IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'F': NEW DELHI

BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT
and
SHRIS.RIFAUR RAHMAN, ACCOUNTANT MEMBER

ITA No.8442/DEL/2019
(Assessment Year: 2010-11)

ITA No.8443/DEL/2019
(Assessment Year: 2011-12)

ITA No.8444/DEL/2019
(Assessment Year: 2012-13)

ITA No.1011/DEL/2018
(Assessment Year: 2013-14)

ITA No.8590/DEL/2019
(Assessment Year: 2014-15)

Sanjeev Kumar, C/o RRA Taxation, D – 28, South Extension, Part I, New Delhi – 110 049. **(PAN :ABBPK0132H)**	vs.	ACIT, Central Circle 14, New Delhi.

ITA No.2898/DEL/2022
(Assessment Year: 2011-12)

Sanjeev Kumar, C/o RRA Taxation, D – 28, South Extension, Part I, New Delhi – 110 049. **(PAN :ABBPK0132H)**	vs.	ITO, Ward 4, Bulandshahr.

ITA No.9317/DEL/2019
(Assessment Year: 2011-12)

ITA No.9318/DEL/2019
(Assessment Year: 2012-13)

ITA No.1553/DEL/2018
(Assessment Year: 2013-14)

ITA No.9896/DEL/2019
(Assessment Year: 2014-15)

ACIT, Central Circle 14, New Delhi.	vs.	Sanjeev Kumar, C/o RRA Taxation, D – 28, South Extension, Part I, New Delhi – 110 049. **(PAN :ABBPK0132H)**
(APPELLANT)		(RESPONDENT)

ASSESSEE BY : Dr. Rakesh Gupta, Advocate
Shri Deepesh Garg, Advocate
Shri Saksham Agarwal, Advocate
REVENUE BY : Ms. AmishaGupt, CIT DR

Date of Hearing : 23.05.2025
Date of Order : 19.06.2025

O R D E R

PER S.RIFAUR RAHMAN,ACCOUNTANT MEMBER :

1. The Revenue and assessee has filed cross appeals against the order of ld. Commissioner of Income-tax Appeals-26, New Delhi [hereinafter referred to as 'ld. CIT (A)] dated 23.09.2019, 23.09.2019, 18.12.2017 &16.10.2019 for Assessment Years 2011-12, 2012-13, 2013-14 & 2014-15 respectively. The assessee has also filed appeals against the order of ld. CIT (A)-26, New

Delhi dated 03.09.2019 & 14.10.2022 for Assessment Years 2010-11 & 2011-12 respectively.

2. Since the issues are common and the appeals are connected, therefore, the same are heard together and being disposed off by this common order. First we take up Revenue's appeal for AY 2013-14 as lead case.

REVENUE'S APPEAL : ITA No.1553/Del/2018 (AY 2013-14)

3. The Revenue in AY 2013-14 has raised the following grounds of appeal :-

> "1. Whether the Ld.CIT(A) has not erred in facts and circumstances of the case in deleting the addition of Rs.83,80,85,255/- made by AO on account of Unexplained credit u/s 68.
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> 2. Whether the Ld.CIT(A) has not erred in facts and circumstances of the case in deleting the addition of Rs.3,29,74,904/- made by AO on account of Unexplained credit u/s 68.
>
> 3. Whether the Ld.CIT(A) has not erred in facts and circumstances of the case in deleting the addition of Rs. 1,33,040/- made by AO on account of Unexplained credit u/s 68.
>
> 4. Whether the Ld.CIT(A) has not erred in facts and circumstances of the case in deleting the addition of Rs.5,33,67,668/- made by AO on account of out of books sales.
>
> 5. Whether the Ld.CIT(A) has not erred in facts and circumstances of the case in deleting the addition of Rs.1,05,26,000/- out of total addition of Rs.1,48,00,000/- made by AO on account of unexplained payments made.
>
> 6. Whether the Ld.CIT(A) has not erred in facts and circumstances of the case in deleting the addition of Rs.3,10,000/- made by AO on account of out of books sales.

7. Whether the Ld.CIT(A) has not erred in facts and circumstances of the case in deleting the addition of Rs.93,82,464/- out of total addition of Rs.99,09,266/- made by AO on account of out of books sales."

4. The facts relating to Ground Nos.1 to 4 raised by the Revenue which are relating to addition made under section 68 of the Act by the Assessing Officer are, in this regard, ld. DR of the Revenue brought to our notice the relevant facts from the assessment order that search and seizure operation was conducted on the Rama and Param Group and other related cases on 28.02.2014 at the various residential and business premises. The last of the authorization of search was executed on 22.04.2014. The case of the assessee was centralized with Pr.CIT, Central II, New Delhi. Accordingly, order u/s 127 of the Act was passed on 18.09.2016. In the case of the assessee, incriminating documents were found relevant to AY 2013-14. Thereafter, a notice u/s 153A of the Act was issued on 28.12.2015. In response, assessee filed return of income. Subsequently, notices u/s 142(1) were issued and served on the assessee. In response, certain documents were submitted by the assessee.

