

**आयकर अपीलीय अधिकरण, विशाखापटणम पीठ, विशाखापटणम**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**VISAKHAPATNAM “DIVISION” BENCH, VISAKHAPATNAM**  
**(HYBRID HEARING)**

**श्री के.नरसिम्हा चारी, न्यायिक सदस्य एवं श्री एस बालाकृष्णन, लेखा सदस्य के समक्ष**  
**BEFORE SHRI K. NARASIMHA CHARY, HON’BLE JUDICIAL MEMBER**

**&**

**SHRI S BALAKRISHNAN, HON’BLE ACCOUNTANT MEMBER**

**आयकर अपीलसं./I.T.A.Nos.524, 525 & 526/VIZ/2024**  
**(निर्धारण वर्ष/ Assessment Years: 2014-15, 2019-20 & 2020-21)**

<b>Vasireddy Vidya Sagar</b> D.No. 5-37-44/2, Kalangi Complex 4/7, Brodipet, Guntur - 522002  <b>[PAN: AGZPS2420F]</b>	v.	<b>DCIT – Central Circle – 1</b> Income Tax Office Lakshmipuram Main Road Guntur – 522006 Andhra Pradesh
<b>(अपीलार्थी/ Appellant)</b>		<b>(प्रत्यर्थी/ Respondent)</b>

करदाता का प्रतिनिधित्व/ Assessee Represented by	:	Shri MV Prasad, CA
राजस्व का प्रतिनिधित्व/ Department Represented by	:	Dr. Aparna Villuri, Sr.AR
सुनवाई समाप्त होने की तिथि/ Date of Conclusion of Hearing	:	19.02.2025
घोषणा की तारीख/Date of Pronouncement	:	07.03.2025

**आदेश /ORDER**

**PER SHRI S BALAKRISHNAN, ACCOUNTANT MEMBER:**

1. These appeals are filed by the assessee against different orders of Learned Commissioner of Income Tax (Appeals), Visakhapatnam – 3 [hereinafter in short “Ld.CIT(A)”] vide respective DIN & Order No. as stated below:-

<b>ITA No. &amp; A.Y.</b>	<b>DIN &amp; Order No.</b>	<b>Dated</b>
ITA No. 524/VIZ/2024 (A.Y. 2014-15)	ITBA/APL/S/250/2024-25/1069966844(1)	26.10.2024
ITA No. 525/VIZ/2024 (A.Y. 2019-20)	ITBA/APL/S/250/2024-25/1069966869(1)	26.10.2024
ITA No. 526/VIZ/2024 (A.Y. 2020-21)	ITBA/APL/S/250/2024-25/1069966926(1)	26.10.2024

2. Since the grounds raised by the assessee for all these appeals are identical in nature, these appeals are clubbed and a consolidated order being passed. We now take up the appeal in ITA No. 524/VIZ/2024 for the A.Y.2014-15 as a lead appeal.

**ITA No. 524/VIZ/2024 (A.Y. 2014-15)**

3. This appeal is filed by the assessee against order of Ld. CIT(A) vide DIN & Order No. ITBA/APL/S/250/2024-25/1069966844(1) dated 26.10.2024 for the A.Y.2014-15 arising out of order passed under section 153C r.w.s. 143(3) of the Income Tax Act, 1961 (in short 'Act') dated 31.03.2022.

