

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

**BEFORE SHRI LALIET KUMAR, JUDICIAL MEMBER AND**  
**SHRI MADHUSUDAN SAWDIA, ACCOUNTANT MEMBER**

आ.अपी.सं / **ITA Nos.377 to 380/Hyd/2023**  
(निर्धारण वर्ष/Assessment Years:2011-12, 2012-13,  
2018-19 & 2019-20)

M/s. Upkar Infra Projects Private Limited, Hyderabad. PAN:AABCK4691F	<b>Vs.</b>	Asst. Commissioner of Income Tax, Circle-2(4), Hyderabad.
(Appellant)		(Respondent)
आ.अपी.सं / <b>ITA Nos.383 &amp; 384/Hyd/2023</b> (निर्धारण वर्ष/Assessment Years:2017-18 & 2018-19) (By Revenue)		
निर्धारिती द्वारा/Assessee by:	Shri S. Rama Rao, Advocate	
राजस्व द्वारा/Revenue by::	Shri Madan Mohan Meena, SR-DR	
सुनवाई की तारीख/Date of hearing:	10/12/2024	
घोषणा की तारीख/Pronouncement:	07/01/2025	

**आदेश/ORDER**

**PER BENCH :**

These cross appeals are filed by M/s. Upkar Infra Projects Private Limited (“the assessee”) and the Revenue, feeling aggrieved by the separate orders passed by the Learned Commissioner of Income Tax (Appeals)-12, Hyderabad (“Ld. CIT(A)”), all dated 23.05.2023 for the A.Ys. Assessment Years:2011-12, 2012-13, 2017-18, 2018-19 & 2019-20. All these appeals are related to the same

assessee, therefore, they are heard together and a consolidated order is being passed.

2. At the outset, it is seen that, there is a delay of 9 days in filing of all the above appeals of the assessee, for which the assessee has filed condonation petition along with affidavit explaining the reasons for such delay. The learned DR has not opposed the condonation petition. Considering the facts and circumstances of the case and the reasons given by the assessee, the delay in filing of the appeal is hereby condoned.

3. The Ld. AR raised an additional ground in all their appeals with regards to the validity of issue of notice u/s. 153C of the Income Tax Act, 1961 ('the Act'). The Ld. AR submitted that, additional ground so filed are admissible in view of judgment rendered by the Hon'ble Supreme Court in the case of National Thermal Power Co. Ltd. v. CIT (1998) 229 ITR 383 (SC). The prayer for admission of additional ground, which is not in memorandum of appeal, is being admitted for adjudication in terms of Rule 11 of the Income Tax (Appellate Tribunal) Rules, 1963 owing to the fact that, objections raised in additional ground is legal in nature for which relevant facts are stated to be emanating from the existing records.

4. The brief facts of the case are that, the assessee is a company deriving income from execution of civil contract works, filed its Return of Income ("ROI") u/s.139 of the Act for all the years under

consideration on different dates. Search and Seizure operation u/s.132 of the Act was carried out in the case of M/s. R.K. Infra Corp Pvt. Ltd. and others on 06.02.2020. As part of search operation, the business premises of the assessee was also covered. During the search operation, certain documents were found and seized from the business premises of the assessee. As the seized documents belongs to the assessee, notices u/s.153C dated 17.03.2022 were issued to the assessee by the Learned Assessing Officer (“Ld. AO”) for all the years under consideration. In response thereto, the assessee filed its ROI on 18.03.2022 for all the years under consideration. Thereafter, notice u/s.143(2) and 142(1) of the Act were issued to the assessee and after examining the material on record, the Ld. AO completed the assessment u/s.153C of the Act, making various additions to the returned income of all the years under consideration.

**ITA No.377/Hyd/2023 for A.Y. 2011-12(Assessee’s appeal)**

5. At the outset, the Ld. AR submitted that, only two issues are involved in this appeal. The first issue is on account of disallowance of interest u/s.201(1A) of the Act of Rs.64,849/- and the second issue is regarding the validity of issue of notice u/s. 153C of the Act.