5. During assessment proceedings, several notices were issued by the Assessing Officer asking the assessee to submit relevant documents which were found during search, which are marked as Annexure A-36 Party RU-1. Since assessee has not furnished any explanation or documentary proof in

support of the above transactions which were found during search proceedings, the assessee was issued final notice u/s 142(1) asking the assessee to submit the relevant information on the abovesaid transactions shall not be treated as unexplained credits/investments and added to the income u/s 68 and 69 of the Act. Similarly, assessee was asked to submit transactions relating to Rama Ex based on the statement recorded from Sanjay Mudgal, Accounts Head. In the statement recorded u/s 132,Sanjeev Kumar was not able to explain the identity of Rama Ex as appearing in the digital data. In the absence of the submissions, the Assessing Officer relying on the statement of the Accounts Head and non-submission of any document before him, he proceeded to make the addition by invoking section 68 of the Act with the observation that the credit entries in the case of sundry creditors are made with the narration under the head particulars show "cash" was written on these pages. Similarly, other additions were also made by the Assessing Officer relating to unsecured loans of Rs.3,29,74,904/-, bank overdraft account and sales registration.

6. Aggrieved with the above order, assessee preferred an appeal before the ld. CIT (A) and assessee made detailed submissions and submitted supporting documents. The issue was remanded to the Assessing Officer and Assessing Officer submitted the remand report with the observation that during search,

certain documents which are identified as Annexure A-6 Party RU-1 and the following entries were retrieved from the above annexure and the same is tabulated below :-

Amount	On account of	Para no. of assessment order
Rs.83,80,85,255/-	Sundry Creditors	Para 8 & 9
Rs.3,29,74,904/-	Secured Loans	Para 10
Rs.1,33,040/-	Bank OD A/c	Para 11
Rs.5,33,67,668/-	Sales Register	Para 12

7. During assessment and remand proceedings, the assessee submitted that the above said documents were not found from the possession of Party RU-1. Therefore, such documents cannot be the basis for making addition in his hands. Further it was submitted that the above said documents do not relate to the assessee and one Rama Ex mentioned on these documents and do not bear the name of the assessee. Therefore, these documents were not found from the assessee, do not contain the name of the assessee, do not bear the signature nor handwriting of the assessee. The Assessing Officer rejected the above submissions of the assessee and observed that on perusal of the Panchnama, it was found that it contains the name of various entities i.e. Rama Hygienic Pvt. Ltd., Rama Dairy Products Pvt. Ltd., Rama Allied Products Marketing Pvt. Ltd., Rama PashuAahar Pvt. Ltd. and Rama Brewery Products Pvt. Ltd.. At the same time, he observed that the name of

the assessee is not appearing in the Panchnama. He further observed that the abovesaid documents found during the search were not objected to the assessee during the investigation conducted by the Investigation Wing or at the time of assessment proceedings.

8. After considering the submissions of the assessee and remand report submitted by the Assessing Officer as well as rejoinder to the remand report, ld. CIT (A) deleted the addition by observing as under :-

"5.2.3.5. The description of the items is as below-

On account of	Amount
Sundry Creditors	Rs.83,80,85,255
Secured Loans	Rs.3,29,74,904
Bank OD A/c	Rs. 1,33,040
Sales Register	Rs. 5,33,67,668

5.2.3.6. An examination of the excel sheet does not give any corroborated details. Though there is no direct inference to attribute the document to the appellant assessee, the onus to prove the veracity of certain entries bearing his name remain on him. The AO has not examined the issue in the remand report also. A review of the document clearly shows that it is an annual summary sheet of sundry creditors of Rama Ex. There is an entry of Rs 6,69,04,983/- in name of Sh Sanjeev Kumar and the appellant is duty bound to explain it and as he has not done so, the amount shall be added in his name in the relevant period. The AO shall reopen the proceedings of earlier period in this respect and carry out the assessment on the facts. The summary sheet is listed below-

13-14

RAMA EX

Sundry Creditors

Group Summary

1-Apr-2012 to 31-Mar-2013

A-36

Particulars	Opening Balance	Transactions Debit	Transactions Credit	Closing Balance
Amit Ji Cash Department		1,00,000.00	1,00,000.00	
Anil Ji Mumfali		97,41,991.00	97,41,991.00	
Ar Ch		3,53,54,000.00	3,53,54,000.00	
Arya Dharam Kata Mr. Gaurav		1,34,400.00	99,400.00	35,000.00
Arya Oil Mill Bsr		59,67,469.00	59,67,469.00	
Bansal Kethal		1,51,86,832.00	1,52,40,597.00	53,765.00
Banti Ji Agara	3,21,668.00 Cr	2,68,29,797.00	2,65,08,129.00	
BBH	6,58,000.00 Dr	1,80,13,668.00	1,86,71,668.00	
Bharat Oil Modinagar	90,687.00 Dr	3,64,51,882.00	3,65,42,569.00	
Bsnl Mobile		1,46,794.00	1,46,794.00	
DD	20,864.00 Dr	21,11,600.00	21,32,464.00	
Dhreej Ji Dadri		63,86,700.00	63,86,700.00	
GANESH CON		6,89,23,535.00	6,90,05,401.00	81,866.00
ori Shanker Mandi Shyamnagar		3,79,440.00	3,79,440.00	
Hoti Ji Mandi		86,83,855.00	86,83,855.00	
rctc		21,965.38	21,965.38	
lai Bharat Trading Com.	24,312.00 Dr	65,22,414.00	65,46,726.00	
anta Pump Bsr		7,95,317.00	7,95,317.00	
Karnatak Trading Com.		14,25,86,745.00	14,25,86,745.00	
Manmohan Maheshwari		1,15,49,595.00	1,15,54,407.00	4,812.00
Mool Chand Brokers	4,50,000.00 Cr	5,06,17,440.00	4,99,66,243.00	2,01,197.00
Mukesh Rahul Mandi Bsr		1,32,69,190.00	1,32,69,190.00	
Muket Lal Ji Mandi	7,68,000.00 Cr	2,83,95,238.00	2,97,09,450.00	20,82,212.00
Mustard Oil		7,50,000.00	7,50,000.00	
N V R		4,97,217.00	4,97,217.00	
N M Agro Gzb		35,00,000.00	35,00,000.00	—
Om Trading Com. Delhi		10,83,90,783.00	10,83,90,783.00	
PAPAN BROKERS HAPUR		22,60,995.00	22,60,995.00	
Pradeep Shishir Dadri		8,75,000.00	14,11,500.00	5,36,500.00
Raghuveer Singh Devendra Kr	4,156.00 Dr	3,66,16,009.00	3,65,70,000.00	50,165.00
Rahul Trading Hapur		2,00,000.00	2,00,000.00	
Ratan Trading Co. Dadri		15,00,000.00	15,00,000.00	
ithi Trading Company	31,920.00 Cr	4,32,24,993.00	4,38,43,688.00	6,50,615.00
avinder Oil Mill		1,06,00,000.00	1,06,00,000.00	
Sachin Ji	12,426.00 Cr	5,35,85,372.00	5,45,33,955.00	9,61,009.00
Sanjeev Kumar	6,69,04,983.19 Dr		6,69,04,983.19	
Santosh Brothers		1,00,000.00	1,00,000.00	
Saurabh Hementh Bsr		6,08,175.00	6,08,175.00	
Shiv Sirsa			7,535.00	7,535.00
Shri E Ratin		15,500.00	15,500.00	
Sudhir Trading Mandi		6,29,496.00	6,29,496.00	
Tayal Trading Company Bsr		94,43,945.00	94,43,945.00	
Vidhem Singh Bus Dep			4,50,000.00	4,50,000.00
Vijay Babu Kinarbanda Ji		40,26,850.00	40,26,850.00	
Vikas Ji Santosh Bro.		11,00,000.00	11,00,000.00	
Vodafone		1,05,240.00	1,05,240.00	
Yogander Sanjeev Bsr		12,24,873.00	12,24,873.00	
Grand Total	6,61,18,988.19 Dr	76,74,24,315.38	83,80,85,255.57	45,41,952.00