4. Brief facts of the case are that, assessee is an individual engaged in the business of development of educational facilities. Assessee is the Managing Trustee of Social Educational Society, which is running an Engineering College in the name and style of Vasireddy Venkatadri Institute of Technology (VVIT) and a School in the name and style of VIVA. Assessee filed his return of income for the A.Y.2014-15 admitting a total income of Rs. 6,92,130/-. A search and seizure

operation was conducted in the case of M/s. Polisetty Somasundaram Group of cases on 28.01.2020. During the course of search and seizure proceedings conducted in the business premises of M/s. Polisetty Somasundaram Group on 28.01.2020, a pen drive was found which was seized vide annexure A/PSS/CORP/19 and the copies of the contents are seized vide annexure A/PSS/CORP/18 which contain the details of unaccounted cash transaction made by M/s. Polisetty Somasundaram. During the course of search proceedings, it was seen that M/s.Polisetty Somasundaram is indulged in giving cash loans to persons and received interest on the above loans in cash. The assessee was one of the close aids to the partners of M/s. Polisetty Somasundaram. Based on the above incriminating material, notice under section 142(1) was issued on 20.01.2022 to the assessee. In response, assessee filed part of the information through e-proceedings in ITBA portal. Later, another notice under section 142(1) of the Act was issued on 25.02.2022 requesting the assessee to furnish details of the nature of cash transactions Vide Annexure A/PSS/CORP/18 at Page No. 38 & 39, for the payment of Rs. 11,17,507/- on 29.03.2014 to M/s.Polisetty Somasundaram. Ld. AO found that in the sworn statement under section 132(4) of the Act, Managing Partner of M/s. Polisetty Somasundaram has stated that cash payments made to the assessee are cash loans and the amount received with interest in cash. The submission of the assessee was that he has never entered into any cash

transactions with M/s. Polisetty Somasundaram. However, Ld. AO from the seized materials noticed that the assessee has signed a voucher for payment of Rs.11,17,507/- which was seized from the business premises of M/s. Polisetty Somasundaram vide Page No. 19 of A/PSS/CORP/10 which is signed by the assessee himself. Ld. AO therefore proceeded to make an addition of Rs.11,17,507/- being the interest paid by the assessee to M/s. Polisetty Somasundaram, as unexplained income of the assessee as per provisions of section 115BBE of the Act.

5. Aggrieved by the order of the Ld. AO, assessee filed an appeal before Ld.CIT(A). Before Ld. CIT(A), assessee contended that the pendrive seized by the search team could not be considered as an admissible evidence as per provisions of section 65B of Indian Evidence Act and therefore information taken from the same pendrive for the addition is not sustainable due to the fact that the Jurisdictional Tribunal vide its order in ITA No. No. 172 to 180/VIZ/2020-23 dated 18.08.2023 in the case of M/s. Polisetty Somasundaram v. DCIT held that the said digital evidence does not qualify as admissible evidence for the purpose of assessment in view of the legal infirmity in the certificate obtained under section 65B of the Indian Evidence Act. Ld. CIT(A) dismissed the legal ground raised by the assessee and also sustained the addition made by the Ld. AO, therefore dismissed the appeal of the assessee.

6. Aggrieved by the order of the Ld. CIT(A), assessee is in appeal before us by raising the following grounds in its appeal: -

“1. *The Learned CIT(Appeals) erred in both law and facts.*

2. *On the facts and circumstances of the case, the Learned Commissioner of Income Tax (Appeals) is not justified in confirming the addition made of Rs.11,17,507/-on account of alleged payment of interest on the loan.*

3. *On the facts and circumstances of the case, the Learned CIT(A) ought to have appreciated that the Assessment is made without proper satisfaction note drawn by the Assessing Officer. Further the Learned CIT(A) also ought to have observed that the Assessing Officer failed to prove the nexus between the incriminating material and the addition made/sustained.*

4. *On the facts and circumstances of the case the Learned CIT(A) ought to have appreciated that the receipts were found and seized in the premises of the searched party do not contain any signature of the appellant and these are self made receipts by the searched person.*

5. *On the facts and circumstances of the case, the Learned CIT(A) ought to have considered the fact that the cash receipts should be held with the person who has paid interest but not with the person who has received such interest and that too there are no signatures of the appellant on such receipts. Accordingly these receipts are not binding on the appellant.*

