
3. *It is submitted that the document marked as Page No.1 of Exhibit-2 to Annexure-A was nothing but a dumb document. It should not have been relied upon by the lower authorities. In this regard, reliance is placed on the below mentioned judicial pronouncements:*
 - 3.1. *In **Central Bureau of Investigation v. V.C. Shukla (1998) 3 SCC 410**, provisions of Section 34 of the Evidence Act, was considered for the purposes of the expression "entries in books of account", "books of account". In this case, which is also known as 'Jain Hawala Diaries case', the Supreme Court came to the conclusion that entries in notebooks are admissible evidence u/s. 34 of the Evidence Act but loose sheets of papers are not "books" and hence entries in loose sheets of papers are not admissible evidence at all. Apex Court came to the conclusion that entries in books of accounts has "probative value" and "corroborative evidence", the Court on the facts came to the conclusion that entries made in Jain Hawala Diaries though admissible u/s. 34, but truthfulness, thereof, was not proved by any **independent evidence**.*
 - 3.2. *In **Common Causes v. UOI [2017] 394 ITR 220 (SC)**, it was held that Entries in loose papers/ sheets are irrelevant and inadmissible as evidence. Such loose papers are not "books of account" and the entries therein are not sufficient to charge a person with liability. Even if books of account are regularly kept in the ordinary course of business, the entries therein shall not alone be sufficient evidence to charge any person with liability. It is incumbent upon the person relying upon those entries to prove that they are in accordance with facts. Entries in books of account are not by themselves sufficient to charge any person with liability, the reason being that a man cannot be allowed to make evidence for himself by what he chooses. A man cannot be allowed to make evidence for himself by what he choose to write in his own books behind the back of the parties.*

- 3.3. *In the case of Sahitya Housing (P.) Ltd., ITA No. 246/Hyd/2011, certain entries were found in Pen-Drive on the basis of which additions were made. Hon'ble ITAT, Hyderabad Bench held that unsubstantiated material found in the Pen-Drive cannot be considered, in the hands of the assessee, as conclusive evidence, so as to make addition towards unexplained credit. While so holding, it referred to the ratio of decision in the case of CBI vs. V.C. Shukla (1998) 3 SCC 410.*
4. *Without prejudice to above, the figures as mentioned in the document cannot be considered to be the interest expenses incurred by the assessee.*
5. *On careful examination of the said document, it can easily be inferred that the right side of the document mentions the loan which had been taken by the assessee from the various lenders.*
6. *On the left-hand side, top portion, the interest expense has been mentioned on the loan taken. The said transactions can be summarized here under:*



Handwritten ledger entries (Left Column):

- 150000 2-11
- 15000 18-11
- 15000 4-11
- 18500 25-11
- 3000 12-11
- 30000 11-11
- 11000 11 महीना लिए 3 महीना
- 14000 3 महीना का ब्याज
- 240100
- 15000 18-12
- 15000 4-12
- 18500 25-12
- 3000 12-12
- 30000 11-12
- 15000
- 22500 ब्याज का महीना
- 600 1 महीना का ब्याज

Handwritten ledger entries (Right Column):

- 2500000 2-11
- 500000 18-11
- 250000 4-11
- 650000 25-11
- 100000 12-11
- 1000000 11-11
- 18800 लोन 11 महीना
- 1150000 11 महीने का
- 191000 लोन 25-12
- 240100 ब्याज 3 महीना का महीना
- 778800 ब्याज 3 महीना का 3 महीना
- 6505850
- 800000 पवनका 30 35 (FIXED RATE)
- 7305850 लोन 15-12
- 76600
- 7382450
- 500000 18-12
- 250000 4-12
- 650000 25-12
- 100000 12-12
- 1000000 11-12
- 2500000

Summary Boxes:

- 2,40,100 (Interest Expense)
- 73,05,850 (Interest Expense)
- 73,82,450 (Interest Expense)
- 75,000+2,250+600=77,850 (Interest Expense)
- 65,85,800 (Loan Amount)
- 98,82,450 (Loan Amount)

Handwritten notes at the bottom: "Banker का हिसाब - Cash", "1.25 - 6.2 11.24", and a small calculation: $5.0 \left(\begin{matrix} 13 \\ 22 \\ 11 \end{matrix} \right) \begin{matrix} 5 \\ 5 \\ 100 \end{matrix}$

S.No.	Principal Amount	Period	Interest Expense
1	25,00,000	2 Months	1,50,000
2	5,00,000	1 Month	15,000
3	2,50,000	1 Month	7,500
4	6,50,000	1 Month	19,500
5	1,00,000	1 Month	3,000

6	10,00,000	1 Month	30,000
7	18,800	2 Month	1,100
8	11,50,000	Less than 1 Month	14,000
9	19,100		0
Total			2,40,100
Interest Amount	2,40,100		
Interest Amount (from Table 2 below)	77,850		
10	8,00,000		0
Total	73,05,850		
11	76,600		
Total	73,82,450		
12 (from Table 2 below)	25,00,000		77,850
GRAND TOTAL	98,82,450		3,17,950

7. Details of the loan as mentioned in the table and the interest expenses incurred:-

S.No.	Principal Amount	Period	Interest Expense
1	5,00,000	1 Month	15,000
2	2,50,000	1 Month	7,500
3	6,50,000	1 Month	19,500
4	1,00,000	1 Month	3,000
5	10,00,000	1 Month	30,000
Total	25,00,000		75,000
Other Interest			2,250
			600
Total Interest			77,850

Table 2

8. Accordingly, as can be seen from above, the assessee, at best can be added, the amount of interest expenses incurred on such loan taken. As can be seen from the table above, the interest expenses incurred on the loan, if at all considered to be taken by the assessee, comes to Rs. 3,17,950. Thus, the addition of Rs. 98,82,400 should be restricted to only Rs. 3,17,950.

9. *It is submitted if at all, the allegation of the lower authorities is considered to be true that the assessee had received loan amount and paid interest expenses on such loan amount, then also, the addition should only be restricted to the **interest expenses**, alleged to have been paid on the loan amount. No addition can be made of the loan amount received, even if received in cash.*
 10. *It is submitted that the allegation of the ld. AO was that the assessee had taken loan and thereafter paid interest on such loan amount. It is pertinent to note that such document was never confronted to the assessee during the course of search and the statement recorded under Section 132(4). Thereafter, during the assessment proceedings also those documents were never confronted to the assessee.*
 11. *It is also submitted that if the ld. AO considered the paper to be containing the interest expenses on the loan taken by the assessee, then the ld. AO was duty-bound to examine the concerned broker and also the persons who had allegedly provided loan to the assessee, in cash. In the present case, none of the said persons have been examined by the ld. AO/ld. CIT(A). Only on the basis of such document, the addition cannot be made to the income of the assessee.*
 12. *Further, ld. AO in his order at page 5 has alleged that the assessee had paid interest expenses of Rs. 98,82,400 for two months. If the interest expenses of Rs. 98,82,400 were actually paid by the assessee, then the assessee would have taken a loan amount of Rs. 16.47 Crores. The said figure is nowhere appearing in the documents as considered by the lower authorities. The assessee has never undertaken transactions of such magnitude. Accordingly, ld. AO has simply, without application of mind, made addition to the income of the assessee.*
35. It was further submitted that even as per the AO's own observations, the amount in question represents a loan taken by the assessee. The ld. AR contended that the addition of the entire loan amount to the income of the assessee is erroneous.
36. Per contra, the ld. DR relied upon the orders of the lower authorities and requested that the additions made by the AO and confirmed by the CIT(A) be sustained.

37. We have heard the rival submissions and examined the material on record. As per the factual position emerging from the lower authorities, it is undisputed that the seized document represents some alleged loan transaction. The entire loan amount has been added to the income of the assessee without any corroborative evidence to substantiate the addition. A loan, by its very nature, cannot be treated as income.

Accordingly, we set aside this issue to the file of the AO for de novo consideration. The AO is directed to examine the material on record, consider the submissions made by the assessee, and thereafter make additions, if any, in accordance with the law. The assessee is directed to be provided with adequate opportunity of being heard and is expected to cooperate fully during the such set aside proceedings.

GROUND NO. 4

38. In relation to Ground No. 4, the addition pertains to notings found on Page Nos. 41 of Exhibit 3 to Annexure A, said to have been seized from the factory premises of M/s Siyaram Exports Private Limited. During the hearing before us, the ld. AR submitted that there is no basis for this addition, as the AO has not referred to any specific notings in these documents justifying the addition. The ld. AR also pointed out that the CIT(A) failed to examine the contents of these

documents before confirming the addition. Submission filed by the Id. AR of the assessee is as under:-

1. *It is submitted that addition of Rs. 25,00,000 was made to the income of the assessee, on the basis of Page No. 41 of Exhibit-3 to Annexure-A said to have been found and seized from the factory premises of M/s Siyaram Exports Private Limited.*
2. *The entire additions have been made on the basis of such document. However, neither during the course of assessment proceedings nor during the course of appellate proceedings, such document was confronted to the assessee.*
3. *It was submitted before the lower authorities that the assessee never had such document with him.*

39. Per Contra, Id. DR relied upon the order of the lower authorities.

40. We have heard the rival submissions and perused the material available on record. Upon examining the material on record, we find that neither the AO nor the CIT(A) has provided any clear findings regarding the relevance of the seized documents to the assessee's income. In the absence of such findings, the addition cannot be sustained. Accordingly, in the interest of justice, we set aside this issue to the file of the AO. The AO is directed to examine the seized documents, confront the assessee with the specific notings, and thereafter make additions, if any, based on conclusive evidence. The assessee is directed to cooperate fully during the reassessment proceedings.

GROUND NO. 5

41. In relation to Ground No. 5, addition of Rs. 1,00,00,000 has been made to the income of the assessee on account of alleged unexplained cash expenses. This addition was based on two diaries seized during the course of a search at the residence of the assessee, marked as Exhibit 7 and Exhibit 8 in the seized material. During the assessment proceedings, the AO examined the seized material and, on a lump sum basis, made the addition, alleging that the entries in these diaries represented unexplained cash expenses incurred by the assessee.

It is noted that during the assessment proceedings, the assessee was asked to provide submissions in response to these allegations. However, no reply was filed by the assessee. Subsequently, during the appellate proceedings before the CIT(A), submissions were made by the assessee. However, CIT(A) sustained the addition made by the ld. AO.

42. Before us, the ld. AR of the assessee submitted Additional Evidence in relation to this ground and made a separate application in this regard under Rule 29 of the ITAT Rules. The additional evidence consisted of ledger accounts of different companies related to the assessee. The ld. AR submitted that the entries in the seized diaries corresponded to entries in the ledger accounts of these group companies, which are either owned or controlled by the assessee. It was further

stated that these entries in the ledger accounts can be matched with the notings found in the seized diaries (Exhibit 7 and Exhibit 8).