5.2.3.7. Now, the document is to be examined vis a vis the appellant and the appellant cannot brush aside his onus here. The summary of transactions is as under-

i.	Opening consolidated Debit Balance	-Rs 6,61,18,988.19
ii.	Debit entries during the period	- Rs 76,74,24,315.38
iii.	Credit Entries during the period	- Rs 83,80,85,255.57
iv.	Closing Credit Balance	- Rs 45,41,95.00

5.2.3.8. The summary sheet indicates the fund flow as above. The addition shall be made by the AO in the hands of the relevant entity as directed and as per material and panchnama on record. It is trite law that, no addition can be made on the basis of documents found from a third party without examining the third party and linking the contents of the documents with him. In this regard, we may also refer to the following jurisprudence-

i) 97 ITR 696 (Bom) ACIT Vs. Lata Mangeshkar (Miss)
ii) 301 ITR 134 (MP) Prakash Chand Nahta v. CIT
iii) 300 ITR 426 (All) CIT v. Salek Chand
iv) 288 ITR 345 (Del) SMC Share Broker Ltd
v) 160 Taxman 485 (Del) CIT vs. JMD Computers & Communications (P) Ltd.
vi) 861TD 13 (Del) ™ Amarjit Singh Bakshi (HUF) vs. ACIT
vii) 310 ITR 227 (Guj) Krishna Textiles vs. CIT
viii) 297 ITR 135 (Mad) CIT vs. A.N. Dyaneswaran
ix) 82 ITD 85 (Mum) ™ S.P. Goyal vs. DCIT
x) ITA No. 507/2009 (Guj) dated 27.2.2010 CIT vs. Samrat Builders
xi) 145 ITJ 340 (Kol) Fort Projects (P) Ltd. vs. DCIT
xii) ITA No. 208/2011 dated 12.9.2012 (P&H) CIT vs. Khosla Ice & General Mills
xiii) ITA No.(s) 5516 & 5517/D/2012 AY(s) 2006-07 and 2007-08 dated 18.7.2014 ACIT vs. Anil Khandelwal
xiv) ITA 1045/2017 & CM No.42537/20 17 in case of PRINCIPAL CORNMISSIONER OF INCOME TAX (CENTRAL)-1 versus MANOJ HORA decision dated 27/11/2017

Accordingly, the addition on this count is hence directed to be deleted in the case of the appellant. The AO may initiate reopening proceedings u/s 147 or recommend initiation of proceedings u/s 263 accordingly.

5.2.3.9. The ground is disposed of in the above terms."

9. Aggrieved with the above order, Revenue is in appeal before us.

10. At the time of hearing, ld. DR submitted that the date of search was 28.02.2014 and the last dated of Panchnama was 22.04.2014. She submitted that certain incriminating documents were found and further submitted that several opportunities were given to the assessee, however assessee has not submitted any supporting documents relating to the transaction which are incriminating material in nature. Since assessee has not submitted any document, the Assessing Officer has made the maximum amount as addition. She submitted that ld. CIT (A) has partly allowed the appeal of the assessee even though there are certain incriminating material as well as certain documents were found in the case of Rama Dairy Products Pvt. Ltd.. Ld. DR submitted that ld. CIT (A) has accepted the submissions of the assessee and given the relief to the assessee and brought to our notice page 32 of the appellate order. She submitted that ld. CIT (A) has overlooked the trial balance found during search with the company name as Rama Ex. In this regard, she submitted that all the transactions involving cash were transacted between various entities. Therefore, the corporate veil has to be removed and has to be seen in the light of various transactions. She submitted that as per the A-36 document found during the search, it clearly shows that there is opening balance of Rs.6,69,04,983/- mentioned in the

name of the assessee. This document cannot be rejected and she heavily relied on the findings and submissions of the Assessing Officer before the ld. CIT (A).