6. *On the facts and circumstances of the case the Learned CIT(A) ought to have appreciated that the Assessing Officer came to conclusion that the appellant has made the cash payments to M/s. Polisetty Somasundaram simply basing on the third party statement which is not having any bearing on the determination of taxable income of the appellant.*

7. *On the facts and circumstances of the case, the addition made on the unsubstantiated evidences and also without any corroborative evidences in support of self made receipts is unsustainable before law.*

8. *Any other legal as well as other ground that may be urged at the time of hearing of the appeal.”*

7. The only issue contested by the assessee as emanating from the above grounds is with respect to the validity of the addition of Rs. 11,17,507/- being the alleged payment of interest on the loan by relying on the vouchers contained in

Annexure A/PSS/CORP/10 seized by the search team and also relying upon the material in Annexure A/PSS/CORP/18 which was considered as inadmissible evidence. Ld.Authorized Representative (in short “Ld.AR”) submitted that Ld.AO has fully relied upon the evidence from the print out generated from the pendrive seized by the search team. He further submitted that the Hon’ble ITAT in ITA No. No. 172 to 180/VIZ/2020-23 dated 18.08.2023 has held that pendrive is inadmissible evidence as it was not seized by following the prescribed method. He therefore pleaded that the Ld. AO has erred in considering the inadmissible evidence for the purpose of making additions in the hands of the assessee. He therefore pleaded that the addition be deleted.

**8.** Per contra, Ld. Department Representative [in short “Ld.DR] fully supported the orders of the revenue authorities.

**9.** We have heard both the sides and perused the material available on record. It is an admitted fact that the Ld. AO has made an addition of Rs.11,17,507/- based on the digital evidence obtained in the form of pendrive Vide Annexure A/PSS/CORP/18. The Revenue has not brought any cogent evidence corroborating the Incriminating documents to support the payment of interest in cash by the assessee. Further, the Tribunal in ITA No. No. 172 to 180/VIZ/2020-23 dated 18.08.2023 has held as follows:

“37. With respect to Ground No.5, regarding the violation of section 65B of the Indian Evidence Act, the Ld. AR submitted that the primary evidence from wherein the data was copied on the Pen Drive was not identified. The Ld. AR referred to the Digital Evidence Investigation Manual issued by the CBDT which clearly indicates the procedure for obtaining the Certificate U/s. 65B of the Indian Evidence Act. The Ld. AR further submitted that the Certificate obtained U/s. 65B of the Act is not in accordance with the procedures laid down in section 65B(2) of the Indian Evidence Act. The Ld. AR also submitted that the four conditions prescribed in sub-section (2) of section 65B of the Indian Evidence Act should be followed cumulatively while obtaining the Certificate U/s. 65B of the Indian Evidence Act. The Ld. AR vehemently argued and submitted that the search team has failed to adhere to the procedures laid down in section 65B(2)(d) of the Indian Evidence Act while seizing the pendrive from Sri A. Srinivasa Rao, Cashier of the assessee. The copy of the Certificate has been placed in Page-11 of the Paper Book-1. The Ld. AR also produced a copy of Certification issued U/s. 65B of the Indian Evidence Act in another case wherein the primary and secondary device details including the owner / user of the device has been clearly mentioned. The Ld. AR submitted that in the instant case, no evidence was produced by the Revenue stating that the data copied to the pendrive was from the system identified in this regard, and used by the Cashier Sri A. Srinivasa Rao. The Ld. AR therefore pleaded that on this ground also, the assessment order is not a valid assessment order. The Ld. AR relied on the following case laws:

- (i) *Vetrivel Mineral vs. ACIT, Central Circle-2, Madurai [2021] 129 taxmann.com 126 (Madras)*
- (ii) *Judgment of the Hon'ble Supreme Court in the case of Arjun PanditraoKhotkar vs. Kailash KushanraoGorantyal and Ors in Civil Appeal Nos. 20825-20826 of 2017.*
- (iii) *Anvar P.V. vs. P.K. Basheer and others [2014] 10 SCC 473 (SC).*