6. With regard to first issue, the Ld. AR submitted that, the Ld. AO made addition of Rs.64,849/- on account of interest paid on late deposit of TDS u/s.201(1A) of the Act. On appeal to the Ld. CIT(A), the Ld. CIT(A) sustained the addition made by the Ld. AO as per his

observation at page nos.51 to 53 of his order. The relevant portion of the order is reproduced as under :

*“The third issue is regarding the interest paid u/s. 201(1A) of Rs.64,849/- for AY 2011-12 and Rs. 12,198/- for A.Y. 2012-13. The above amounts pertain to interest payment on late deposit of TDS. The AR submitted that this TDS paid is compensatory in nature and not in nature of penalty, therefore should be allowed u/s 36(1)(iii) of the Act.*

*Now the question is, whether the interest paid on TDS is an allowable expenditure or not. To answer this, reliance is placed on the decision of Hon'ble ITAT, Delhi in the case of Universal Energies Ltd. Vs. DCIT in ITA. No.2761/Del/2018 dated 26.07.2022 wherein it was held that Interest on late payment of TDS is not allowable as business expenditure.*

*The relevant part of the order is reproduced as under for reference:*

*12. The Income Tax Appellate Tribunal (TAT), Delhi Bench in the case of M/s. New Modern Basaar Departmental Store Pvt. Ltd. is a Pvt. Ltd., held that the interest on Late Payment of TDS does not constitute Business Expenditure. In this case the assessee argued before the ld. CIT(A) that interest on late deposit of TDS is compensatory and not penal in nature. The ld. CIT(A) held that interest paid under the provisions of the Act is not a deductible expenditure, not compensatory in nature. Thus, he confirmed the action of the Assessing Officer. The assessee submitted that the interest is compensatory in nature and a part of business operations of the assessee. Had the same amount has been taken as loan from a bank, the interest paid on the same anyway would have been allowed as deduction u/s. 36. The Revenue submitted that interest on late deposit of TDS is neither an expenditure wholly and exclusively incurred for the purpose of business and further it is a payment, which is in the form of tax so it is not an allowable expenditure. The ITAT dismissed the appeal of the assessee.*

*13. The Hon'ble Madras High Court in CIT Vs. Chennai Properties & Investment Ltd. (1999) 239 ITR 435 (Mad.) has held that interest under section 201(1A) paid by the assessee does not assume the character of business expenditure and also cannot be regarded as compensatory payment.*

14. This decision of Hon'ble Madras High Court has also been followed by various benches of ITAT, specifically in *Velankani Information Systems Limited Vs. DCIT [2018] com 599 (Bangalore- Trib.)* as under: -

"As far as delay in remittance of TDS u/s 201(1A) of the Act is concerned, we find that the Hon'ble Madras High Court has taken a view that interest u/s 201(1A) is also in the nature of tax and notwithstanding the fact that is not the tax liability of the assessee, the same cannot be allowed as deduction. The following were the relevant observations of the Hon'ble Madras High Court:

1. As already noticed the payment of interest takes colour from the nature of the levy with reference to which such interest is paid and the tax required to be but not paid in time, which rendered the assessee liable for payment of interest was in the nature of a direct tax and similar to the income-tax payable under the Income Tax Act. The interest paid u/s 201(1A) of the Act, therefore, would not assume the character of business expenditure and cannot be regarded as a compensatory payment.

2. Counsel for the assessee in support of his submission that the interest paid by the assessee was merely compensatory in character besides relying on the case of *Makalakshmi Sugar Mills Co.* also relied on the decision of the apex court in the cases of *Prakash Cotton Mills Pvt. Ltd. V. CIT [1993] 201 ITR 684*; *Malwa Vansapati and Chemical Co. v. CIT [1997] 225 ITR 383* and *CIT vs. Ahmedabad Cotton Manufacturing Co. Ltd. [1994] 205 ITR 163*. In all these cases, the court was concerned with an indirect tax payable by the assessee in the course of its business and admissible as business expenditure.

3. The ratio of those cases is not applicable here. Income-tax is not allowable as business expenditure. The amount of tax deducted is not an item of expenditure.

4. We therefore, follow the decision of Hon'ble Madras High Court and uphold the order of CIT(A) in so far as it relates to disallowance of interest on delayed payment of TDS u/s 201(1A) of the Act."

15. Further, the Co-ordinate Bench of ITAT Bangalore in the case of *Jindal Aluminium Limited ITA No. 31/Bang/2019* having similar facts where interest on TDS is held as ineligible business expenditure.