11. On the other hand, ld. AR of the assessee brought to our notice pages 18 to 22 and 22 to 24 of the assessment order wherein Assessing Officer has discussed the issue. He submitted that as per the AO's own observation, these documents were found from RU-1 at the address Sayana Road, Bulandshahar which is a digital data which was in the name of Rama Ex. This document was not found in the search of the assessee which was evident from the remand report submitted by the Assessing Officer. He brought to our notice page 28 of the appellate order and also brought to our notice page 104 and 105 of the paper book which is the Panchnama of RU-1 wherein there is no mention of the name of the assessee. Further he brought to our notice pages 14 to 22 of the paper book which is the Document No.A-36 which belongs to and in the name Rama Ex. Further he brought to our notice page 6 of the appellate order wherein assessee has objected to the findings of the Assessing Officer and submitted the relevant submissions before the ld. CIT (A). In this regard, he submitted that when document is not found from the search of the assessee no addition can be made in the hands of the assessee. Further he submitted that the document no.A-36 is a

digital document for which there was no certificate obtained u/s 65B of the Indian Evidence Act. Hence this cannot be utilised to make the addition. In this regard, he relied on the decision of RituTuli vs. AO in ITA No.2016/Del/2023 dated 31.12.2024.

12. Considered the rival submissions and material placed on record. We observed that certain documents were found during the search in the case of Rama Group of companies which are identified as document A-36 and RU-1. From the submissions, we observed that the document found during the search belongs to various entities of the Rama Group and its associate companies. The last Panchnama was in the name of group companies, identified as RU-1 and it was observed that there is no mention of the assessee's name anywhere in the Panchnama. Therefore, all these materials found during the search belong to the Rama Group entities. Therefore, the addition should have been made in the hands of the relevant entities based on the material found and Panchnama on record. Therefore, no addition can be made on the basis of third party without examining and linked to various contents of the documents with the third party in this case assessee. Various courts have held that no addition can be made in the hands of the assessee treating the material found during the search, the relevant search was not initiated in the name of the assessee and such material cannot be applied to

make addition in the hands of the assessee. After considering the detailed findings of the ld. CIT (A), in this regard, we are inclined to dismiss ground nos.1 to 4 raised by the Revenue.

13. With regard to ground no.5, the relevant facts are, during assessment proceedings, the Assessing Officer observed from the Annexure A-39 found during the search initiated in the case of RU-1 at Sl. No.6, Rama Royal Residency. He observed that assessee has already declared an amount of Rs.50,20,000/- in AY 2013-14. He observed that during the course of post-search enquiries, the assessee has submitted the working of Rs.50,20,000/- as under :-

Explanation / Working of Amount Surrendered		
Rama Royal Residency		
Assessment Year 2013-14		
Particulars	Amount	Amount
Gross Receipts (as per A-1 to A-14 of RU-2)		1,48,00,000
Less : Receipts by Cheque		71,00,000
Receipts in cash		77,00,000
Less : Transfer from Rama Group		22,00,000
Cash Receipts		55,00,000
Less : Cash Payments		
Gross Payments	38,37,682	
Less Payments by cheques	26,11,710	
Cash payments	12,25,972	12,26,000
Rounded Off	12,26,000	
Un reconciled cash		42,74,000
Amount surrendered		50,20,000

14. AO observed that vide office letter dated 09.12.2016, assessee was asked to furnish the explanation/documentary proof in support of the transaction

appearing in the seized material. He observed that all the payments made by cheque as declared by the assessee are appearing as cash transactions in the seized material. Further he observed that there is no entity in the name of Rama Group, therefore, the assessee cannot be given benefit of these amounts for arriving at the income for AY 2013-14. Therefore, the entire amount of Rs.1.48 crores was added in the hands of the assessee being Proprietor of Rama Royal Residency and the digital data found from the address Sayana Road, Bulandshahar.

15. Aggrieved with the above order, assessee preferred an appeal before the ld. CIT (A) and filed detailed submissions. After considering the submissions of the assessee and remand report from the Assessing Officer, ld. CIT (A) deleted the abovesaid deletion by observing as under :-

> "5.2.4.2. The AO has examined that out of Rs. 1.48 crores a sum of Rs.71 lakhs has been received by cheque which have been verified through hank statement of Bank of India as advance for sales from various parties. Out of the balance amount of 77 lakhs a sum ofRs.42.74 lakhs remains un-reconciled as the assessee has already surrendered undisclosed income of Rs.50,20,000/- during F.Y. 2012-13 on account of un-reconciled cash. Therefore, he may be given relief on account of un-reconciled cash. The AO has verified the submissions and upon examination of the submission of the appellant has accepted the transaction as reconciled sans Rs.42.74 Lakh which has been stated to be a part of the amount disclosed by the appellant during the search. In view of the facts as discussed and as per the remand report of the AO, the addition on this count is deleted."

16. At the time of hearing, ld. DR of the Revenue fairly accepted that the Assessing Officer has agreed with the relevant points in remand report.

17. On the other hand, ld. AR of the assessee brought to our notice written submissions filed before the ld. CIT (A) and remand report. He submitted that the Assessing Officer admitted the fact that Party RU-1 was not at the address of the assessee as Panchnama was not in the name of the assessee. Therefore, he relied on the findings of ld. CIT (A).