43. The submissions made by the assessee in this regard are reproduced hereunder:-

1. *Ld. AO, during the course of assessment proceedings, on the basis of two diaries found at the residence of the assessee, marked as Exhibit-7 & 8, made additions of Rs. 1,00,00,000 to the income of the assessee.*
2. *It is submitted that the entire additions were based on a **lumpsum basis** without any proper underlying working done by the lower authorities.*
3. *It is submitted that the entire transactions which are mentioned in the diaries, marked as Exhibit-7 & 8 were properly recorded in the books of accounts of the group company in which assessee was Director. In this regard, Additional Evidences have already been submitted to the Hon'ble Bench consisting of the ledger accounts of M/s Siyaram Exports Private Limited.*
4. *In the ledger account, it is clearly visible, that the corresponding entries were mentioned in the diaries. List of the same on sample basis is attached herewith.*

<i>Date of Entry</i>	<i>Particulars</i>	<i>Amount</i>	<i>PB Number containing extract of Diary</i>
01.11.2011	Imran Ari Embroidery	588	PB-54
02.11.2011	Repair & Maintenance Charges	4,010	PB-54
03.11.2011	Sultan Ji (ADV)	2,000	PB-55
04.11.2011	Paras Dyeing	10,000	PB-55
05.11.2011	Conveyance Expenses	110	PB-55
08.11.2011	Expenses at Sanganer	6,000	PB-56
10.11.2011	S.R. International	20,000	PB-56
15.11.2011	Telecommunication Charges	11,365	PB-58
29.11.2011	Kotak Mahindra Bank Ltd.	65,000	PB-61
10.12.2011	S.R. International	5,000	PB-64
16.12.2011	Thar Exports	18,000	PB-66

09.01.2012	<i>Rushi Art & Craft</i>	1,00,000	PB-72
28.01.2012	<i>Thar Exports</i>	17,000	PB-76
16.02.2012	<i>Accessories-VAT Free</i>	2,500	PB-89
28.02.2012	<i>Telecommunication Charges</i>	10,500	PB-92
07-03-2012	<i>Fee & Subscription</i>	300	PB-93
14-03-2012	<i>SBI CA #30100826019</i>	46,000	PB-94

44. Per contra, the ld. DR objected to the acceptance of the additional evidence submitted by the assessee. The ld. DR contended that no relief should be granted to the assessee on this account.

45. We have heard the rival submissions and perused the material available on record. The first issue to be addressed is whether the additional evidence submitted by the assessee in the form of ledger accounts of different companies should be accepted or not. Upon examining the additional evidence and certain accounts submitted by the assessee for these companies, we note that the entries in the seized diaries purportedly represent cash expenses, which the assessee claims are part of the regular books of accounts of these companies. In the interest of justice, since the entries in the diaries correspond to expenses that are claimed to have been accounted for in the regular books of accounts of the group companies, the additional evidence is admitted. We set aside the matter to the file of the ld. AO for proper verification and corroboration of the entries in the seized diaries (Exhibit 7 and Exhibit 8) with the ledger accounts submitted by the assessee. However, this

requires a proper analysis of the material submitted and a thorough examination of the entries in the books of accounts. Accordingly, the additional evidence is accepted, and the case is set aside to the file of the Id. AO for re-examination of the documents on record and verification of the factual position.

GROUND NO. 6

46. In relation to Ground No. 6, the assessee has challenged the lump-sum addition of Rs. 57,42,179 made under various heads of income, such as income from salary, income from house property, and income from other sources. It has been submitted by the Id. AR of the assessee that these additions have been made on an estimation basis without any concrete evidence or basis provided by the AO. The Id. AR further contended that the CIT(A), without any valid reasoning, has confirmed these additions. Submission made by the Id. AR of the assessee is reproduced hereunder:-

1. *Ld. AO during the course of assessment proceedings, made addition of Rs. 57,42,791 in totality to the income of the assessee on **estimate basis, under different heads of income.** Breakup of the same is as under:-*
 - 1.1. ***Income from Salary- Rs. 27,00,000***
 - 1.2. ***Income from House Property- Rs. 8,17,320***
 - 1.3. ***Income from Other Sources- Rs. 22,25,471***

2. *It is submitted that there is no basis whatsoever through which the present additions were made by the ld. AO to the income of the assessee.*
3. *The assessee had not earned any such income during the year under consideration. Equating the income of the assessee of previous years to find out the income for the year under consideration is not the correct approach. No notional income can be added to the income of the assessee and tax liability cannot be fastened on the assessee on such notional income.*
4. *It was submitted before the ld. CIT(A) also that the entire additions were made on estimate basis. However, the ld. CIT(A) also did not consider the submissions of the assessee.*

47. Per contra, the ld. DR argued that the additions have been made based on some estimation, though no concrete evidence was available with the AO to substantiate the same.

48. We have heard the rival submissions and perused the material available on record. Upon examining the material on record, we find that the additions have been made solely on an estimation basis without any substantial evidence to justify the quantum of such additions. In the interest of justice, we set aside this issue to the file of the AO for de novo assessment. The assessee is directed to submit all relevant evidence, if any, to substantiate the claims. If the assessee fails to submit the required evidence, the AO shall proceed to make additions, as deemed fit, in accordance with the law. The AO is further directed to consider the matter afresh, taking into account evidence submitted, and thereafter, make appropriate additions to the income of the assessee, if required. Adequate opportunity of being heard

shall be granted to the assessee to make submissions during the reassessment proceedings. The assessee is also directed to cooperate fully during the proceedings.

SATISH CHAND KATTA for ITA No. 439/JPR/2018 (AY 2013-14)

GROUND NO. 1

49. During the course of the hearing before us, the ld. AR of the assessee stated at the bar that he did not wish to press Ground No. 1. Accordingly, Ground No. 1 is dismissed as not pressed.

GROUND NO. 2

50. Apropos Ground No. 2, the addition of Rs. 14,61,00,000 was made by the AO on account of pages 1 to 11 of Annexure A-1 which were found during the course of a search on the Katta Group. During the assessment proceedings, the statement made by assessee under section 132(4), was referred to, and it was used as the basis for making additions to the income of assessee.

Subsequently, in appeal, the assessee submitted that all the additions were made on the basis of deaf and dumb documents. Before us, ld. AR of the assessee submitted that the pages of the seized material (pages 1 to 11) found during the house of Smt.

Sunita Shekhawat were incorrectly relied upon. The ld. AR argued that the additions were made without properly appraising the entire material available on record.

It was further submitted that the entries on the basis of which the additions were made reflected loans that the assessee had taken and projections of the loan amounts which could have been taken by assessee from various persons. According to the ld. AR, these entries, as per the seized material, do not pertain to actual transactions involving assessee. Assessee was facing substantial financial debt, and assessee was contemplating loans from certain individuals, which is why such notes were made by Smt. Sunita Shekhawat, who was working with assessee.

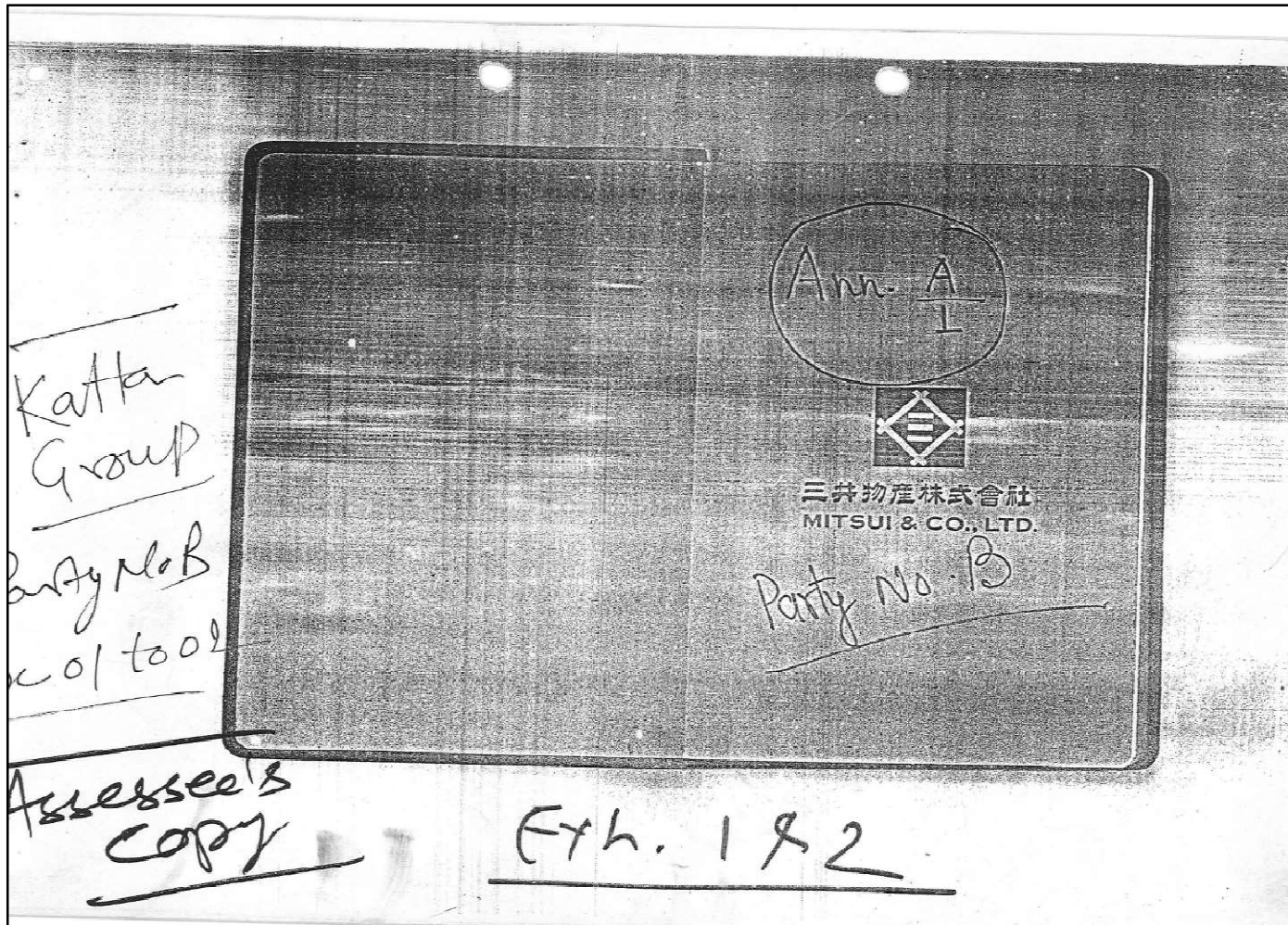
The ld. AR further submitted that, if the documents are properly considered, it cannot be concluded that these amounts pertain to the basis upon which the AO made the additions to the income of assessee. The relevant extracts of the submissions filed by the assessee in relation to Ground No. 1 are set out hereunder:

- 1. During the course of search conducted on the assessee and the group companies and also at other key associates of the assessee, a diary was found from the premises of Sunita Shekhawat. The said diary was marked as Page No. 1 to 11 of Annexure A-1.*
- 2. On the basis of such diary, addition of Rs. 14,61,00,000 was made to the income of the assessee. In this regard, reference is drawn towards Paper Book Page No. 133 and 134 [Internal Page No. 9 and 10 of the diary found from the premises of Sunita Shekhawat]. On the basis of such pages, found in the diary, it was alleged by the ld. AO that the assessee had*

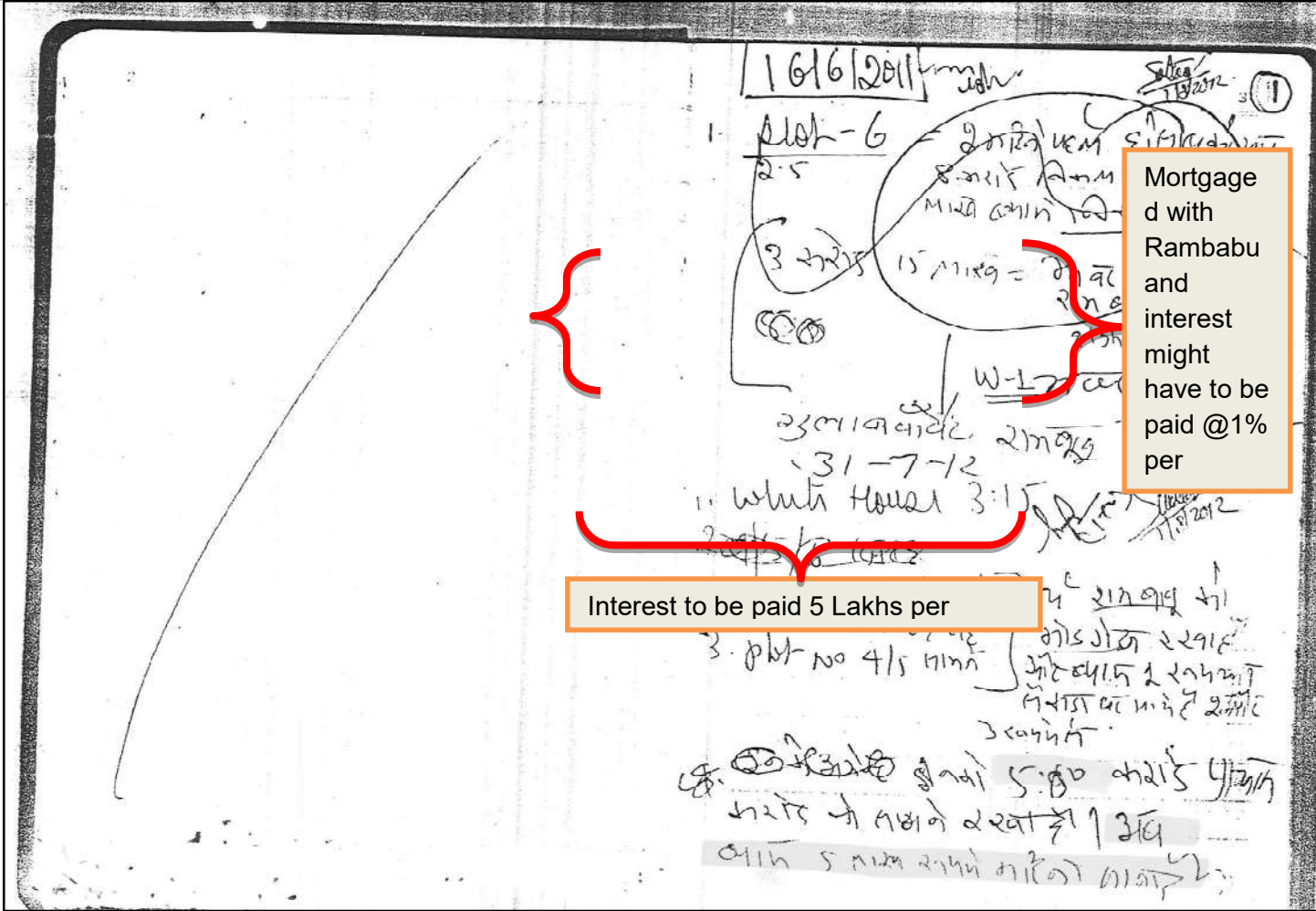
unaccounted income to the extent of Rs. 14,61,00,000. Accordingly, additions of Rs. 14,61,00,000 were made to the income of the assessee.

3. *It is submitted that if the entire diary from the start is considered, it is clearly discernible that the diary consisted of the various loans which had been taken by the assessee and the group companies of which assessee was a part.*

4. In this regard, screenshot of each of the diaries, and the relevant factual position, as emerging from such diary is set out here under:



Jhwar
Building
Sale



INDIA

2.5 Cr lent

Installment- Rs. 3.9 lakhs per month

Making payment against it and as of today, there still a balance of Rs. 2.1 Cr to be paid according to boss.

A loan of Rs. 2 Cr had been taken from bank by SIYARAM CITY CAB

Taken Business Limit from Central Bank of India

LOAN TAKEN

2.5 Cr - INDIABULLS

1.25 Cr + 0.75 Cr – Central Bank of India (Business Limit)

Total = 4.5 Cr

Kept in front;
we have
exhausted
the limit.
Interest of
Rs. 2.4
Lakhs as per

City Cab
Building

Hotel
Raghvish
behind the
channel

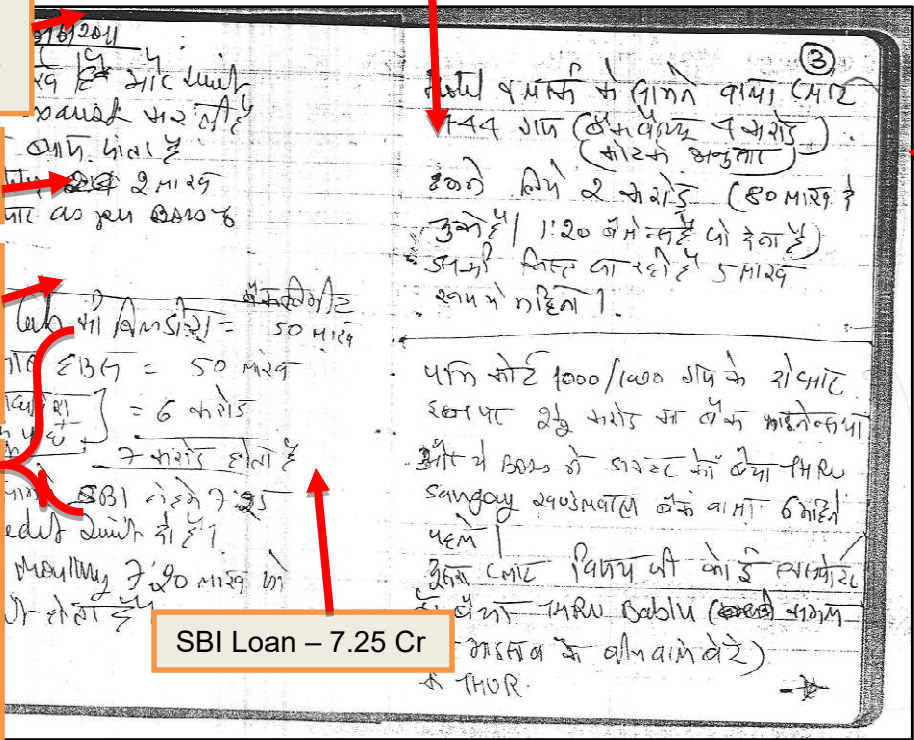
Against it,
SBI has
given Limit
of 7.25 Cr;
7.2 lakhs
debited as
monthly
installment

Bank Limit

Land in front of Clarks
Amer at 2 Cr
Valuation
1.2 Cr – Taken from

Installment being paid
of Rs. 5 Lakhs per
month

Plots Sold – Bank Loan
STRESS SALE



SBI Loan – 7.25 Cr

ASSUMPTION

2.1 Cr Paid to Bank

Handwritten notes in Hindi on a grid background. The text is organized into several sections with horizontal lines. On the left side, there are calculations involving numbers like 3:20, 1:20, and 2:20. On the right side, there are descriptive notes, including one that says "MBC Building Totaly free" and another mentioning "Bank Finance 3.4". A red arrow points from the "Bank Finance 3.4" box to a specific line of text in the notes.

Bank Finance 3.4

Private Fund

Private Fund	
1. 5	शरीर चालाई
2. 1/2	शरीर चारवाड के मरु
3. 1/2	शरीर चारवाड के मरु
4. 2.00	शरीर चारवाड के मरु
5. .80	शरीर चारवाड के मरु
6. 2.00	शरीर चारवाड के मरु
7. 1.00	शरीर चारवाड के मरु
8. 1.00	शरीर चारवाड के मरु
9. 30	शरीर चारवाड के मरु
10. 2	शरीर चारवाड के मरु
Total = 13.62 Cr	

Kamal Ji bhisaa

From the in-laws

Hemchand Jain

Sl. No.	Amount (Lakhs)	Description
3.	2	2 लाख का बंधन (2 लाख का बंधन)
4.	1	1 लाख का बंधन (1 लाख का बंधन)
5.	15	15 लाख का बंधन (15 लाख का बंधन)
6.	5	5 लाख का बंधन (5 लाख का बंधन) - Gold Mortgage with Muthoot Finance
7.	6	6 लाख का बंधन (6 लाख का बंधन)
8.	15	15 लाख का बंधन (15 लाख का बंधन)
9.	30	30 लाख का बंधन (30 लाख का बंधन)
10.		विभिन्न बैंकों से US. (Loan)

Total = 97 Lakhs

Loan

Gold Mortgage with Muthoot Finance

- From the above, it is clearly discernible that the group companies of the assessee were in **huge financial debt**. This is for the reason that they had taken huge loans from different Financial Institutions, which they were unable to repay.
- In order to repay such loan and in order to determine the cash flows from which funds could be received by the assessee for the purpose of repayment of loan, rough notings were made by Sunita Shekhawat. In all the entries made in the diary, Sunita Shekhawat has mentioned of the various sources from which the loans which had been taken by the group companies can be repaid.