38. *Per contra, the Ld. DR submitted before that the Digital Evidence collection form was obtained from the assessee's premises during the search operations. The Ld. DR also submitted that as per page 33 of the submissions, the system has been identified by the search party. Countering the same, the Ld. AR submitted that there is no evidence in support of the claim of the Ld. CIT-DR that the same system was used by the assessee's Cashier.*

39. *We have heard both the parties and perused the material available on record and the orders of the Ld. Revenue Authorities on this issue as well as the submissions made by the Ld. AR and the Ld. CIT-DR. The CBDT has issued an Investigation Manual for the purpose of collecting Digital Evidence in the cases of search and seizure. In para 2.6.3 of the said Manual, the CBDT has advised that the procedure has to be in consonance with the provisions of section 65B of the Indian Evidence Act. For reference sake, we extract below the relevant para 2.6.3 of the Manual:*

*“2.6.3 Under Indian Evidence Act there are several references to documents and records and entries in books of account and their recognition as evidence. By way of the THE SECOND SCHEDULE to the Information Technology Act*

*Amendments to the Indian Evidence Act have been brought in so as to, incorporate reference to Electronic Records along with the document giving recognition to the electronic records as evidence.*

*Further, special provisions as to evidence relating to electronic record have been inserted in the Indian Evidence Act, 1872 in the form of section 65A & 65B, after section 65. These provisions are very important. They govern the integrity of the electronic record as evidence, as well as, the process for creating electronic record. Importantly, they impart faithful output of computer the same evidentiary value as original without further proof or production of original. **Accordingly, while handling any digital evidence, the procedure has to be in consonance of these provisions.***

*40. Further, we find that section 65B(2) of the Indian Evidence Act clearly specifies the following conditions with respect to obtaining of Digital Evidence both for primary and secondary evidences. The relevant extract of section 65B(2), (3) and (4) are as follows:*

*“(2) The conditions referred to in sub-section*

*(1) in respect of a computer output shall be the following, namely:*

*(a) the computer output containing the information was produced by the computer during the period over which the computer was used regularly to store or process information for the purposes of any activities regularly carried on over 181 that period by the person having lawful control over the use of the computer;*

*(b) during the said period, information of the kind contained in the electronic record or of the kind from which the information so contained is derived was regularly fed into the computer in the ordinary course of the said activities;*

*(c) throughout the material part of the said period, the computer was operating properly or, if not, then in respect of any period in which it was not operating properly or was out of operation during that part of the period, was not such as to affect the electronic record or the accuracy of its contents; and*

*(d) the information contained in the electronic record reproduces or is derived from such information fed into the computer in the ordinary course of the said activities.*

*(3) Where over any period, the function of storing or processing information for the purposes of any activities regularly carried on over that period as mentioned in clause (a) of sub-section (2) was regularly performed by computers, whether-*

*(a) by a combination of computers operating over that period; or*

*(b) by different computers operating in succession over that period; or*

(c) by different combinations of computers operating in succession over that period; or

(d) in any other manner involving the successive operation over that period, in whatever order, of one or more computers and one or more combinations of computers, all the computers used for that purpose during that period shall be treated for the purposes of this section as constituting a single computer; and references in this section to a computer shall be construed accordingly.

(4) In any proceedings where it is desired to give a statement in evidence by virtue of this section, a certificate doing any of the following things, that is to say, -

(a) identifying the electronic record containing the statement and describing the manner in which it was produced;

(b) giving such particulars of any device involved in the production of that electronic record as may be appropriate for the purpose of showing that the electronic record was produced by a computer;

(c) dealing with any of the matters to which the conditions mentioned in subsection (2) relate,

and purporting to be signed by a person occupying a responsible official position in relation to the operation of the relevant device or the management of the relevant activities (whichever is appropriate) shall be evidence of any matter stated in the certificate; and for the purposes of this subsection it shall be sufficient for a matter to be stated to the best of the knowledge and belief of the person stating it.”