18. Considered the rival submissions and material placed on record. We observed that assessee has submitted detailed submissions before the ld. CIT(A) and ld. CIT (A) has deleted the addition after considering the detailed remand report submitted by the Assessing Officer and also rejoinder to the remand report. We observed that in remand report, the Assessing Officer has accepted the actual unreconciled amount of Rs.42.79 lakhs. The same was accepted by both parties. The assessee also surrendered an amount of Rs.52.50 lakhs to compensate the above. Therefore, there is no loss to the Revenue. Accordingly, we do not see any reason to disturb the findings of the ld. CIT(A). Accordingly, ground no.5 raised by the Revenue is dismissed.

19. With regard to ground no.6 of Revenue's appeal and Ground No.8 raised by the assessee, the relevant facts are, during assessment proceedings, the

Assessing Officer observed from page 5 of the Annexure A-19 of the Party RU-2 seized during the search proceedings found at Rama Kutir, D.M. Road, Bulandsahar (UP) and relevant document was reproduced at page 26 of the assessment order. During post-search proceedings, assessee was asked to explain the abovesaid documents. The Assessing Officer observed that the assessee has only explained the contents of the abovesaid pages without explaining whether these are supported by any documentary evidence and if they are accounted in the books. He observed that from the basic perusal of the books of account, it is apparent that these are not accounted in the regular books of account. He further observed that details contained in the ledger of S-R under the ledger head 'land' and it contains various cash payments starting from April 2012 to March 2013. The second half of the page shows that the transactions for FY 2012-13 is Rs.10,98,000. Since the assessee has not furnished any details with regard to above, he observed that these are not accounted in the formal books of account and the source of these receipts and payment are not explained. Accordingly, he proceeded to make the addition of Rs.19,48,000/- in the hands of the assessee since these papers were found from his possession.

20. Aggrieved assessee preferred an appeal before the ld. CIT (A). Before the ld. CIT (A), assessee has submitted that the credits in the account titled as

land and beneath it is written as S-R, and it was submitted that the above said document does not belong to the assessee and as it is not in the handwriting of the assessee and nor the signatures of the assessee. It was submitted that Assessing Officer has added the credit entries of Rs.5,50,000/-, Rs.3,00,000/- and Rs.10,000/- as income in the hands of the assessee. Further it was submitted that without prejudice to the above, even otherwise it is assumed that such transactions pertained to the assessee, it is submitted that no addition could be made in the hand of the assessee as the opening balance shown on the very same document as Rs.4,01,000/- has already been taxed in AY 2012-13. When this document was taken as real document belonging to the assessee then the law required that such document has to be read in its entirety and Rs.8,26,000/- are appearing as the debits in the accounts, therefore, maximum amount that could be made in the hands of the assessee is Rs.84,000/- [Rs.9,10,000/- (Rs.5,50,000/- + Rs.3,00,000/- + Rs.50000/- + Rs.10000) – Rs.8,26,000/-].

21. After considering the submissions of the assessee, ld. CIT (A) deleted the addition by observing as under :-

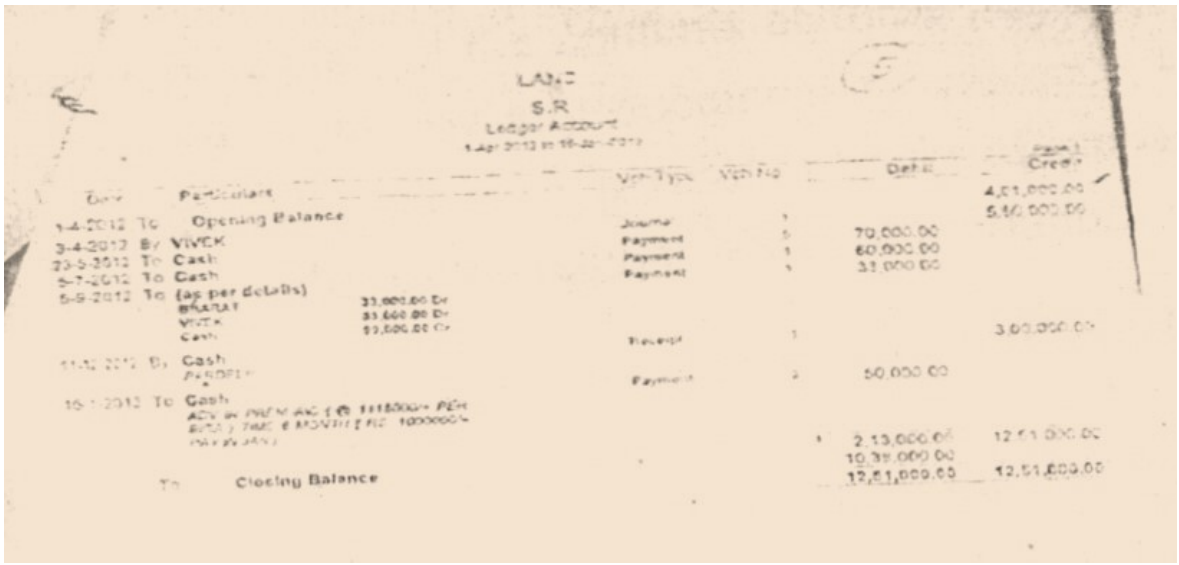
> "5.2.5.4. I have considered the facts and report of the AO and rejoinder of the appellant. The submission of the appellant is not acceptable. It is seen that the peak balance in this seized material excluding the opening balance is Rs.5,50,000/-. That being the base quantum, shall be treated as income of the appellant under this head. Therefore, this amount of Rs 5,50,000/- is directed to be added to the income of the appellant. These grounds are disposed of in the above manner."