7. *At PB Page 133 [Internal Page 9], Sunita Shekhawat is simply mentioning the various sources from which the funds would be available which could be utilized for the purpose of repayment of loan.*
8. *For instance, at Page No. 134, at Serial No. 7 [Internal Page 10], it has been mentioned that 6 lakh rupees might be available to the assessee out of the gold loan which can be taken from Muthoot Finance, through mortgage of gold.*
9. *At Serial No. 5 of the entry at Page No. 133 it has been mentioned that 80 lakhs would be taken from Kota people, who happened to be the in-laws of the assessee, Shri Satish Katta.*
10. *It is submitted that if the ld. AO would have gone through the entire diary entries and would have tried to decipher the factual position as coming out of those entries, he would have definitely come to the conclusion of the assessee was in huge financial trouble. Also, he would have come to the conclusion that, in order to repay the existing loans, the assessee was contemplating to take the loans from different entities/persons, through which the existing loans could be repaid.*
11. *This can never be considered as an unexplained income of the assessee. On the contrary, this was nothing, but an anticipation or working of the loan which could be arranged by the assessee which was done by Sunita Shekhawat.*
12. *It is submitted that during the course of search proceedings, the aforementioned diary was confronted to the assessee. The assessee, without having knowledge, under duress, surrendered amount of Rs. 10,00,00,000 as his income. Only on the basis of such surrender additions were made to the income of the assessee.*
13. *It is a trite law that the department should not try and extract surrender from the assessee through statements. Also, any surrender made without any collaboration should not result into addition being made in the hands of the assessee.*
14. *What the ld. AO should have done, was to objectively, ascertain each and every entry in the diary, and thereafter resort to making additions to the income of the assessee, if required under the provisions of the Income Tax Act, 1961.*
15. *On the contrary, the ld. AO has simply made additions by considering certain figures, as stated in the diary, without objectively analyzing the reason for making such diary entries.*
16. *Also, the ld. Assessing Officer is simply relying on the statements made by the assessee during the course of search without analyzing any of the entries with the actual financial position of the assessee.*

51. Per contra, the ld. DR relied upon the order of lower authorities.

52. We have heard the rival contentions and perused the material available on record. After reviewing the material, including the seized documents, it is evident that the documents were not properly evaluated by the lower authorities. The lower authorities solely relied on the statement under section 132(4) and failed to correlate the seized documents with any actual transactions of assessee. Although assessee accepted that they had not made the requisite submissions before the lower authorities due to financial constraints and ongoing litigation, in the interest of justice, the ld. AR requested that all the documents should be reconsidered by the AO. After considering the material available on record and hearing both sides, we are of the view that, in the interest of justice, the seized material should be reviewed and verified by the AO, taking into account the entire factual position. Only after this verification should the addition to the income of assessee be made. Accordingly, we set aside the case and remand it to the file of the AO for further verification of all the material. It is needless to mention that assessee should be given a reasonable opportunity to make submissions. Similar additions have been made to the income of assessee for other grounds in the same year, and in the interest of justice, we are remanding the entire case to the AO for adjudication.

GROUND NO. 3

53. The assessee has challenged the addition of Rs. 4,00,000 made on account of undisclosed cash found during the course of search at the premises of the assessee. It has been submitted by the ld. AR of the assessee that considering the family size and circumstances of the assessee, the possession of this much cash is reasonable.

54. Per contra, the ld. DR relied upon the order of the lower authorities.

55. After examining the orders of the lower authorities, we note that they have not adequately considered the family size of the assessee, which is a vital fact. In the interest of justice, we set aside this ground to the file of the AO for fresh adjudication. The AO is directed to examine the family size and circumstances and make additions, if any, after providing the assessee with an adequate opportunity to present their case.

GROUND NO. 4

56. In relation to Ground No. 4, an addition of Rs. 43,56,284 has been made by the AO on account of jewellery found at the residential premises of the assessee. The ld. AR of the assessee submitted that the authorities have failed to consider CBDT Instruction No. 1916 dated 11.05.1994, which provides certain exemptions for jewellery based on family size and circumstances. In support of this, the ld. AR

also relied upon the decision of the Hon'ble Jurisdictional High Court in the case of *Satyanarayana Patni* (2000) 46 Taxmann.com 440 (Rajasthan).

Upon reviewing the orders of the lower authorities, we observe that the family size of the assessee has not been adequately considered. In the interest of justice, we set aside this ground to the file of the AO to ascertain the family size and circumstances and make additions, if any, accordingly. The AO is also directed to provide the assessee with an adequate opportunity to present their submissions and ensure that any addition is made based on a proper and detailed assessment.

GROUND NO. 5 AND 6

57. In relation to Grounds No. 5 and 6, the additions of Rs. 7,00,000 and Rs. 66,00,000, respectively, have been made based on the notings on Page No. 33 of Exhibit 2- Annexure A, which were seized during the course of the search at the residence of the assessee. These additions were challenged by the assessee before us under Grounds No. 5 and 6. During the assessment proceedings, the AO made these additions based on the seized document without obtaining a reply or submissions from the assessee. In the appeal filed by the assessee before the CIT(A), the additions were sustained.

58. Before us, the ld. AR of the assessee submitted that the additions were made without providing any concrete basis or confronting the seized material to the assessee. It was argued that the AO had not provided the opportunity to explain the entries or substantiate the claims before making the additions. The submissions filed by the ld. AR of the assessee in this regard are reproduced hereunder. Per contra, the ld. DR relied upon the orders of the lower authorities and contended that the additions were justified.

59. We have heard the rival submissions and perused the material available on record. Upon examining the seized material and the orders of the lower authorities, it is evident that the assessee was not provided with an opportunity to explain the entries in the seized documents, nor were the documents properly confronted. While there may be some fault on the part of the assessee in not filing submissions during the assessment proceedings, no unilateral additions can be made without providing the assessee an opportunity to respond and without confronting the material forming the basis of the additions. In the interest of justice, and similar to the approach taken for other grounds discussed herein, we set aside Grounds No. 5 and 6 to the file of the AO for fresh adjudication. The assessee is directed to appear before the AO and provide all necessary explanations and evidence as required.

The AO is directed to pass a fresh assessment order after considering all submissions and evidence provided by the assessee.

GROUND NO. 7

60. In relation to Ground No. 7, an addition of Rs. 2,67,000 has been made to the income of the assessee. This addition has been made based on the seized material consisting of Page Nos. 14 and 15 of Exhibit 3 to Annexure A, which were found during the search conducted at the residence of the assessee. These documents pertain to some notings allegedly made by the brother of the assessee. Similar additions were made to the income of the assessee for the AY 2009-10 and AY 2010-11 based on seized material. We have already dealt with these additions in the appeals for those assessment years and have given a finding that the additions were made without proper verification of the seized material. For those years, we have set aside the matters to the file of the AO for reconsideration of the relevant pages of the seized material. Following the same reasoning and in the interest of justice, we also set aside the matter pertaining to Ground No. 7 for the assessment year under consideration to the file of the AO. Similar to the directions given for AY 2009-10 and AY 2010-11, the AO is directed to reconsider the entire material on record and verify the seized documents thoroughly. Thereafter, the AO shall make additions, if required, after providing the assessee an adequate

opportunity to explain the seized material. The assessee is directed to cooperate fully during the set aside proceedings.

GROUND NO. 8

61. In relation to Ground No. 8, addition of Rs. 1,20,00,000 has been made to the income of the assessee on account of alleged unexplained cash expenses. This addition was based on two diaries seized during the course of a search at the residence of the assessee, marked as Exhibit 7 and Exhibit 8 in the seized material. During the assessment proceedings, the AO examined the seized material and, on a lump sum basis, made the addition, alleging that the entries in these diaries represented unexplained cash expenses incurred by the assessee.

It is noted that during the assessment proceedings, the assessee was asked to provide submissions in response to these allegations. However, no reply was filed by the assessee. Subsequently, during the appellate proceedings before the CIT(A), submissions were made by the assessee. However, CIT(A) sustained the addition made by the ld. AO.

62. Before us, the ld. AR of the assessee submitted Additional Evidence in relation to this ground and made a separate application in this regard under Rule 29 of the ITAT Rules. The additional evidence consisted of ledger accounts of

different companies related to the assessee. The Id. AR submitted that the entries in the seized diaries corresponded to entries in the ledger accounts of these group companies, which are either owned or controlled by the assessee. It was further stated that these entries in the ledger accounts can be matched with the notings found in the seized diaries (Exhibit 7 and Exhibit 8).

The submissions made by the assessee in this regard are reproduced hereunder:-

1. *Ld. AO, during the course of assessment proceedings, on the basis of two diaries found at the residence of the assessee, marked as Exhibit-7 & 8, made additions of Rs. 1,20,00,000 to the income of the assessee.*
2. *It is submitted that the entire additions were based on a **lumpsum basis** without any proper underlying working done by the lower authorities.*
3. *It is submitted that the entire transactions which are mentioned in the diaries, marked as Exhibit-7 & 8 were properly recorded in the books of accounts of the group company in which assessee was Director. In this regard, Additional Evidences have already been submitted to the Hon'ble Bench consisting of the ledger accounts of M/s Siyaram Exports Private Limited.*
4. *In the ledger account, it is clearly visible, that the corresponding entries were mentioned in the diaries. List of the same on sample basis is attached herewith.*

<i>Date of Entry</i>	<i>Particulars</i>	<i>Amount</i>	<i>PB Number containing extract of Diary</i>
<i>01.11.2011</i>	<i>Imran Ari Embroidery</i>	<i>588</i>	<i>PB-54</i>
<i>02.11.2011</i>	<i>Repair & Maintenance Charges</i>	<i>4,010</i>	<i>PB-54</i>
<i>03.11.2011</i>	<i>Sultan Ji (ADV)</i>	<i>2,000</i>	<i>PB-55</i>
<i>04.11.2011</i>	<i>Paras Dyeing</i>	<i>10,000</i>	<i>PB-55</i>
<i>05.11.2011</i>	<i>Conveyance Expenses</i>	<i>110</i>	<i>PB-55</i>
<i>08.11.2011</i>	<i>Expenses at Sanganer</i>	<i>6,000</i>	<i>PB-56</i>
<i>10.11.2011</i>	<i>S.R. International</i>	<i>20,000</i>	<i>PB-56</i>

15.11.2011	Telecommunication Charges	11,365	PB-58
29.11.2011	Kotak Mahindra Bank Ltd.	65,000	PB-61
10.12.2011	S.R. International	5,000	PB-64
16.12.2011	Thar Exports	18,000	PB-66
09.01.2012	Rushi Art & Craft	1,00,000	PB-72
28.01.2012	Thar Exports	17,000	PB-76
16.02.2012	Accessories-VAT Free	2,500	PB-89
28.02.2012	Telecommunication Charges	10,500	PB-92
07-03-2012	Fee & Subscription	300	PB-93
14-03-2012	SBI CA #30100826019	46,000	PB-94

63. Per contra, the ld. DR objected to the acceptance of the additional evidence submitted by the assessee. The ld. DR contended that no relief should be granted to the assessee on this account.

64. We have heard the rival submissions and perused the material available on record. The first issue to be addressed is whether the additional evidence submitted by the assessee in the form of ledger accounts of different companies should be accepted or not. Upon examining the additional evidence and certain accounts submitted by the assessee for these companies, we note that the entries in the seized diaries purportedly represent cash expenses, which the assessee claims are part of the regular books of accounts of these companies. In the interest of justice, since the entries in the diaries correspond to expenses that are claimed to have been accounted for in the regular books of accounts of the group companies, the additional evidence is admitted. We set aside the matter to the file of the ld. AO for

proper verification and corroboration of the entries in the seized diaries (Exhibit 7 and Exhibit 8) with the ledger accounts submitted by the assessee. However, this requires a proper analysis of the material submitted and a thorough examination of the entries in the books of accounts. Accordingly, the additional evidence is accepted, and the case is set aside to the file of the Id. AO for re-examination of the documents on record and verification of the factual position.