*16. Hence, we have no hesitation to hold that interest payment on late payment of TDS is not eligible business expenditure for deduction and it is not compensatory in nature. Payment of interest on late deposit of TDS levied u/s 201(1A) is neither an expenditure only and exclusively incurred for the purpose of the business and therefore the same is not allowable as deduction u/s 37(1) of the Act."*

*The above case law is squarely applicable to the case of the appellant and hence applied. It is important to note that the appellant is withholding somebody's due tax credit by depositing the same late and causing undue hardship to the third party. Interest on late deposit of TDS is neither an expenditure wholly and exclusively incurred for the purpose of business and further it is a payment, which is in the form of tax so it is not an allowable expenditure. In view of the above, the disallowances of Rs.64,849/- and Rs.12,198/- for A.Y. 2011-12 and 2012-13 respectively being interest paid on delayed deposition of TDS are upheld and the additions made by the A.O. are confirmed. Accordingly, the related part of the grounds no.9 for the A.Ys. 2011-12 & 2012-13 are dismissed."*

7. Aggrieved with the order of Ld. CIT(A), the assessee is in appeal before us. The Ld. AR submitted that, the interest paid u/s.201(1A) of the Act is compensatory in nature and not in the nature of penalty, therefore, it should be allowable as an expenditure u/s.36(1)(iii) of the Act. Accordingly, the Ld. AR prayed before the bench to delete the addition made by the Ld. AO. In their alternate submission, the Ld. AR stated that, the addition has not been made on the basis of any seized material and therefore the addition is liable to be deleted on this count also.

8. Per contra, the Learned Department Representative ("Ld. DR") relied on the order passed by the Revenue authority and prayed before the bench to dismiss the claim of the assessee.

9. We have heard the rival contentions and also gone through the record in the light of the submissions made by either side. The question before us is to decide whether the interest paid u/s.201(1A) of the Act is compensatory in nature and eligible for deduction u/s.36(1)(iii) of the Act or not. Similar issue has been dealt with by Hon'ble Madras High Court in the case of CIT Vs. Chennai Properties & Investment Ltd. (1999) 239 ITR 435 (Mad.), wherein the Hon'ble High Court has held that, interest u/s 201(1A) of the Act paid by the assessee does not assume the character of business expenditure and also cannot be regarded as compensatory in nature. Respectfully following the decision of Hon'ble Madras High Court in the case of CIT Vs. Chennai Properties & Investment Ltd. (supra), we hold that, the interest paid on late payment of TDS is not an expenditure wholly and exclusively incurred for the purpose of business and further it is a payment, which is in the form of tax, so it is not an allowable expenditure. Therefore, the contention of the assessee is not acceptable on this count.

9.1 The alternate argument of the assessee is that, the assessment year under consideration is an unabated year and there was no incriminating material before the Ld. AO for the year under consideration. Therefore, no addition can be made in the hands of the assessee in absence of any incriminating material. The similar issue had been dealt with by the Hon'ble Supreme Court in the case of CIT Vs. Abhisar Buildwell (P) Ltd., 149 Taxmann 399, wherein the

Hon'ble Supreme Court has held that, in case of unabated year, in search proceedings, no addition can be made in the hands of the assessee in absence of any incriminating material. Therefore, relying on the findings of Hon'ble Supreme Court in the case of CIT Vs. Abhisar Buildwell (P) Ltd. (supra), we hold that, as there was no incriminating material with the Ld. AO for the year under consideration, no addition can be made in the hands of the assessee by the Ld. AO. Accordingly, we delete the addition made by the Ld. AO.

9.2 In the result, this ground of the assessee is allowed.

10. As far as the second issue of the assessee is concerned, the Ld. AR submitted that, the assessment proceedings in the case of the assessee has been completed u/s.153C of the Act. However, since the search and seizure operation was conducted at the premises of the assessee, the assessment proceedings should had been completed u/s.153A of the Act. Therefore, the assessment proceedings completed by the Ld. AO u/s.153C of the Act is bad in law and is liable to be quashed. In support of his submission, the Ld. AR filed before us the copy of search warrant and the copy of Panchanama.

11. Per contra, the Ld. DR relied on the order of Ld. CIT(A).

12. We have heard the rival contentions and also gone through the record in the light of the submissions made by either side. We have

also gone through the copy of warrant and Panchanama submitted by the Ld. AR and found that, the same has not been issued / made on the name of the assessee. Therefore, we are of the concerned opinion that, the case of the assessee is not covered u/s.153A of the Act and is covered u/s.153C of the Act. Accordingly, we dismiss this ground of the assessee.

13. In the result, the assessee's appeal in ITA No.377/Hyd/2023 is allowed.

**ITA No.378/Hyd/2023 for A.Y. 2012-13(Assessee's appeal)**

14. At the outset, the Ld. AR submitted that, three issues are involved in this appeal. The first issue is on account of addition of Rs.1,28,84,250/- on account of the difference of peak cash balance during Assessment Year 2012-13 and cash balance as on 31.03.2010, the second issue is regarding addition of Rs.12,198/- on account of interest paid on late deposit of TDS u/s.201(1A) of the Act and the third issue is regarding the validity of the notice issued u/s. 153C of the Act.