41. We find from the written submissions of the Ld. AR that the provisions of section 65B(2)(d) as extracted above was not followed by the Revenue. **The Revenue failed to identify the primary system giving particulars of the device involved in the production of the data was produced by a computer.**

42 Further, we have also considered the cases referred to by the Ld. AR. In the case of **Vetrivel Mineral vs. ACIT, Central Circle-2, Madurai reported in [2021] 129 taxmann.com 126 (Mad.)** the Hon'ble Madras High Court has observed as under:

**“24. As contended by the writ petitioners, when the entire assessment has been framed only on the basis of the so-called electronic record which are said to be copies of Excel Sheet, Excel work note book etc., non-compliance of section 65(B) of the Indian Evidence Act renders the document inadmissible in the eye of law as held by the Supreme Court in the judgment Anvar P.V. case (supra).**

"14. Any documentary evidence by way of an electronic record under the Evidence Act, in view of sections 59 and 65A, can be proved only in accordance with the procedure prescribed under section 65B. Section 65B deals with the

*admissibility of the electronic record. The purpose of these provisions is to sanctify secondary evidence in electronic form, generated by a computer. It may be noted that the section starts with a non obstante clause. Thus, notwithstanding anything contained in the Evidence Act, any information contained in an electronic record which is printed on a paper, stored, recorded or copied in optical or magnetic media produced by a computer shall be deemed to be a document only if the conditions mentioned under sub-section (2) are satisfied, without further proof or production of the original. The very admissibility of such a document, i.e., electronic record which is called as computer output, depends on the satisfaction of the four conditions under section 65B(2). Following are the specified conditions under section 65B(2) of the Evidence Act:*

- (i) The electronic record containing the information should have been produced by the computer during the period over which the same was regularly used to store or process information for the purpose of any activity regularly carried on over that period by the person having lawful control over the use of that computer;*
- (ii) The information of the kind contained in electronic record or of the kind from which the information is derived was regularly fed into the computer in the ordinary course of the said activity;*
- (iii) During the material part of the said period, the computer was operating properly and that even if it was not operating properly for some time, the break or breaks had not affected either the record or the accuracy of its contents; and*
- (iv) The information contained in the record should be a reproduction or derivation from the information fed into the computer in the ordinary course of the said activity.*

*15. Under section 65B(4) of the Evidence Act, if it is desired to give a statement in any proceedings pertaining to an electronic record, it is permissible provided the following conditions are satisfied:*

- (a) There must be a certificate which identifies the electronic record containing the statement;*
- (b) The certificate must describe the manner in which the electronic record was produced;*
- (c) The certificate must furnish the particulars of the device involved in the production of that record;*
- (d) The certificate must deal with the applicable conditions mentioned under section 65B(2) of the Evidence Act; and*

- (e) *The certificate must be signed by a person occupying a responsible official position in relation to the operation of the relevant device.*

16. *It is further clarified that the person need only to state in the certificate that the same is to the best of his knowledge and belief. Most importantly, such a certificate must accompany the electronic record like computer printout, Compact Disc (CD), Video Compact Disc (VCD), pen drive, etc., pertaining to which a statement is sought to be given in evidence, when the same is produced in evidence. All these safeguards are taken to ensure the source and authenticity, which are the two hallmarks pertaining to electronic record sought to be used as evidence. Electronic records being more susceptible to tampering, alteration, transposition, excision, etc. without such safeguards, the whole trial based on proof of electronic records can lead to travesty of justice.*

17. *Only if the electronic record is duly produced in terms of section 65B of the Evidence Act, the question would arise as to the genuineness thereof and in that situation, resort can be made to section 45A opinion of examiner of electronic evidence.*

18. *The Evidence Act does not contemplate or permit the proof of an electronic record by oral evidence if requirements under section 65B of the Evidence Act are not complied with, as the law now stands in India."*