GROUND NO. 9

65. In relation to Ground No. 9, the assessee has challenged the lump-sum addition of Rs. 58,17,320 made under various heads of income, such as income from salary, income from house property, and income from other sources. It has been submitted by the Id. AR of the assessee that these additions have been made on an estimation basis without any concrete evidence or basis provided by the AO. The Id. AR further contended that the CIT(A), without any valid reasoning, has confirmed these additions. Submission made by the Id. AR of the assessee is reproduced hereunder:-

1. *Ld. AO during the course of assessment proceedings, made addition of Rs. 58,17,320 in totality to the income of the assessee on estimate basis, under different heads of income. Breakup of the same is as under:-*
 - 1.1. *Income from Salary- Rs. 27,00,000*
 - 1.2. *Income from House Property- Rs. 8,17,320*

1.3. ***Income from Other Sources- Rs. 23,00,000***

2. *It is submitted that there is no basis whatsoever through which the present additions were made by the ld. AO to the income of the assessee.*
3. *The assessee had not earned any such income during the year under consideration. Equating the income of the assessee of previous years to find out the income for the year under consideration is not the correct approach. No notional income can be added to the income of the assessee and tax liability cannot be fastened on the assessee on such notional income.*
4. *It was submitted before the ld. CIT(A) also that the entire additions were made on estimate basis. However, the ld. CIT(A) also did not consider the submissions of the assessee.*

66. Per contra, the ld. DR argued that the additions have been made based on some estimation, though no concrete evidence was available with the AO to substantiate the same.

67. We have heard the rival submissions and perused the material available on record. Upon examining the material on record, we find that the additions have been made solely on an estimation basis without any substantial evidence to justify the quantum of such additions. In the interest of justice, we set aside this issue to the file of the AO for de novo assessment. The assessee is directed to submit all relevant evidence, if any, to substantiate the claims. If the assessee fails to submit the required evidence, the AO shall proceed to make additions, as deemed fit, in accordance with the law. The AO is further directed to consider the matter afresh, taking into account evidence submitted, and thereafter, make appropriate additions to the income of the assessee, if required. Adequate opportunity of being heard

shall be granted to the assessee to make submissions during the reassessment proceedings. The assessee is also directed to cooperate fully during the proceedings.

In view of the above, appeals of the assessee is allowed for statistical purpose.

**SHANTINATH BUILDCON PRIVATE LIMITED: ITA NO. 467/JPR/2018
(AY 2012-13)**

68. The appeal has been preferred by assessee company against the order passed by the CIT(A)-4, Jaipur, for AY 2012-13 on 01.12.2017. The grounds taken by the assessee company are set out as under:

1. In the facts and circumstances of the case and in law the Id. CIT (A) has erred in not adjudicating the legal Ground No. 1 and upholding the action of the Id. AO in completing the assessment u/s 144 of the Income Tax Act, 1961. The action of Id. CIT (A) is illegal, unjustified, arbitrary and against the facts of the case. Relief may please be granted by quashing the entire assessment order which is passed in gross violation of natural justice.
2. In the facts and circumstances of the case and in law the Id. CIT(A) has erred in confirming the action of the Id. AO in adding a sum of Rs. 96,25,200 as unexplained income on the alleged ground that the assessee company has suppressed the sale consideration by Rs. 96,25,200. The action of the Id. CIT(A) is illegal, unjustified, arbitrary and against the facts of the case. Relief may please be granted by deleting the said addition of Rs. 96,25,200 and accepting the sale consideration at Rs. 1,15,50,240.
3. In the facts and circumstances of the case and in law the Id. CIT(A) has erred in confirming the action of the Id. AO in disallowing a sum of Rs. 12,16,500 (interest of Rs. 9,81,495 and commission of Rs. 2,31,005) under section 40(a)(ia) of the Income Tax Act, 1961. The action of the Id. CIT(A) is illegal, unjustified, arbitrary and against the facts of the case. Relief may please be granted by quashing the said disallowance of Rs. 12,16,500.

4. The assessee company craves its right to add, amend or alter any of the grounds on or before the hearing.

GROUND NO. 1:

69. At the time of hearing before us, it was submitted by the ld. AR of the assessee that Ground No. 1 is not pressed. Accordingly, this ground is dismissed as not pressed.

GROUND NO. 2:

70. In relation to Ground No. 2, during the course of assessment proceedings, the AO scrutinized documents marked as Page No. 136 to 141 of Exhibit-6 to Annexure-AS. These documents included an agreement executed by the company with Ms. Archana Ahuja for the sale of land. As per the agreement, the land was to be sold for a total consideration of Rs. 2,11,75,440. However, a registered sale deed was executed on 11.04.2014, in which the sale consideration was mentioned as Rs. 1,15,50,240. The differential amount of Rs. 96,25,200 was added by the AO as unexplained income in the hands of the assessee company.

The matter was carried in appeal before the CIT(A), who confirmed the addition. Aggrieved, the assessee company preferred an appeal before us.

71. During the course of hearing, the ld. AR of the assessee submitted that the agreement for sale had been entered into by the assessee company with the

prospective buyer. Subsequently, due to the poor financial condition of the group, the prospective buyer re-negotiated the terms, and the sale consideration was reduced. The final sale deed reflected the re-negotiated amount of Rs.1,15,50,240 which was duly registered with the Sub-Registrar.

The Id. AR emphasized that the only basis for the addition was the agreement to sell found during the search, and no other corroborative evidence was brought on record. It was further argued that the registered sale deed, being the final document, should take precedence over the agreement to sell. It was also submitted that the AO did not conduct any inquiry with the purchasers of the land to corroborate whether the property was sold for the higher amount stated in the agreement or the amount as mentioned in the registered deed. Moreover, there was no indication of any addition made in the hands of the purchasers based on the differential amount, in the hands of purchaser.

The Ld. AR of the assessee, during the course of the hearing before us, filed written submissions, which are reproduced herein below:

22.1. *Assessee company has sold land located at 2B Palm Court during the relevant assessment year at a total sale consideration of Rs. 1,15,50,240. Details are as under:*

<i>Property location</i>	<i>Name of purchaser</i>	<i>Date of sale deed</i>	<i>Sale consideration as per sale deed</i>	<i>DLC Value</i>
<i>2B Palm</i>	<i>Archana</i>	<i>11.04.2011</i>	<i>1,15,50,240</i>	<i>1,17,31,608</i>

Court	Ahuja			
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- 22.2. During the course of search proceedings, certain documents were seized from residence of Shri Satish Chandra Katta, who is the key person of this group.
- 22.3. The ld. AO has found one agreement, the Stamp Paper of which was purchased on 15.03.2011 but the date on the agreement was left blank.
- 22.4. As per these documents, ld. AO noted that the agreement was executed between the appellant Company and Smt. Archana Ahuja. As per the agreement, the above mentioned property has been sold for total consideration of Rs. 2,11,75,440.
- 22.5. On the basis of these documents, the ld. AO has made addition of Rs.96,25,200 (2,11,75,440 – 1,15,50,240) as undisclosed income of the assessee Company.
- 22.6. During A.Y. 2009-10, the appellant Company had purchased land situated at 2B Palm Court, Jagatpura, Jaipur. Details are as under (**AO Order Page 3**):

Date of purchase	Property Location	Name of Seller	Amount (in Rs.)
31.05.2008	2B, Palm Court, Jagatpura, Jaipur	Gaj Singh	40,00,000/-

- 22.7. The above purchase of land was duly accounted for in the books of accounts of the appellant Company and was shown in the Balance Sheet as on 31.03.2009.
- 22.8. The sale value as per registered sale deed was duly shown in the books of accounts of the appellant.
- 22.9. The property situated at 2B, Palm Court was agreed to be sold to Smt. Archana Ahuja for a total sale consideration of Rs. 2,11,75,440. However, the financial position of the group was extremely precarious. The buyer was aware of compulsion for selling the property at the earliest. Buyer took advantage of compelling circumstances and forced the appellant Company to renegotiate the deal. She also pressurized the assessee Company to sale the property at Rs. 1,15,50,240 or else she threatened to cancel the agreement. This property was eventually sold vide registered sale deed dated 11.04.2011 for the agreed consideration of property.
- 22.10. It is submitted that the lower authorities have not been able to bring to the fore any evidence which could suggest that the assessee Company received more consideration than what was finalized in the registered sale deed. Additions made by the ld. AO were

simply on the basis of guess work which remained uncorroborated, which have been upheld by the ld. CIT(A), without any cogent basis.

22.11. *Under identical set of facts wherein additions were made on the value specified in the seller and purchaser which was at the higher value as compared to actual sale deed entered by the seller and the purchaser. Hon'ble High Court in the case of CIT vs. HirabenGovindbhai Patel 362 ITR 59 [2014] [Guj], upheld the order of the Hon'ble ITAT deleting the additions made by the ld. AO and held that:-*

"..From the above it can be seen that the entire issue is based on evidence on record, duly considered by CIT (A) as well as the Tribunal to come to a concurrent factual finding. Significant facts were though advanced, such MoU did reflect the sale price of Rs. 14.71 crore, nevertheless, the agreement to sale as well as the sale deed recorded the sale consideration of Rs. 7.35 crore. There was no material to suggest that any sale consideration in excess of the said amount was actually paid. As pointed out by the assessee, the search was carried out only eleven days after the sale and no cash was recovered. More importantly, the CIT (A) as well as the Tribunal both have considered the development and limited use of land to the purchaser. Fifty per cent of the land was likely to be reserved. It was, therefore that the seller agreed to receive reduced rate. Simultaneously, another deed was signed indicating that if by some chance, use of full area of land is available to the purchaser, the entire amount indicated in the MoU would be paid. The Assessing Officer did not have any other evidence barring the MoU to controvert such evidence. No question of law, therefore, arises. With respect to fair market value, CIT [A] as well as the Tribunal relied on the valuation report of the registered valuer. Without any further evidence, the Assessing Officer could not have substituted such amount. In the result, Tax Appeal is dismissed."

72. Per contra, ld. DR relied on the findings of the lower authorities.

73. We have heard the rival contentions and perused the material on record.

During the search on Shri Satish Chandan Katta, an agreement to sell was found wherein the company had agreed to sell the property for Rs. 2,11,75,440. However,

the registered sale deed executed subsequently reflected a sale consideration of Rs.

1,15,50,240. The AO added the differential amount of Rs. 96,25,200 to the income

of the assessee company as unexplained income. The CIT(A) confirmed this addition.

The assessee company contended that the financial condition of the group had deteriorated, and the purchasers took advantage of the situation to re-negotiate the sale price. The final sale consideration was as per the registered sale deed. It was also submitted that no independent inquiry was conducted by the AO to corroborate the facts with the purchasers.