15. As far as the first issue with regards to addition of Rs.1,28,84,250/- is concerned, the Ld. AR submitted that, during the search and seizure operation, one Excel sheet was seized from the premises of assessee and on the basis of that Excel sheet, the Ld. AO made addition of Rs.3,65,56,000/- u/s.69A of the Act on account of

loan received by the assessee contending that the explanation given by the assessee is not satisfactory. However, on appeal before the Ld. CIT(A), the assessee filed daily cash book containing the details of daily cash balances, prepared on the basis of transactions contained in the seized Excel sheet. The Ld. CIT(A) found from the daily cash book that the peak cash balance during Assessment Year 2012-13 was Rs.10,36,74,420/- and the assessee was having cash balance of Rs.9,08,02,368/- on 31.03.2010. Therefore, the Ld. CIT(A) sustained the addition of Rs.1,28,72,052/- i.e. the difference of peak cash balance during Assessment Year 2012-13 and cash balance as on 31.03.2010.

16. Aggrieved with the order of Ld. CIT(A), the assessee is in appeal before us. The Ld. AR submitted that, the loan taken by the assessee during the Assessment Year 2012-13 includes loan of Rs.27,26,000/- taken from Smt. Latha Reddy and Rs.62,99,490/- from Smt. Suseela. He further submitted that, Smt. Latha Reddy had given loan to the assessee out of gold loan taken by her from Manappuran Finance. In support of his contention, the Ld. AR drawn our attention to page nos.103 to 106 of the paper book containing the details of gold loan taken by Smt. Latha Reddy, justifying the source of cash in the hands of Smt. Latha Reddy. As far as the loan taken from Smt. Suseela, the Ld. AR drew our attention to page nos.126 to 128 containing the affidavit of Smt. Sushila regarding providing the cash loan of Rs.62,99,490/- out of her past savings. Therefore, the Ld. AR

submitted that, out of the addition of Rs.1,28,72,052/- as sustained by Ld. CIT(A), the total amount of Rs.90,25,490/- are from genuine sources as explained above and the addition to that extent are liable to be deleted.

17. Per contra, the Ld. DR relied on the decision of Ld. CIT(A) and prayed before the bench to dismiss this ground of appeal of the assessee.

18. We have heard the rival contentions and also gone through the record in the light of the submissions made by either side. As far as the first issue is concerned, the Ld. AR submitted that, the loan taken by the assessee during the Assessment Year 2012-13 includes loan of Rs.27,26,000/- taken from Smt. Latha Reddy and Rs.62,99,490/- from Smt. Suseela. He further submitted that, Smt. Latha Reddy had given loan to the assessee out of gold loan taken by her from Manappuran Finance. In support of his contention, the Ld. AR drawn our attention to page nos.103 to 106 of the paper book containing the details of gold loan taken by Smt. Latha Reddy, justifying the source of cash in the hands of Smt. Latha Reddy. As far as the loan taken from Smt. Suseela, the Ld. AR drew our attention to page nos.126 to 128 containing the affidavit of Smt. Sushila regarding providing the cash loan of Rs.62,99,490/- out of her past savings. We have gone through the page nos.103 to 106 and page nos.126 to 128 and found that out of the total addition of Rs.1,28,72,052/- as sustained by the Ld. CIT(A), the assessee has genuine source with regards to amount of

Rs.90,25,490/-. Therefore, we delete the amount of Rs.90,25,490/- out of the addition of Rs.1,28,72,052/- as sustained by Ld. CIT(A).

19. As far as the second issue, with regard to disallowance of interest u/s.201(1A) of the Act is concerned, the argument of Ld. AR are two folds. The first argument of the Ld. AR is that, the interest paid u/s.201(1A) of the Act is compensatory in nature and not in the nature of penalty, therefore, it should be allowable as an expenditure u/s.36(1)(iii) of the Act. Accordingly, the Ld. AR prayed before the bench to delete the addition made by the Ld. AO. In their alternate submission, the Ld. AR stated that, the addition has not been on the basis of any seized material and therefore the addition is liable to be deleted on this count also.

19.1 As far as the first argument of the Ld. AR is concerned, we have already decided the issue in ITA no.377/Hyd/2023 at para no. 9 above, which applies mutatis mutandis to this appeal also. Hence, this ground of appeal of the assessee is dismissed.