43. *In the case of Anvar **P.V vs. P.K. Basheer and Others** [2014] 10 SCC 473 (SC), the Hon'ble Supreme Court held their observations vide Paras 14, 15, 16, 17 & 18 to state that non-compliance of section 65(B) of the Indian Evidence Act renders the document inadmissible in the eye of law. Relying on the same ratio laid down by the Hon'ble Apex Court, the Hon'ble Madras High Court delivered its judgment in the case of Vetrivel Mineral vs. ACIT (supra) vide para 24 of its order which is extracted herein above. Therefore, in our opinion there is no need to repeat the finding of the Hon'ble Supreme Court in the case of Anvar P.V. vs. P.K. Basheer and Others again for reference.*

44. *Now coming to the decision of the Hon'ble Supreme Court in the case of **Arjun Pandit Rao Khotkar vs. Kailash Kushan Rao Gorantyal And Ors** reported in [2020] 7 SCC 1 (SC) the Hon'ble Apex Court has observed as under:*

*"30. Coming back to Section 65B of the Indian Evidence Act, sub-section (1) needs to be analysed. The sub-section begins with a non-obstante clause, and then goes on to mention information contained in an electronic record produced by a computer, which is, by a deeming fiction, then made a "document". This deeming fiction only takes effect if the further conditions mentioned in the Section are satisfied in relation to both the information and the computer in question; and if such conditions are met, the "document" shall then be admissible in any proceedings. The words "...without further proof or production of the original..." make it clear that once the deeming fiction is given effect by the fulfilment of the conditions mentioned in the Section, the "deemed*

document” now becomes admissible in evidence without further proof or production of the original as evidence of any contents of the original, or of any fact stated therein of which direct evidence would be admissible.

**31. The non-obstante clause in sub-section (1) makes it clear that when it comes to information contained in an electronic record, admissibility and proof thereof must follow the drift of Section 65B, which is a special provision in this behalf - Sections 62 to 65 being irrelevant for this purpose. However, Section 65B(1) clearly differentiates between the “original” document - which would be the original “electronic record” contained in the “computer” in which the original information is first stored - and the computer output containing such information, which then may be treated as evidence of the contents of the “original” document. All this necessarily shows that Section 65B differentiates between the original information contained in the “computer” itself and copies made therefrom – the former being primary evidence, and the latter being secondary evidence.**

32. Quite obviously, the requisite certificate in sub-section (4) is unnecessary if the original document itself is produced. This can be done by the owner of a laptop computer, a computer tablet or even a mobile phone, by stepping into the witness box and proving that the concerned device, on which the original information is first stored, is owned and/or operated by him. In cases where “the computer”, as defined, happens to be a part of a “computer system” or “computer network” (as defined in the Information Technology Act, 2000) and it becomes impossible to physically bring such network or system to the Court, then the only means of proving information contained in such electronic record can be in accordance with Section 65B(1), together with the requisite certificate under Section 65B(4). This being the case, it is necessary to clarify what is contained in the last sentence in paragraph 24 of Anvar P.V. (supra) which reads as “...if an electronic record as such is used as primary evidence under Section 62 of the Evidence Act...”. This may more appropriately be read without the words “under Section 62 of the Evidence Act,...”. With this minor clarification, the law stated in paragraph 24 of Anvar P.V. (supra) does not need to be revisited.

45. On careful perusal of the case laws cited above, we are of the considered view that the Revenue Authorities should mandatorily and scrupulously follow the conditions laid down under section 65B(2) and (4) of the Indian Evidence Act to render any documents to be valid in the eyes of law. In the instant case, the investigation agency obtained a Certificate about the details of the pen drive and the person in whose custody it was seized. Except these details nothing was there in the Certificate and also the said Certificate was not completely filled up by the Ld. Revenue Authorities. Further, from the Certificate obtained under Indian Evidence Act which is placed in Page-11 of Paper Book-2, we find force in the arguments of the Ld. AR that it is not as per the conditions laid down U/s. 65B of the Indian Evidence Act. For the sake of reference, the Certificate is reproduced here in below:

**CERTIFICATE U/S 65B OF THE INDIAN EVIDENCE ACT. 1872**

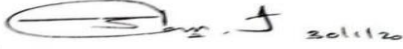
I, A. SRINIVASA RAO (Name) (PAN NO. : A IMPR6853 N) state the following that I am an employee/partner/director/proprietor of Messers. Polisetty Somasundaram after referred to as firm / company /LLP /AOP /Proprietary Firm ) Located at Messers. Polisetty Somasundaram no 8-24-31, Mangalagiri Road , Guntur 522001 (here after referred to as Premises).

I, A. SRINIVASA RAO (Name) state that by virtue of being employee / partner /director / proprietor in firm / company / LLP/AOP/Proprietary Firm, I and my employees uses the server/system/File-Folder/hard disk/pen drive/mobile/email Cashier HP Pendrive , s.no : FS-16G-K (here after referred to as System) located in the premises of Office at Located at Messers. Polisetty Somasundaram , no 8-24-31, Mangalagiri Road , Guntur 522001 firm/company/LLP /AOP /Proprietary Firm. Further, the server/system/File-Folder/hard disk/pen drive/mobile/email used by us in this premises was functioning normally all times and this server/system/hard disk/pan drive/mobile/email was used for meeting various business interest of Messers. Polisetty Somasundaram / company /LLP /AOP /Proprietary Firm. I,(Name)also like to state that I (Name) along with my staff / and/or family members were involved in entering data on server/system/File-Folder/hard disk/pen drive/mobile/email in the Premises.

Accordingly, I, Ashok Naga SaiPabbathi (Name of Digital Forensic Examiner) certify that the data is backed up from the Cashier HP Pendrive , s.no : FS-16G-K \_server/system/File-Folder/hard disk/pen drive/mobile/email during the search proceedings u/s 132 of the Income Tax Act,1961, in case of Messers. Polisetty Somasundaram (Company name). At the Messers. Polisetty Somasundaram , no 8-24-31, Mangalagiri Road , Guntur 522001 Date of Search: 28-1-2020 ) is stored in the devices with the following details:

Master Copy Details	Working Copy Details
Make: Sandisk Model: <u>Cruzer Blade</u> Serial No: n/a	Make: Sandisk Model: <u>Cruzer Blade</u> Serial No: n/a
Is the Hash Value Calculated ?	Algorithm:
<input checked="" type="radio"/> Yes <input type="radio"/> No	<input checked="" type="radio"/> MD5 <input checked="" type="radio"/> SHA1 <input type="radio"/> Others
MD5 hash value: b5525c605629d608cba81d9d7d5e42b8	
SHA1 hash Value: b097431855543a8b9fcc1f8d85b95e0b30343200	

Therefore, this certificate is sufficient compliance of Section 65B of the Indian Evidence Act,1872.

  
Signature: \_\_\_\_\_  
Name: A. SRINIVASA RAO  
Designation: CASHIER

  
Signature: \_\_\_\_\_  
Name: Ashok Naga Sai Pabbathi  
Designation: Digital Forensic Examiner

46. After considering the decisions of the Hon'ble Supreme Court in the case of Anvar P.V vs. P.K. Basheer and Others (supra); Arjun Pandit Rao Khotkar vs. Kailash Kushan Rao Gorantyal and Ors (supra) and the judgment of the Hon'ble Madras High Court in the case of Vetrivel Mineral vs. ACIT (supra) as well as on perusal of the facts and circumstances of the case, we are of the considered we that the four conditions stipulated in section 65B(2) ie., (a) to (d) along with section 65B(4) were not followed while obtaining the Certificate U/s. 65B of the Indian Evidence Act 1872 in the case of the assessee which are to be followed mandatorily. Therefore, we have no hesitation to hold that this Certificate is not a valid Certificate as prescribed under the Indian Evidence Act 1872 and hence cannot be enforced. Therefore, the Certificate obtained in the case of the assessee cannot be regarded as a legally valid certificate U/s. 65B of the Indian Evidence Act and the same has no recognition in the eyes of law. The information contained in the seized pendrive is could not be considered as admissible evidence as per the provisions of section 65B of Indian Evidence Act. Therefore, we are of the considered view that such inadmissible seized material is not sustainable in the eyes of law. Thus, the assessment order passed in the case of the assessee on 31/3/2022 is not a valid assessment order in the eyes of law and it deserves to be set aside."