22. Ld. DR of the Revenue relied on the findings of the Assessing Officer.

23. On the other hand, ld. AR of the assessee relied on the findings of the ld. CIT(A).

24. Considered the rival submissions and material placed on record. We observed that ld. CIT(A) has considered the detailed submission of the assessee and remand report. He observed that the book balance in the seized material excluding the opening balance of Rs.8,50,000/-. The assessee also filed an appeal and raised ground no.8 in this regard.

25. We observed that Assessing Officer, from the perusal of the page no.5 of Annexure A-19 of Party RU-2 seized from the residence of Sh. Sanjeev Kumar at Rama Kutir, D.M. Road, Bulandsahar, U.P. reproduced the following at page 26 of assessment order, which is reproduced hereunder :-



S.R

Date	Particulars	Vch Type	Vch No	Debit	Credit
1-4-2012	To Opening Balance				4,51,000.00
3-4-2012	By VIVEK	Journal	5	70,000.00	5,50,000.00
23-5-2012	To Cash	Payment	1	60,000.00	
5-7-2012	To Cash	Payment	1	31,000.00	
5-9-2012	To (as per details)	Payment	1		
	BHARAT			33,000.00 Dr	
	VIVEK			33,000.00 Dr	
	Cash			33,000.00 Cr	
		Receipt	1		3,00,000.00
11-12-2012	By Cash	Payment	2	50,000.00	
16-1-2013	To Cash				
				2,13,000.00	12,51,000.00
				10,38,000.00	
	To Closing Balance			12,51,000.00	12,51,000.00

26. We observed that there is a credit of Rs.5,50,000/- and Rs.3,00,000/- during the year and also there are debit balances of Rs.2,13,000/-. We observed that there is opening balance of Rs.4,01,000/-. The opening balance is not a transaction relevant for the current assessment year. Since total credit relevant for the current assessment year is Rs.8,50,000/- excluding opening balance and there is a debit balance as well. The net credit transactions are Rs.6,35,000/-. Since the relevant documents were found at the premises of the assessee, the maximum addition could be made is Rs.6,35,000/- during the current assessment year. Therefore, we direct Assessing Officer to restrict the addition to Rs.6,35,000/-. Accordingly, ground no.6 of Revenue's appeal as well as ground no.8 raised by the assessee are partly allowed.

27. With regard to Ground No.7 raised by the Revenue and Ground No.9 raised by the assessee, ld. DR of the Revenue brought to our notice page 27 of the assessment order and submitted that based on the material found during search containing details of transactions relating to Rama Central Store for the FY 2012-13 and as per the data, the total turnover of Rs.99,09,266/- was recorded. During the post-search enquiries, the assessee was asked to provide details of parties through whom sales and purchases were made.

AO observed that the assessee has completely failed to discharge the onus of explaining the contents of seized documents and has also shown his unwillingness to do so. Even during assessment proceedings, the assessee was asked to furnish the explanation or documentary proof in support of the transactions appearing in the seized material. Since the documents were recovered from the possession of the assessee, as per section 132 (4A) of the Act, it is presumed that such documents belong to such persons. Accordingly, these documents were found at the premises of the assessee. These transactions are considered as genuine entries which are duly recorded in the form of books of account. Since the Rama Group of companies are owned and managed by Sanjeev Kumar and digital data was found from his office, accordingly the additions were made in the hands of the assessee to the extent of Rs.99,09,266/-.

28. Aggrieved assessee preferred an appeal before the ld. CIT (A) and filed detailed submissions. Before ld. CIT (A), the assessee submitted that the addition cannot be made in the hands of the assessee and further it was submitted that no addition can be made based on the documents which do not bear the assessee's name and signature and objected to making the entire sales as income and made a submission that if at all addition can be made, it should be restricted to the profit earned in the abovesaid transaction. Ld. DR

objected to the above submissions and she also brought to our notice pages 37 to 40 of the appellate order wherein assessee has made submissions submitting the purchase and sales register and Profit & Loss account of Rama Central Store. She submitted that ld. CIT (A) after considering the above submissions wrongly deleted the addition by restricting the addition to the extent of Rs.5,26,802/- as the reasonable profit, the assessee should have earned in this transaction and also observed that the basic investment shall be taxed in the assessment year 2009-10 as the activities were started in that year as per the documents seized by the Revenue. She prayed that the addition was deleted merely on the basis of submissions made by the assessee and prayed that the addition may be sustained.

29. On the other hand, ld. AR of the assessee relied on the submissions made before the ld. CIT (A) and remand report which is placed at page 19 of the appellate order and relied on the findings of the ld. CIT (A). Ld. AR submitted that the addition is based on the material found during search as RU-1 and these transactions belong to the entity Rama Central Store and it is not belongs to the assessee and addition cannot be made in the hands of the assessee even though the amount involved is small.