19.2 As far as the alternate ground of the assessee is concerned, the Ld. DR relying on the order of revenue authority submitted that, incriminating material was available before the Ld. AO and on the basis of incriminating material, the Ld. AO has made an addition of Rs.3,65,56,000/- u/s.69A of the Act in the hands of the assessee. Therefore, the Ld. DR prayed before the bench that, the argument of the assessee is liable to be rejected.

19.3 We have heard the rival contentions and also gone through the record in the light of the submissions made by either side. We have gone through the order of Ld. AO and found that the Ld. AO had made addition in the hands of the assessee on the basis of the incriminating material. Therefore, the contention of the assessee that, there was no incriminating material before the Ld. AO is not acceptable. Accordingly, we dismiss the alternative argument of the assessee.

19.4 Accordingly, this ground of the assessee is dismissed.

20. As far as the third issue with regard to the validity of issue of notice u/s.153C of the Act is concerned, we have already decided the issue in ITA no.377/Hyd/2023 at para no. 12 above, which applies mutatis mutandis to this appeal also. Accordingly, this ground of appeal of the assessee is dismissed.

21. In the result, the appeal of the assessee in ITA No.378/Hyd/2023 is partly allowed.

**ITA No.379/Hyd/2023 for A.Y. 2018-19 (Assessee's appeal)**

22. At the outset, the Ld. AR submitted that, only two issues are involved in this appeal. The first issue is related to addition of Rs.20 lakhs and the second issue is related to validity of notice issued u/s.153C of the Act.

23. As far as the first issue is concerned, the Ld. AR submitted that, the facts with regard to the issue are that, copy of mobile chat of Sri Venkateswara Reddy, Accountant of the assessee was seized. From the seized document, the Ld. AO found that, the assessee had taken loan of Rs.20 lakhs and paid interest of Rs.2.40 lakhs, for which the Ld. AO was not satisfied with the explanation given by the assessee. Therefore, the Ld. AO added the same to the income of the assessee u/s.69A of the Act. On appeal, the Ld. CIT(A) accepted the findings of the Ld. AO and dismissed the appeal of the assessee.

24. Aggrieved with the order of Ld. CIT(A), the assessee is in appeal before us. The Ld. AR submitted that, the details contained in the seized mobile chat of the Accountant of the assessee relates to F.Y. 2011-12 and the amount was received from Sri P.V. Venkatarami Reddy on 9.6.2011. In support of their claim, the Ld. AR drew our attention to the page no.96 of the paper book which contains the cash received / paid by the assessee on 9<sup>th</sup> June, 2011.

24.1 In their alternate submission, the Ld. AR submitted that, the assessee had cash balance of Rs.10,17,86,420/- as on 12.08.2014 and the alleged addition of Rs.22.40 lakhs will get subsumed in the closing balance as on 12.08.2014. Therefore, he prayed before the bench to delete the addition made by the Ld. AO.

25. Per contra, the Ld. DR relied on the order of Ld. CIT(A). He further submitted that, as per the entry at page no.96 of the paper book (relied upon by the assessee), the cash is received from Aarvee Venkat Rami Reddy and not from P.V. Venkatarami Reddy. Further, the interest paid on 9<sup>th</sup> June, 2011 is Rs.1 lakh and not Rs.2.4 lakhs. Therefore, the name of the lender as well as the amount of interest paid differ from the details of seized mobile chat. Hence, the Ld. DR prayed before the bench to dismiss the ground of the assessee.

26. We have heard the rival contentions and also gone through the record in the light of the submissions made by either side. With regards to their first argument, the Ld. AR submitted that, the amount of Rs.20 lakhs was received from Shri P.V. Venkatarami Reddy and the same has already been recorded in the cash book on 9.6.2011 and has already been get included in the addition made by the Ld. AO for A.Y. 2012-13. We have gone through the page no.96 of the paper book and found that the cash has been received from Sri Aarvee Venkat Rami Reddy and not from P.V. Venkatarami Reddy. Further, the amount of interest paid on that day is Rs.1 lakh and not Rs.2.4 lakhs. Therefore, as the name as well as the amount of interest is not matching from the records, the contention of the assessee that the same amount has already been get included in the addition made by the Ld. AO for A.Y. 2012-13, can not be accepted. Accordingly, we dismiss this ground of the assessee on this count.