10. It can be observed that the Tribunal has held that the Pendrive seized in the search operation in the case of M/s. Polisetty Somasundaram as inadmissible evidence as per the provisions of section 65B of the Indian Evidence Act and hence any detail extracted from such unsustainable digital evidence cannot be considered for the purpose of making additions in the case of assessee. The Ld.AO while confirming the interest payments in cash has observed in Para No. 3.1 as below: -

*“3.1 During the course of Search & Seizure Proceedings conducted in the business premises of M/s Polisetty Somasundaram on 28.01.2020, a pen drive was found, which was seized vide annexure A/PSS/CORP/19 and the copies of the contents pen drive were seized vide annexure A/PSS/CORP/18 which contains the details of unaccounted cash transactions made by M/s Polisetty vSomasundaram(M/s PSS). As per the above seized material, the list of complete cash transactions carried on between the M/s PSS and the assessee & his related concerns are given as under:”*

11. So, it is quite obvious from the above observations of the Ld. AO that he has relied upon the unaccounted cash book of M/s. Polisetty Somasundaram seized A/PSS/CORP/18 for making the addition of interest payment by cash which was held as inadmissible evidence by the Tribunal in the case of M/s. Polisetty Somasundaram v. DCIT (supra). We therefore have no hesitation to delete the addition of Rs. 11,17,507/- in the absence of any corroborating material brought on record thereby allowing the grounds raised by the assessee.

12. In the result appeal of the assessee is allowed.

**ITA Nos. 525 & 526/VIZ/2024**  
**(A.Ys. 2019-20 & 2020-21)**

13. Coming to the appeal relating to A.Ys. 2019-20 & A.Y. 2020-21, since the issues and facts in these appeals are identical, the decision taken in assessee's case for the A.Y.2014-15 as in preceding paras shall *mutatis mutandis*, applicable to ITA Nos. 525 & 526/VIZ/2024. Accordingly, appeals filed by the assessee are allowed.

14. To sum-up, appeals filed by the assessee are allowed.

Order pronounced in the open court on 07<sup>th</sup> March, 2025.

Sd/-

(के.नरसिम्हाचारी)

(K.NARASIMHA CHARY)

न्यायिक सदस्य/JUDICIAL MEMBER

Dated:07.03.2025

Giridhar, Sr.PS

Sd/-

(एस बालाकृष्णन)

(S. BALAKRISHNAN)

लेखा सदस्य/ACCOUNTANT MEMBER

आदेशकीप्रतिलिपिअग्रेषित/ Copy of the order forwarded to:-

1. निर्धारिती/ The Assessee : **Vasireddy Vidya Sagar**  
D.No. 5-37-44/2, Kalangi Complex  
4/7, Brodipet, Guntur - 522002
2. राजस्व/ The Revenue : **DCIT – Central Circle – 1**  
Income Tax Office  
Lakshmipuram Main Road  
Guntur – 522006  
Andhra Pradesh
3. The Principal Commissioner of Income Tax
4. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, विशाखापटणम /DR,ITAT, Visakhapatnam
5. The Commissioner of Income Tax
6. गार्डफ़ाईल / Guard file

//True Copy//

आदेशानुसार / BY ORDER

Sr. Private Secretary  
ITAT, Visakhapatnam