30. Considered the rival submissions and material placed on record. We observed that certain documents were found relating to the sales transactions

carried on by Rama Central Store and based on the above information, the Assessing Officer made the addition in the hands of the assessee making the whole addition as income of the assessee. As per the sales register, these are all the sales recorded in the books of Rama Central Store for the FY 2012-13. During search, both purchases as well as sales register were found in the Hard Disk and the assessee has submitted a detailed purchase and sales register relevant for the year under consideration. As per the data found during the search, it clearly indicates that assessee was indulged in purchase as well as sales during that period and the Assessing Officer has made addition only the sales without considering the purchases. As per the record submitted before the first appellate authority and the details submitted before us, it clearly shows that Rama Central Store was indulged in booking sales as well as purchase during that period. We observed that ld. CIT (A) has sustained only the profit earned by the Rama Central Store, in our considered view, may be reasonable approach to make addition in the hands of Rama Central Store. After considering the detailed submissions and material placed on record, we do not see any reason to disturb the findings of the ld. CIT (A) in proposing the addition based on the profit earned in the hands of Rama Central Store or Rama Group. However, it is apparent on record that purchase and sales were made by Rama Central Store which

belongs to Rama Group of companies and they are separate assessees and additions can be made in the respective companies in the relevant assessment proceedings. Assessee being a Director is separate from the company and the addition cannot be made in the hands of the assessee. There is no material brought on record to lift the corporate veil in this case. Accordingly, ground no.7 raised by the Revenue is dismissed and ground no.9 raised by the assessee is allowed.

ASSESSEE'S APPEAL : ITA NO.1011/DEL/2018 (AY 2013-14)

31. The assessee has raised the following grounds of appeal :-

> "1. That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in confirming the action of Ld. AO in not quashing the impugned assessment order u/s 153A/143(3) and that too without assuming jurisdiction as per law.
>
> 2. That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in. sustaining the addition made by Ld. AO to the extent of Rs.6,69,04,983/- and further erred in giving directions to Ld. AO in bringing to tax the said amount in the hands of assessee in the relevant period which is highly unjustified and not sustainable on various factual and legal grounds and the same has been done by recording incorrect facts and findings and without observing the principles of natural justice.
>
> 3. That in any case and in any view of the matter, action of Ld. CIT (A) in sustaining the action of Ld. AO in making addition of Rs.6,69,04,983/- is bad in law and against the facts and circumstances of the case.
>
> 4. That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in not deleting the balance

addition of Rs.77,11,80,272/- (i.e. Rs.83,80,85,255/- - Rs.6,69,04,983/-) on account of sundry creditors.

5. That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in not deleting the addition of Rs.3,29,74,0-4/- made by Ld. AO on account of secured loan, more so when in incrimination material was found during the course of search and in violation of principles of natural justice.

6. That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in not deleting the addition of Rs.1,33,040/- made by Ld. AO on account of alleged unexplained income, more so when no incrimination material was found during the course of search and in violation of principles of natural justice.

7. That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in not deleting the addition ofRs.5,33,67,668/- made by Ld. AO on the basis of material allegedly found during the course of search and that too by recording incorrect facts and findings and in violation of principles of natural justice.

8. That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in sustaining the action of Ld. AO in making addition of Rs.5,50,000/- on account of peak balance in the alleged seized material and that too by recording incorrect facts and findings and without observing the principles of natural justice.

9. That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in sustaining the action of Ld. AO in making addition of Rs.5,26,802/- by treating it as profit made out of the books and has further erred in directing to AO to tax the basic investments in A Y 2009-10 and that too by recording incorrect facts and findings and without observing the principles of natural justice.

10. That having regard to the facts and circumstances of the case, Ld. CIT (A) has erred in law and on facts in rejecting the additional ground of assessee both on admission and on merit that an amount of Rs.41,80,000/- which was not an income of assessee needs to be

excluded from the income of assessee and the same could not have been taxed in the hands of assessee.

11. That in any case and in any view of the matter, impugned addition and impugned re-assessment order made are bad in law, illegal, unjustified, contrary to facts & law and was framed without giving adequate opportunity of hearing and in violation of principles or natural justice and more so when no incriminating material has been found as a result of search and the same deserves to be quashed."

32. Ground No.1 of assessee's appeal for AY 2013-14 is general in nature, hence does not require any adjudication.

33. With regard to Grounds No.2 to 7 raised by the assessee, since there is no prejudice caused to the assessee and since we have already dismissed the grounds taken by the Revenue and also assessee has not pressed these grounds, accordingly the abovesaid grounds are dismissed.

34. Ground No.8 raised by the assessee is decided against the assessee while adjudicating ground no.6 of Revenue's appeal as above. Accordingly, this ground is dismissed.

35. Ground no.9 raised by the assessee is decided in favour of the assessee while dealing with ground no.7 of Revenue's appeal as above. Accordingly, this ground is allowed.

36. Ground Nos.10 & 11 are not pressed, hence dismissed as not pressed.

37. In the result, the appeal for AY 2013-14 filed by the Revenue is partly allowed and the appeal for AY 2013-14 of the assessee is partly allowed.

ASSESSEE'S APPEAL :ITA NO.8442/DEL/2019 (AY 2010-11)

38. The assessee has raised the following grounds of appeal :-

> "1. That having regard to the facts and circumstances of the case, Ld. CIT (A) has erred in law and on facts in not deleting the addition of Rs.20,00,000/- made by Ld. AO vide para 8.4 page 19 of the assessment order.
>
> 2. That having regard to the facts and circumstances of the case, ld. CIT (A) has erred in law and on facts in not deleting the addition of Rs.93,34,098/- made by Ld. AO vide para 9 page 20 of assessment order and has erred in sustaining the same to the extent of Rs.5,31,471/-.
>
> 3. That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in confirming the action of Ld. AO in assuming jurisdiction u/s 153A and erred in passing the impugned order and that too without complying the mandatory conditions as laid down under the Income Tax Act and without found any incriminating material as a result of search warranting such additions.
>
> 4. That in any case and in any view of the matter, action of Ld. CIT(A) in confirming the action of Ld. AO in. assuming jurisdiction u/s 153A, is bad in law and against the facts and circumstances of the case.
>
> 5. That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in not reversing the action of Ld. AO in charging interest u/s 234A, 234B and 234C of Income Tax Act, 1961."