26.1 However, the alternate argument of the assessee is that, the cash balance of Rs.10,17,86,420/- was available to the assessee on 12.08.2014 and the alleged amount of Rs.22.40 lakhs will get subsumed in that cash balance available on 12.08.2014. We have gone through the page no.99 of the paper book and found that the cash balance as on 12.08.2014 as per cash book is Rs.10,17,86,420/-. Therefore, we are of the considered opinion that, the assessee has sufficient cash balance to subsume the alleged amount of Rs.22.40 lakhs. Therefore, we delete the addition of Rs.22.40 lakhs. Accordingly, we allow this ground of the assessee.

27. As far as the second issue with regard to the validity of issue of notice u/s.153C of the Act is concerned, we have already decided the issue in ITA no.377/Hyd/2023 at para no. 12 above, which applies mutatis mutandis to this appeal also. Hence, this ground of appeal of the assessee is dismissed.

28. In the result, the appeal of the assessee in ITA No.379/Hyd/2023 is allowed.

**ITA No.380/Hyd/2023 for A.Y. 2019-20 (Assessee's appeal)**

29. At the outset, the Ld. AR submitted that, only two issues are involved in this appeal. The first issue is related to addition of Rs.8 lakhs and the second issue is related to the validity of issue of notice u/s.153C of the Act.

30. The Ld. AR submitted that, the first issue relates to the Whatsapp chat seized during the search and seizure operation from Sri Venkateswara Reddy, Accountant of the assessee. As per the seized document, the Ld. AO found that, there was interest payment of Rs.8 lakhs. Being not satisfied with the explanation of the assessee, the Ld. AO added the same u/s.69A of the Act in the hands of the assessee. On appeal, after examining the details, the Ld. CIT(A) concurred with the view taken by the Ld. AO and dismissed the appeal of the assessee.

31. Aggrieved with the order of Ld. CIT(A), the assessee is in appeal before us. The Ld. AR submitted that, the assessee had cash balance of Rs.10,17,86,420/- as on 12.08.2014 and the alleged addition of Rs.8 lakhs will get subsumed in the closing balance as on 12.08.2014. Therefore, he prayed before the bench to delete the addition made by the Ld. AO.

32. Per contra, the Ld. DR placed reliance on the order of revenue authority.

33. We have heard the rival contentions and also gone through the record in the light of the submissions made by either side. The Ld. AR submitted that, the cash balance of Rs.10,17,86,420/- was available to the assessee on 12.08.2014 and the alleged addition of Rs.8 lakhs will get subsumed in that cash balance available on 12.08.2014. We have gone through the page no.99 of the paper book

and found that the cash balance as on 12.08.2014 as per cash book is Rs.10,17,86,420/-. Therefore, we are of the considered opinion that the assessee has sufficient cash balance to subsume the alleged addition of Rs.8 lakhs. Therefore, we delete the addition of Rs.8 lakhs. Accordingly, we allow this ground of the assessee.

34. As far as the second issue with regard to the validity of issue of notice u/s.153C of the Act is concerned, we have already decided the issue in ITA no.377/Hyd/2023 at para no. 12 above, which applies mutatis mutandis to this appeal also. Hence, this ground of appeal of the assessee is dismissed.

35. In the result, the appeal of the assessee in ITA No.380/Hyd/2023 is allowed.

**ITA No.383/Hyd/2023 for A.Y. 2017-18 (Revenue's appeal)**

36. At the outset, the Ld. DR submitted that, only one issue is involved in this appeal. The facts with regard to the issue are that, during the course of search operation, Excel sheets were found from the mobile back up of Sri Venkateswar Reddy, Accountant of the assessee. The Ld. AO noted that, in those Excel sheets, the assessee has shown cash receipt of Rs.130 lakhs and Rs.50 lakhs from Smt. Jyothi Reddy on 10.11.2016 and 01.10.2016 respectively. The Ld. AO also noted that, other cash receipts of Rs.153 lakhs was also there in the Excel sheets, out of which Rs.111 lakhs was received from Smt. Jyothi Reddy; Rs.39 lakhs from Smt. Geetha Reddy and Rs.3 lakhs

from Smt. Latha Reddy on 10.11.2016 and out of these cash receipts, cash payment of Rs.1,52,50,000/- were made to various persons in cash, which were not accounted for by the assessee in their books of account. Accordingly, the Ld. AO made all the three additions of Rs.130 lakhs, Rs.152.50 lakhs and Rs.50 lakhs in the hands of the assessee.