On examining the assessment order, we find that it was passed *ex-parte* under Section 144 of the Income Tax Act, 1961. Furthermore, no proper inquiry has been conducted by the AO with the purchasers to substantiate the addition. The assessment order does not provide a sufficient basis for the addition, apart from the agreement to sell.

In the interest of justice, we deem it appropriate to set aside this ground of appeal to the file of the AO for conducting a proper inquiry and passing a fresh assessment order after considering all aspects of the transaction. The AO is directed to conduct an independent inquiry with the purchasers and other relevant parties, if required, and thereafter determine the income of the assessee company.

The assessee company should be provided with adequate opportunity to present its case on factual and legal grounds.

Accordingly, Ground No. 2 is allowed for statistical purposes.

GROUND NO. 3:

74. During the course of assessment proceedings, it was noted by the AO that the company had incurred certain expenses in the form of interest and commission, amounting to Rs. 12,16,500. On examining these expenses, the AO observed that the assessee company had failed to deduct tax at source (TDS) on the said payments. Consequently, a disallowance of the entire amount was made under Section 40(a)(ia) of the Income Tax Act, 1961. This disallowance was subsequently upheld by the CIT(A) during the first appellate proceedings.

Before us, the Id. AR of the assessee contended that the disallowance, if any, should be restricted to 30% of the sum payable to the non-resident. The Id. AR referred to the amendment introduced in Section 40(a)(ia) by the Finance Act, 2014, effective from 01.04.2015, which limits the disallowance to 30% in cases of non-deduction of TDS, instead of 100% as was previously applicable. The Id. AR argued that the said amendment should be treated as retrospective in nature, providing relief to the assessee.

The Ld. AR of the assessee, during the course of the hearing before us, filed written submissions, which are reproduced herein below:

- 3.1 *“The assessee company had incurred the following expenses on which TDS was deducted. However, TDS was not been deposited in Government A/c:*

S.No.	Expense	Amount (in Rs.)	TDS Deducted
1.	<i>Interest</i>	9,85,495	98,550
2.	<i>Commission</i>	2,31,005	23,310
	Total	12,16,500	1,21,650

- 3.2 *During the course of assessment proceedings, the ld. AO disallowed the abovementioned interest expenses under Section 40(a)(ia) on account of non deposition of TDS. (AO Order Page 5)*
- 3.3 *The amendment in section 40(a)(ia) made by Finance Act, 2014 w.e.f. 01.04.2015 provides that 30% of any sum payable to a resident shall be disallowed if tax is not deducted at source under Ch. XVIIIB as against 100% made prior to this amendment.*
- 3.4 *The purpose of this amendment was explained in the memorandum as under:-
“the disallowance of whole of the amount of expenditure results into undue hardship and therefore In order to reduce the hardship, it is proposed that in case of non-deduction or non-payment of TDS on payments made to residents as specified in section 40(a)(ia) of the Act, the disallowance shall be restricted to 30% of the amount of expenditure claimed.*
- 3.5 *The Finance Minister while introducing the amendment in para 207 of the Budget Speech has stated as under:
“207. Currently, where an assessee fails to deduct and pay tax on specified payments to residents, 100 percent of such payments are not allowed as deduction while computing his income. This has caused undue hardship to taxpayers, particularly where the rate of tax is only 1 to 10%. Hence, I propose to provide that instead of 100 percent, only 30% of such payments will be disallowed.”*
- 3.6 *From the above it can be noted that the amendment made by FA Act, 2014 w.e.f. 01.04.2015 is to remove unintended and undue hardship and therefore this amendment should be given retrospective effect. Reliance is placed on the decision of*

Hon'ble Supreme Court in case of CIT Vs. Vatika Township Pvt. Ltd. 109 DTR 33, wherein it has been held that legislations which modify accrued rights or which impose obligations or impose new duties or attach a new disability have to be treated as prospective unless the legislative intent is clearly to give the enactment a retrospective effect. However, if legislation confers a benefit on some persons but without inflicting a corresponding detriment on some other person or on the public generally and where to confer such benefit appears to have been the legislators object, then the presumption would be that such legislation, giving it a purposive construction, would warrant it to be given a retrospective effect. Therefore even in a case it is held that the disallowance u/s 40(a)(ia) is warranted, same should be restricted to only 30% of the amount of interest paid.

- 3.7 The above view is also upheld by the, ***Hon'ble ITAT Jaipur Bench in the case of Rajendra Yadav, ITA No. 895/JP/2012 (PB :28),*** vide order dated 29.01.2016, wherein, the Hon'ble Bench has considered that the amendment brought in by the Finance (No. 2) Act 2014 with effect from 1.4.2015, restricting the disallowance under section 40(a)(ia) to 30% of the amount payable to a resident on which tax has not been deducted, to have a retrospective effect. Relevant extract has been set out here for the sake of convenience:

“...Recently in the matter of P.M.S. Diesels 2015] 59 taxmann.com 100 (Punjab & Haryana), Hon'ble Punjab & Haryana High Court had elaborately discussed the judgment passed by the Hon'ble Calcutta High Court and Hon'ble Gujarat High Court, Hon'ble Allahabad High Court and other judgments as available and thereafter has come to the conclusion that the provisions of section 40(a)(ia) are mandatory in nature and non compliance/non deduction of tax attracts disallowance of the entire amount. Having said so, we will be failing in our duty if we do not discuss the amendment brought in by the Finance (No. 2) Act 2014 with effect from 1.4.2015 by virtue of which proviso to section 40(a)(ia) has been inserted, which provides that if any such sum taxed has been deducted in any subsequent year or has been deducted during the previous year but paid after the due date specified in sub-section (1) of section 139, such sum shall be allowed as a deduction in computing the income of previous year, and further, section 40(a)(ia) has been substituted wherein the 30% of any sum payable to a resident has been substituted. In the present case, the authorities below has added the entire sum of Rs. 7,51,322/- by disallowing the whole of the amount. Though the substitution in section 40 has been made effective with effective from 1.4.2015, in our view the benefit of the amendment should be given to the assessee...”

- 3.8 *The above ratio was followed in the case of **Smt. Sonu Khandelwal**,ITA No. 597/JP/2013, vide order dated 13.05.2016.*
- 3.9 *Ratio laid down by the Hon'ble ITAT Jaipur Bench in the case of **Smt. Sonu Khandelwal (Supra)** and **Rajendra Yadav (Supra)**, was followed by the **Hon'ble ITAT Delhi Bench** in the case of **Smt. Kanta Yadav**, ITA No. 6312/Del/2016, vide order dated 12.05.2017.*
- 3.10 *The above legal position was put forth before the ld. CIT(A), in the first appellate proceedings, however, the same was, without any cogent basis, disregarded by the ld. CIT(A). ”*

75. Per contra, ld. DR relied on the findings of the lower authorities and objected to the contentions raised by ld. AR of the assessee.

76. We have heard the rival contentions and perused the material available on record. In relation to Ground No. 3, we note that the disallowance has been made to the income of the company under Section 40(a)(i) of the Income Tax Act, 1961, on account of non-deposition of tax at source by the assessee company on expenses incurred amounting to Rs. 12,16,500. From a perusal of the assessment order, it is noted by us that the assessee has not deposited the TDS within the prescribed time to the Central Government. Further, the assessment in this case has been completed *ex-parte* under Section 144, and accordingly, the factual position is unclear as to whether the assessee has deposited the TDS already deducted with the Government or not. In the interest of justice, we deem it appropriate to set aside the matter to the file of the AO. The AO is directed to conduct a *de-novo* assessment for these

additions. Needless to mention, the assessee company should be provided a proper opportunity to present its case. Further, the assessee company is directed to comply with the notices and fully cooperate in the assessment proceedings.

Accordingly, the appeal for Ground No. 3 is allowed for statistical purposes.

**SHANTINATH BUILDCON PRIVATE LIMITED: ITA NO. 468/JPR/2018
(AY 2013-14)**

77. The appeal has been preferred by assessee company against the order passed by the CIT(A)-4, Jaipur, for AY 2013-14 on 02.02.2018. The grounds taken by the assessee company are set out as under:

1. In the facts and circumstances of the case and in law the Id. CIT (A) has erred in confirming the action of the Id. AO in completing the assessment u/s 144 of the Income Tax Act, 1961. The action of Id. CIT (A) is illegal, unjustified, arbitrary and against the facts of the case. Relief may please be granted by quashing the entire assessment order which is passed in gross violation of natural justice.
2. In the facts and circumstances of the case and in law the Id. CIT (A) has erred in confirming the action of the Id. AO in making addition of Rs. 3,00,000 of interest on estimate basis to the total income of the assessee. The action of Id. CIT (A) is illegal, unjustified, arbitrary and against the facts of the case. Relief may please be granted by deleting the said addition of Rs. 3,00,000.
3. The assessee company craves its right to add, amend or alter any of the grounds on or before the hearing.

This appeal pertains to the scrutiny assessment initiated following a search conducted on 31.07.2012 at the premises of the Katta Group, of which the assessee company is a part. Pursuant to the search, for the year under consideration, the case

of the assessee company was taken up for scrutiny assessment. During the course of the assessment, it was observed by the AO that the assessee company had not filed its return of income for the year under consideration. Consequently, vide order dated 23.03.2015 passed under Section 144 r.w.s 153B(1)(b) of the Income Tax Act, 1961, an addition of Rs. 3,00,000 was made under the head "**Income from Other Sources.**"

As per the AO, since the assessee company had not filed its return of income for the relevant year, no specific details were available for making any assessment. Consequently, the AO had to draw reference to the assessment for AY 2012-13, i.e., the immediately preceding assessment year, wherein the assessee company had declared income under the head "Income from Other Sources," which had been assessed at Rs. 2,83,524. Taking reference from the immediately preceding year, the AO made an addition of Rs. 3,00,000 for the year under consideration.

Aggrieved by the addition, the assessee company preferred an appeal before the CIT(A)-IV, Jaipur, the appeal of the assessee company was dismissed.

GROUND NO. 1:

78. Ground No. 1 pertains to the passing of the order by the AO under Section 144 of the ITA. At the time of the hearing, the assessee company submitted at the

bar that it did not wish to press Ground No. 1. Accordingly, the said ground of appeal is dismissed as not pressed.

GROUND NO. 2:

79. In relation to Ground No. 2, the assessee company submitted before us that the entire addition of Rs. 3,00,000 was made without any basis. Per contra, the Id. DR relied upon the orders of the lower authorities.

80. We have heard the rival contentions. The assessment has been carried out by the AO under Section 144 *ex-parte*, as the assessee company did not make any submissions before the AO. The entire addition has been made solely by taking reference to AY 2012-13, without any relevant material being considered by the AO, as the same was not available on record.