37. Aggrieved with the order of Ld. AO, the assessee filed appeal before the Ld. CIT(A). The Ld. CIT(A) stated that, in all the seized Excel sheets, neither the name of the assessee was mentioned nor it was explicitly mentioned that the transactions were relating to the assessee. Further, Sri K. Ravinder Kumar Reddy, the M.D. of the assessee, had already given explanation before the investigation wing as well as before the Ld. AO that, the transactions mentioned in the seized Excel sheets are related to their personal transactions and the cash was received from Smt. Latha Reddy, Smt. Geetha Reddy and Smt. Jyothi Reddy, who in turn had received the cash from their mother Smt. Suseela and Smt. Suseela had got the cash out of sale of her property and her past savings. In support of their submission, the Ld. AR drew our attention to page no.45 to 62 of the order of Ld. CIT(A), where the Affidavits of Sri K. Ravinder Kumar Reddy, Smt. Latha Reddy, Smt. Geetha Reddy and Smt. Jyothi Reddy accepting the cash transactions, has been reproduced. On going through the submissions made by Sri K. Ravinder Kumar Reddy and all the four Affidavits, the Ld. CIT(A) concluded that, the transactions in these

Excel sheets are the personal transactions of Sri K. Ravinder Kumar Reddy, Smt. Latha Reddy, Smt. Geetha Reddy and Smt. Jyothi Reddy. Accordingly, he deleted the said additions in the hands of the assessee with a direction to Ld. AO to verify the said transactions in the individual cases of Sri K. Ravinder Kumar Reddy, Smt. Latha Reddy, Smt. Geetha Reddy and Smt. Jyothi Reddy.

38. Aggrieved with the order of Ld. CIT(A), the revenue is in appeal before us. Ld. DR relying on the order of Ld. AO, reiterated to set aside the order of Ld. CIT(A).

39. Ld. AR placed reliance on the order of Ld. CIT(A).

40. We have heard the rival contentions and also gone through the record in the light of the submissions made by either side. The Ld. CIT(A) in his order have given the factual findings that, in all the seized Excel sheets, neither the name of the assessee was mentioned nor it was explicitly mentioned that the transactions were relating to the assessee. Further, Sri K. Ravinder Kumar Reddy, the M.D. of the assessee, had already given explanation before the investigation wing as well as before the Ld. AO that, the transactions mentioned in the seized Excel sheets are related to their personal transactions and the cash was received from Smt. Latha Reddy, Smt. Geetha Reddy and Smt. Jyothi Reddy, who in turn had received the cash from their mother Smt. Suseela and Smt. Suseela had got the cash out of sale of her property and her past savings. In support of their submission, the

Ld. AR drew our attention to page no.45 to 62 of the order of Ld. CIT(A), where the Affidavits of Sri K. Ravinder Kumar Reddy, Smt. Latha Reddy, Smt. Geetha Reddy and Smt. Jyothi Reddy accepting the cash transactions, has been reproduced. On going through all these documents, we also hold that, the transactions in these Excel sheets are the personal transactions of Sri K. Ravinder Kumar Reddy, Smt. Latha Reddy, Smt. Geetha Reddy and Smt. Jyothi Reddy. Further no materials/facts are brought before us by the Revenue contrary to the factual findings of the CIT(A). Accordingly, we do not find any infirmity in the order of the Ld. CIT(A). Accordingly, we uphold the order of the Ld. CIT(A).

41. In the result, the appeal of the revenue is dismissed.

**ITA No.384/Hyd/2023 for A.Y. 2018-19 (Revenue's appeal)**

42. At the outset, the Ld. DR submitted that, only one issue is involved in this appeal. The facts with regard to the issue are that, during the course of search and seizure operation, back up of mobile data of Sri K. Ravinder Kumar Reddy was seized. The seized data was related to payment made to various persons on behalf of the company. Out of those payments, the Ld. AO found that, some payments were recorded in the books of account of the assessee, but the payment of Rs.3,51,30,000/- and Rs.63,73,000/- were not recorded in the books of account of the assessee. Being not satisfied

with the submission of the assessee, the Ld. AO added both the payments in the hands of the assessee u/s.69C of the Act.

43. Aggrieved with the order of Ld. AO, the assessee filed appeal before the Ld. CIT(A). During the appellate proceedings, the Ld. CIT(A) verified the submissions of the assessee and given his observation in detail at page nos.53 to 87 of his order and stated that, out of total addition of Rs.3,51,30,000/-, Rs.2,83,00,000/- are recorded in the books of the assessee and concluded that, the same were liable to be deleted. On account of balance addition of Rs.68,30,000/-(out of addition of Rs.3,51,30,000/-), the Ld. CIT(A) found that, the assessee had cash balance of Rs.10,17,86,420/- as on 31.03.2015; which was available with the assessee as on 01.04.20217 also. Therefore, the Ld. CIT(A) held that, the assessee had enough cash in hand to justify the source of the said balance of Rs.68,30,000/- also. Accordingly, the Ld. CIT(A) deleted the addition of Rs.3,51,30,000/-.

43.1 Further, with regard to addition of Rs.63,73,000/-, the Ld. CIT(A) found that, those amounts were reflecting mere projection only and were not related to any actual payment. The Ld. CIT(A) further stated that, the Ld. AO did not brought any material on record to prove that, the same were actual payments and made in cash. Therefore, the Ld. CIT(A) hold that, the addition of Rs.63,73,000/- is liable to be deleted. Accordingly, he deleted the same. In alternate plea, the Ld. CIT(A) stated that, even if assuming that the payments

were actual, the assessee was having enough cash balance as on 01.04.2017 as stated above, to justify the source of cash payment of Rs.63,73,000/-. Accordingly, the Ld. CIT(A) deleted the addition of Rs.63,73,000/- also.

44. Aggrieved with the order of Ld. CIT(A), the revenue is in appeal before us. The Ld. DR relying on the order of Ld. AO, reiterated to set aside the order of Ld. CIT(A).

45. The Ld. AR placed their reliance on the order of Ld. CIT(A).

46. We have heard the rival contentions and also gone through the record in the light of the submissions made by either side. The Ld. CIT(A) at page nos.53 to 87 of his order have given the factual findings that, out of total addition of Rs.3,51,30,000/-, Rs.2,83,00,000/- are recorded in the books of the assessee and held that, the same is liable to be deleted. Further no materials/facts are brought before us by the Revenue contrary to the factual findings of the CIT(A). Therefore, in our considered opinion, as Rs.2,83,00,000/- are recorded in the books of the assessee, we hold that, the same is liable to be deleted. Accordingly, we delete the addition of Rs. 2,83,00,000/-.

46.1 On account of balance addition of Rs.68,30,000/-(out of addition of Rs.3,51,30,000/-), the Ld. AR submitted that, the cash balance of Rs.10,17,86,420/- was available to the assessee on

12.08.2014 and the balance addition of Rs.68,30,000/- will get subsumed in that cash balance available on 12.08.2014. We have gone through the page no.99 of the paper book and found that the cash balance as on 12.08.2014 as per cash book is Rs.10,17,86,420/-. Therefore, we are of the considered opinion that, the assessee has sufficient cash balance to subsume the balance addition of Rs.68,30,000/-. Accordingly, we delete balance addition of Rs.68,30,000/- also.

46.2 Further, with regard to addition of Rs.63,73,000/-, the Ld. CIT(A) at page nos.53 to 87 of his order have given the factual findings that, those amounts were reflecting mere projection only and were not related to any actual payment. The Ld. CIT(A) further stated that, the Ld. AO did not brought any material on record to prove that, the same were actual payments and made in cash. Further no materials/facts are brought before us by the Revenue contrary to the factual findings of the CIT(A). Therefore, we do not find any infirmity in the findings of the Ld. CIT(A). Accordingly we uphold the order of Ld. CIT(A).

46.3 In alternate plea, the Ld. AR submitted that, even if assuming that the payments were actual, the assessee was having enough cash balance as on 12.08.2014 as stated above, to justify the source of cash payment of Rs.63,73,000/-. We have gone through the page no.99 of the paper book and found that the cash balance as on 12.08.2014 as per cash book is Rs.10,17,86,420/-. Therefore, we are of the

considered opinion that the assessee has sufficient cash balance to subsume the addition of Rs.63,73,000/-. Accordingly, we delete the addition of Rs.63,73,000/-.

47. In the result, the appeal of the revenue is dismissed.

48. To sum up, the appeals of the assessee are partly allowed and the appeals of the Revenue are dismissed.

**Order pronounced in the open Court on 7th Jan., 2025.**

Sd/-

**(LALIET KUMAR)**  
JUDICIAL MEMBER

Sd/-

**(MADHUSUDAN SAWDIA)**  
ACCOUNTANT MEMBER

Hyderabad.

Dated: 07.01.2025.

\* Reddy gp

**Copy of the Order forwarded to :**

1. M/s. Upkar Infra Projects Private Limited,  
6-3-347/22/10/2, Flat No.101, Sai Villa  
Apartments, Dwarakapuri Colony, Punjagutta,  
Hyderabad-500 082
2. ACIT, Circle 2(4), Hyderabad.
3. Pr.CIT, Hyderabad.
4. DR, ITAT, Hyderabad.
5. Guard file.

BY ORDER,