In the interest of justice, we find it proper to set aside the case to the file of the AO once again to re-adjudicate the matter and determine the income of the assessee company based on the material available on record and also by seeking all requisite information/documents from the assessee company. Accordingly, we set aside the case of the assessee company to the file of the AO for verification of the factual position. Needless to mention, the assessee company shall be given adequate

opportunity to present its case and submit all factual documents it wishes to rely upon.

In view of the above, Ground No. 2 is decided in favour of the assessee company for statistical purposes.

The appeal of the assessee company is partly allowed for statistical purposes.

SIYARAM EXPORTS INDIA PVT. LTD.

81. The appeals have been preferred by assessee company against the order passed by the CIT(A)-4, Jaipur, for AY 2011-12 & 2013-14. The appeal for the respective assessment year is being decided by us by passing an order. The grounds taken by the assessee company are set out as under:

ITA NO. 145/JPR/2024 (AY 2011-12)

1. In the facts and circumstances of the case and in law, Id. CIT(A) has erred in passing the order ex-parte against the assessee company. The action of the Id. CIT(A) is illegal, unjustified, arbitrary and against the facts of the case. Relief may please be granted by quashing the entire order passed, being against the principles of natural justice.
2. In the facts and circumstances of the case and in law, Id. CIT(A) has erred in, confirming the action of the Id. AO, in reopening the assessment under Section 147 of the Income Tax Act, 1961. The action of the Id. CIT(A) is illegal, unjustified, arbitrary and against the facts of the case. Relief may please be granted by quashing the reassessment proceedings being illegal and without jurisdiction.
3. In the facts and circumstances of the case and in law, Id. CIT(A) has erred in, confirming the action of the Id. AO, in issuing notice under Section 148 of the Income Tax Act, 1961

without obtaining proper sanction under section 151 of the Income Tax Act, 1961. The action of the ld. CIT(A) is illegal, unjustified, arbitrary and against the facts of the case. Relief may please be granted by quashing the reassessment proceedings being illegal and without jurisdiction.

4. In the facts and circumstances of the case and in law, ld. CIT(A) has erred in, confirming the action of the ld. AO, in reopening the case of assessee under section 147 instead of making assessment under section 153C. The action of the ld. CIT(A) is illegal, unjustified, arbitrary and against the facts of the case. Relief may please be granted by quashing the reassessment proceedings being illegal and without jurisdiction.
5. In the facts and circumstances of the case and in law, ld. CIT(A) has erred in, confirming the action of the ld. AO, in concluding the assessment under section 144 of Income Tax Act, 1961. The action of the ld. CIT(A) is illegal, unjustified, arbitrary and against the facts of the case. Relief may please be granted by quashing the reassessment proceedings being illegal, without any basis and contrary to principles of natural justice.
6. In the facts and circumstances of the case and in law, ld. CIT(A) has erred in, confirming the action of the ld. AO, in rejecting the books of accounts by invoking the provisions of section 145(3). The action of the ld. CIT(A) is illegal, unjustified, arbitrary and against the facts of the case. Relief may please be granted by accepting books of accounts.
7. In the facts and circumstances of the case and in law, ld. CIT(A) has erred in, confirming the action of the ld. AO, in making addition of Rs. 12,65,18,935 under section 69C on account of alleged bogus purchases. The action of the ld. CIT(A) is illegal, unjustified, arbitrary and against the facts of the case. Relief may please be granted by deleting the entire addition of Rs. 12,65,18,935.
8. In the facts and circumstances of the case and in law, ld. CIT(A) has erred in, confirming the action of the ld. AO, in making addition amounting to Rs. 12,65,18,935 being alleged bogus purchases of Rs. 12,65,18,935, without discharging his onus of providing copy of the statements of persons and material relied upon by him. The action of the ld. CIT(A) is illegal, unjustified, arbitrary and against the Principal of natural justice. Relief may please be granted by deleting the entire addition of Rs. 12,65,18,935.
9. In the facts and circumstances of the case and in law, ld. CIT(A) has erred in, confirming the action of the ld. AO, in making addition amounting to Rs. 12,65,18,935 being alleged bogus

purchases of Rs. 12,65,18,935, without providing the opportunity of cross examining the persons, whose statements has been used against the assessee. The action of the Id. CIT(A) is illegal, unjustified, arbitrary and against the Principal of natural justice. Relief may please be granted by deleting the entire addition of Rs. 12,65,18,935.

10. The assessee company craves its rights to add, amend or alter any of the grounds on or before the hearing.

ITA NO. 151/JPR/2024 (AY 2013-14)

1. In the facts and circumstances of the case and in law Id. CIT(A) has erred in passing the order *ex-parte* against the assessee company. The action of the Id. CIT(A) is illegal, unjustified, arbitrary and against the facts of the case. Relief may please be granted by quashing the entire order passed, being against the principles of natural justice.
2. In the facts and circumstances of the case and in law, Id. CIT(A) has erred in, confirming the action of the Id. AO, in imposing penalty of Rs. 21,99,030, under Section 271AAB of the Income Tax Act, 1961 (ITA). The action of the Id. CIT(A) is illegal, unjustified, arbitrary and against the facts of the case. Relief may please be granted by deleting the entire penalty of Rs.21,99,030 imposed by the Id. AO and confirmed by the Id. CIT(A).
3. In the facts and circumstances of the case and in law, Id. CIT(A) has erred in confirming the action of the Id. AO, in imposing penalty under Section 271AAB without specifically pointing out in the Show Cause Notice, under which clause i.e. either (a), (b) or (c) of section 271AAB, penalty was proposed. The action of the Id. CIT(A) is illegal, unjustified, arbitrary and against the facts of the case. Relief may please be granted by quashing the entire penalty order being illegal and void ab initio.
4. The assessee company craves its rights to add, amend or alter any of the grounds on or before the hearing.

82. At the outset of the hearing in the appeal before us, it is noted that the assessee company was *ex-parte* before both the AO and the CIT(A). During the course of hearing before us, the Id. AR submitted that the assessee company had not been provided sufficient opportunities to present its case on factual and legal

aspects before the AO and CIT(A). The Id. DR, on the other hand, supported the orders of the lower authorities.

83. We have carefully considered the rival contentions and perused the orders of the lower authorities. It is an admitted fact that the assessee company was *ex-parte* before both the lower authorities and did not make any submissions, despite having been provided with various opportunities. Consequently, the lower authorities decided the case in the absence of the assessee's company participation.

However, we are of the view that the dispute between the parties should be decided on its merits so that no party's rights are curtailed without being provided an appropriate opportunity of being heard. Therefore, in the interest of justice, the matter is restored to the file of the AO for fresh adjudication by providing one more opportunity of hearing to the assessee company. The assessee company is directed to cooperate with the proceedings and not to seek adjournments on frivolous grounds.

Accordingly, the appeal of the assessee company is allowed for statistical purposes. Before parting, we make it clear that the decision to restore the matter back does not, in any way, reflect or express an opinion on the merits of the dispute, which shall be decided independently in accordance with the law.

Both appeals of the assessee company are allowed for statistical purposes.

**SIYARAM EXPORTS INDIA PRIVATE LIMITED ITA NO. 440/JPR/2018
AY 2013-14**

The appeal has been preferred by assessee company against the order passed by the CIT(A)-4, Jaipur, for AY 2013-14 on 01.02.2017. The grounds taken by the assessee company are set out as under:

1. In the facts and circumstances of the case and in law the ld. CIT (A) has erred in not adjudicating the Ground No. 1 and upholding the action of the ld. AO in completing the assessment u/s 144 of the Income Tax act, 1961. The action of ld. CIT(A) is illegal, unjustified, arbitrary and against the facts of the case. Relief may please be granted by quashing the entire assessment order which is passed in gross violation of natural justice.
2. (a) In the facts and circumstances of the case and in law the ld. CIT(A) has erred in confirming the action of the ld. AO in disallowing interest of Rs. 28,56,134 for non-deduction of tax at source u/s 40(a)(ia) of the Income Tax Act, 1961. The action of ld. CIT(A) is illegal, unjustified, arbitrary and against the facts of the case. Relief may please be granted by quashing the said disallowance of Rs. 28,56,134.

(b) In the facts and circumstances of the case and in law the ld. CIT(A) has erred in confirming the action of the ld. AO in disallowing various expenses totalling to Rs. 1,77,91,173 for non-deposition of tax deducted at source u/s 40(a)(ia) of the Income Tax Act, 1961. The action of ld. CIT(A) is illegal, unjustified, arbitrary and against the facts of the case. Relief may please be granted by quashing the said disallowance of Rs. 1,77,91,173.
3. In the facts and circumstances of the case and in law the ld. CIT(A) has erred in confirming the action of ld. AO in making trading addition of Rs. 73,30,114 by applying a G.P. rate of 9% on the alleged short stock of Rs. 8,14,44,604 found during the course of search. The action of ld. CIT(A) is illegal, unjustified, arbitrary and against the facts of the case. Relief may please be granted by deleting the said addition of Rs. 73,30,114.
4. The assessee company craves its rights to add, amend or alter any of the grounds on or before the hearing.

GROUND NO. 1:

84. At the time of hearing before us, assessee company submitted at the bar that he did not wish to press Ground No. 1. Accordingly, Ground No. 1 is hereby dismissed as not pressed.

GROUND NO. 2:

85. This ground pertains to disallowance under Section 40(a)(ia) of the Income Tax Act, 1961, due to non-deduction of tax at source (TDS) on interest expenses of Rs. 28,56,134 paid to a non-banking finance company (NBFC). Additionally, during the year under consideration, the assessee company deducted TDS on expenses of Rs. 1,77,91,173 but failed to deposit the deducted amount within the prescribed time.

During the course of assessment proceedings, the AO disallowed Rs. 28,56,134 under Section 40(a)(ia) due to non-deduction of TDS on interest expenses and also disallowed Rs. 1,77,91,173 under Section 40(a)(ia) as the TDS deducted was not deposited within the stipulated period.

86. In the appeal before the CIT(A), the assessee company contended that the disallowance under Section 40(a)(ia) should be restricted to 30% of the expenditure in light of the amendment brought in by the Finance Act, 2014,

effective from 01.04.2015. It was argued that the said amendment should be given retrospective effect. The CIT(A), however, upheld the disallowances.

87. Before us, the assessee company reiterated that the amendment restricting disallowance to 30% should be applied retrospectively. Reliance was placed on various judicial precedents in support of the contention. The submissions made by the ld. AR of the assessee before us are set out hereunder:

22.12. *During the course of assessment proceedings, ld. AO disallowed the following expenses under Section 40(a)(ia) on account of non- deduction of TDS. (AO Order page 3)*

S.No.	Nature of Expenses	Amount (Rs.)
1	Indiabulls Credit Services	26,52,674
2	Kotak Mahendra Prime	2,03,460
	Total	28,56,134

22.13. *During the relevant assessment year, ld. AO disallowed entire expenses on account of non deposition of TDS. Details of expenses disallowed are as under: (AO Order page 4-5)*

S. No.	Head of expenses	Amount (in Rs.)
1	Brokerage	43,868
2	Interest	58,94,635
3	Legal & Professional fees	6,03,375
4	Rent	20,64,600
5	Fair & Exhibition (Rent)	6,63,907
6	Screen & Block Exp.	89,975
7	Fair & Exhibition (Contract)	1,20,000
8	Stitching & Fabrication	2,81,345

9	Printing & Dyeing	11,54,080
10	Shipment & Clearing Exp.	6,04,660
11	Designing Work	11,25,000
12	Audit fees	2,00,000
13	Sales Commission	49,45,728
Total		1,77,91,173

22.14. *The amendment in section 40(a)(ia) made by Finance Act, 2014 w.e.f. 01.04.2015 provides that 30% of any sum payable to a resident shall be disallowed if tax is not deducted at source under Ch. XVIIIB as against 100% made prior to this amendment.*

22.15. *The purpose of this amendment was explained in the memorandum as under:-*

“the disallowance of whole of the amount of expenditure results into undue hardship and therefore In order to reduce the hardship, it is proposed that in case of non-deduction or non-payment of TDS on payments made to residents as specified in section 40(a)(ia) of the Act, the disallowance shall be restricted to 30% of the amount of expenditure claimed.”

22.16. *The Finance Minister while introducing the amendment in para 207 of the Budget Speech has stated as under:*

“207. Currently, where an assessee fails to deduct and pay tax on specified payments to residents, 100 percent of such payments are not allowed as deduction while computing his income. This has caused undue hardship to taxpayers, particularly where the rate of tax is only 1 to 10%. Hence, I propose to provide that instead of 100 percent, only 30% of such payments will be disallowed.”

22.17. *From the above it can be noted that the amendment made by FA Act, 2014 w.e.f. 01.04.2015 is to remove unintended and undue hardship and therefore this amendment should be given retrospective effect. Reliance is placed on the decision of Hon’ble Supreme Court in case of CIT Vs. Vatika Township Pvt. Ltd. 109 DTR 33, wherein it has been held that legislations which modify accrued rights or which impose obligations or impose new duties or attach a new disability have to be treated as prospective unless the legislative intent is clearly to give the enactment a retrospective effect. However, if legislation confers a benefit on some persons but without inflicting a corresponding detriment on some other person or on the public generally and where to confer such benefit appears to have been the legislators object, then the presumption would be that such legislation, giving it a purposive construction, would warrant it to be given a retrospective effect. Therefore even in a*

case it is held that the disallowance u/s 40(a)(ia) is warranted, same should be restricted to only 30% of the amount of interest paid.

22.18. *The disallowance may please be restricted to 30% of the total amount i.e. Rs. 8,56,840 (30% of 28,56,134) and Rs. 53,37,352 (30% of 1,77,91,173).*

22.19. *The above view is also upheld by the, **Hon'ble ITAT Jaipur Bench** in the case of **Rajendra Yadav, ITA No. 895/JP/2012**, vide order dated 29.01.2016, wherein, the Hon'ble Bench has considered that the amendment brought in by the Finance (No. 2) Act 2014 with effect from 1.4.2015, restricting the disallowance under section 40(a)(ia) to 30% of the amount payable to a resident on which tax has not been deducted, to have a retrospective effect. Relevant extract has been set out here for the sake of convenience:*

“...Recently in the matter of P.M.S. Diesels 2015 J 59 taxmann.com 100 (Punjab & Haryana), Hon'ble Punjab & Haryana High Court had elaborately discussed the judgment passed by the Hon'ble Calcutta High Court and Hon'ble Gujarat High Court, Hon'ble Allahabad High Court and other judgments as available and thereafter has come to the conclusion that the provisions of section 40(a)(ia) are mandatory in nature and non compliance/non deduction of tax attracts disallowance of the entire amount. Having said so, we will be failing in our duty if we do not discuss the amendment brought in by the Finance (No. 2) Act 2014 with effect from 1.4.2015 by virtue of which proviso to section 40(a)(ia) has been inserted, which provides that if any such sum taxed has been deducted in any subsequent year or has been deducted during the previous year but paid after the due date specified in sub-section (1) of section 139, such sum shall be allowed as a deduction in computing the income of previous year, and further, section 40(a)(ia) has been substituted wherein the 30% of any sum payable to a resident has been substituted. In the present case, the authorities below has added the entire sum of Rs. 7,51,322 by disallowing the whole of the amount. Though the substitution in section 40 has been made effective with effective from 1.4.2015, in our view the benefit of the amendment should be given to the assessee...”

22.20. *The above ratio was followed in the case of **Smt. Sonu Khandelwal, ITA No. 597/JP/2013**, vide order dated 13.05.2016.*

22.21. *Ratio laid down by the Hon'ble ITAT Jaipur Bench in the case of **Smt. Sonu Khandelwal (Supra)** and **Rajendra Yadav (Supra)**, was followed by the **Hon'ble ITAT Delhi Bench** in the case of **Smt. Kanta Yadav, ITA No. 6312/Del/2016**, vide order dated 12.05.2017.*

22.22. *The above legal position was put forth before the ld. CIT(A), in the first appellate proceedings, however, the same was, without any cogent basis, disregarded by the ld. CIT(A). ”*

88. Per contra, ld. DR relied on the order of lower authorities.

89. Having heard the rival submissions and perused the material on record, we note that the assessment proceedings were completed *ex-parte*. The legal contention regarding retrospective application of the amendment to Section 40(a)(ia) was not considered by the lower authorities. Accordingly, we deem it appropriate to set aside the matter to the file of the AO for fresh adjudication. The AO is directed to provide the assessee company an adequate opportunity to present submissions on both legal and factual aspects before passing an order.

In the result, Ground No. 2 is allowed for statistical purposes.

GROUND NO. 3:

90. This ground pertains to the addition made under Section 69 of the ITA based on discrepancies in stock valuation during a search conducted under Section 132.

During the search, the physical inventory prepared at the factory premises showed stock valued at Rs. 1,03,82,817 whereas the stock as per the books of accounts stood at Rs. 9,18,27,421 leading to a shortage of Rs. 8,14,44,604. Based on the

estimated gross profit (GP) rate of 9%, the AO treated the shortage as unrecorded sales and added Rs. 73,30,114 to the income of the assessee company.

In appeal, the CIT(A) sustained the addition. Before us, the assessee company submitted that during the search proceedings, it was stated that stock lying at the Madrampura factory premises was not considered while calculating physical inventory. This aspect was not considered by the AO. The submissions made by the ld. AR of the assessee before us are set out hereunder:

- 3.1. *During the course of search proceedings u/s 132 of the Income Tax Act, 1961, the physical stock inventory was prepared. The actual physical stock was valued at Rs. 1,03,82,817. However, the stock as per the books (stock register) on the day of search was Rs. 9,18,27,421.*
- 3.2. *The ld. AO had made a trading addition of Rs.73,30,114 by applying a G.P. rate of 9% on the short stock of Rs. 8,14,44,604 (9,18,27,421 – 1,03,82,817)*
- 3.3. *The assessee keeps stock at its factory located at Chandra kala Colony and Madrampura, Sanganer.*
- 3.4. *The ld. AO has considered only the physical stock which was lying at Chandra Kala Colony factory at the time of search. The stock found at Chandra Kala Colony premises at the time of search was Rs. 1,03,82,817.*
- 3.5. *The stock on the date of search as per tally software was Rs. 9,18,27,421. The stock lying at Madrampura factory was not considered by the ld. AO in the total physical stock found at the time of search.*
- 3.6. *It is humbly submitted that if the ld. AO had considered the physical stock lying at Madrampura Factory then the physical stock would have matched with the stock as per books of accounts.*
- 3.7. *Without affecting and without prejudice to above, it is humbly submitted that the closing stock of the assessee Company as per audited books of accounts of the past three years are as under:*

S.No.	F.Y.	Closing Stock (in Rs.)
1	2010-11	8,98,28,055
2	2011-12	8,35,01,985
3	2012-13	8,77,43,283

- 3.8. *The average stock of the three years of the assessee company is Rs. 8,70,24,441. The closing stock of the assessee was accepted by the ld. AO in the previous assessments as no addition for short stock was made by him.*
- 3.9. *Thus, it is apparent that the average stock lying with the assessee is around Rs. 8,70,00,000 at any point of time. The ld. AO has grossly erred in taking the physical stock at the time of search as only Rs. 1,03,82,817, without considering the physical stock lying at Madrampura factory.*
- 3.10. *Even otherwise, the ld. AO in the assessment order had made addition of Rs. 63.89 Lacs, under the head Income from Business or Profession. Accordingly, the amount of addition had already been estimated by the ld. AO as part of business income of the assessee. Having already made the addition under the head PGBP, no separate additions should be made to the income of the assessee company., otherwise the same would tantamount to additions being twice under the same head of income, i.e. PGBP.*
91. Per contra, ld. DR relied on the order of lower authorities.
92. We have heard the rival submissions and perused the material on record. The assessment order, which was passed *ex-parte* under Section 144 of the ITA, does not provide clarity on whether stock at the Madrampura factory was considered. Considering the factual position, we deem it appropriate to set aside this matter to the AO for fresh examination. The AO is directed to verify the stock records, including inventory at the Madrampura factory, and compute the correct valuation

of stock. Any addition, if warranted, should be made after providing the assessee company with an opportunity of being heard.

In the result, Ground No. 3 is allowed for statistical purposes.

The appeal is partly allowed for statistical purposes

Deputy Commissioner of Income Tax, Central circle-3, Jaipur Vs Shri Satish Chandra Katta ITA No. 352/JPR/2018 AY 2008 -2009

93. As regards the Appeal filed by the Department, We note that appeal is filed by the Revenue covers under low tax effect and hence this not adjudicated. Thus revenue Appeal is disposed off.

Order pronounced in the open court on 30/12/2024.

Sd/-
(गगन गोयल)
(GAGAM GOYAL)
लेखा सदस्य / Accountant Member

Sd/-
(डॉ.एस.सीतालक्ष्मी)
(Dr. S. Seethalakshmi)
न्यायिक सदस्य / Judicial Member

जयपुर / Jaipur

दिनांक / Dated:- 30/12/2024

*Santosh

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

1. The Appellant- Smt. Suman katta, Jaipur
Shri Satish Chandra Katta, Jaipur.
Siyaram Exports India Pvt. Ltd., Jaipur.
M/s Shantinath Buildcon Pvt. Ltd. , Jaipur.
2. प्रत्यर्थी / The Respondent- DCIT, Central Circle-3, Jaipur.
ITO, Ward-6(4), Jaipur.

3. आयकर आयुक्त/ The ld CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर/DR, ITAT, Jaipur
5. गार्ड फाईल/ Guard File ITA No.331/JPR/2017 & 435 To 440/JPR/2018 & 467, 468 & 352/JPR/2018 & 145 & 151/JPR/2024)

आदेशानुसार/ By order,

सहायक पंजीकार/Asstt. Registrar