39. At the time of hearing, assessee has only pressed ground nos.1 & 2 and other grounds of appeal are not pressed at this stage.

40. With regard to ground no.1, ld. AR of the assessee brought to our notice pages 16 to 19 of the assessment order. He submitted that based on the material found during search, identified as Annexure A-19 RU-2 and as per the document in respect of unexplained transactions in the name of Shahdara Didi and Mohit Kumar seized at the residence of Sanjeev Kumar at Rama

Kutir, D.M. Road, Bulandsahar (U.P.) of Rs.20 lakhs. The assessee was asked to explain the details of above transaction. Further he submitted that certain documents in respect of the transactions in the name of Shahdara Didi and Mohit Kumar were seized of an amount of Rs.50 lakhs during AYs 2008-09 to 2014-15. He submitted that the transaction of Rs.20 lakhs is part of the above Rs.50 lakhs transaction made during assessment years 2008-09 to 2014-15. Since the assessee was asked to explain the details, the assessee could not furnish any detail. He submitted that Assessing Officer has rejected the same and proceeded to make the addition in the hands of the assessee. Further he brought to our notice pages 14 to 17 of the appellate order wherein ld. CIT (A) has considered the detailed submissions of the assessee and partly allowed subject to furnishing all details before the Assessing Officer by relying on the findings of the first appellate authority also in AY 2009-10 as under :-

> "iii. the document referred is clearly indicating unrecorded transactions including inflow and outflows of funds as the appellant could not furnish any evidence about such entries having been reflected in the declared income for the period/s relevant. The finding in respect of initial fund inflow of Rs.50,00,000/- sustaining it in hands of the appellant, is clearly impacting the subsequent transactions reflected in this appeal also. Though the paper indicated unaccounted set of transactions, the addition of Rs 20 Lakh shall tantamount to double taxation as the base amount of Rs.50 Lakh (subsuming the later transactions) has already been upheld as taxable. Therefore, the appellant gets relief on this. But this relief is not absolute, as it is apparent that the appellant has challenged the

> addition ofRs.50,00,000/- sustained. The relief of this sum of Rs.20,00,000/- shall be only tenable if the addition of Rs.50 Lakh in AY 2009-10 attains finality. In case, that addition is deleted, the appellant will be liable to addition of this addition of Rs.20 Lakh. The appellant shall furnish evidence to this effect to the AO to claim relief. This ground is disposed off as partly allowed subject to the above remarks. The AO is also directed to make a note to this effect in the folder for the A Y 2009-10."

41. Further ld. AR submitted that the appeal of the assessee in AY 2009-10 in which ITAT has sustained the addition of Rs.50 lakhs vide order in ITA No.7428/Del/2017 dated 18.05.2022. He submitted that the abovesaid amount of Rs.20 lakhs is part of the above addition and prayed that the addition made by the Assessing Officer be deleted.

42. On the other hand, ld. DR of the Revenue relied on the findings of the lower authorities.

43. Considered the rival submissions and material placed on record. We observed that certain documents were found during search which are identified as Annexure A-19 RU-2. As per the transactions reproduced at page 18 of the assessment order, we observed that the ledger account of Mohit Kumar Shahdara indicate that there was opening balance as on 01.04.2009 indicating opening balance of Rs.50 lakhs and debit transactions with Rama Group of Rs.20 lakhs and during FY 2010-11 the opening balance of Rs.32 lakhs and during the year, there were several transactions with Rama Group of companies totaling to Rs.48 lakhs. Based on the above

transactions, the Assessing Officer has added Rs.20 lakhs as undisclosed transactions in the hands of the assessee for the year under consideration. From the ledger extract, it is clearly shown that transactions with Mohit Kumar and Shahdara Didi and Rama Group of companies and there is a transaction of Rs.20 lakhs made during the year which is nothing but funds were returned to Mohit Kumar Shahdara as a journal entry. Accordingly, the opening balance of Rs.50 lakhs was reduced to Rs.32 lakhs. It clearly shows that transaction entered during the year has reduced the opening balance of Rs.50 lakhs. Therefore, it is part and parcel of transactions made by the assessee in the earlier assessment year. We observed that in AY 2009-10, an amount of Rs.50 lakhs was added as income of the assessee and the same was sustained by the coordinate Bench of the ITAT vide ITA No.7428/Del/2017 dated 18.05.2022. As per the record, there is opening balance of Rs.50 lakhs clearly indicate that the transactions of Rs.20 lakhs made during the year which is return/refund of the amount taken in the past clearly indicate that Rs.20 lakhs is part of the addition made during AY 2009-10. Therefore, we are inclined to agree with the submissions of the assessee and accordingly direct the Assessing Officer to delete the addition of Rs.20 lakhs in the current assessment year. Accordingly, ground no.1 raised by the assessee is allowed.

44. With regard to ground no.2, the ld. AR of the assessee brought to our notice that addition made by the Assessing Officer of Rs.94,34,098/- on the basis of Annexure A-40, Party RU-1 alleged as undisclosed turnover of Rama Central Store. The relevant facts were already discussed in Ground No.7 in Revenue's appeal in AY 2013-14 and ld. CIT (A) has sustained the profit to the extent of Rs.5,26,802/-.

45. At the time of hearing, ld. AR of the assessee submitted that the profit cannot be added in the hands of the assessee as the said document RU-1 was not belonged to the assessee and relevant to Rama Central Store. In this regard, he submitted that the relevant document RU-1 was not found from the control and possession of the assessee and further submitted that the Panchnama of RU-1 in which there is no mention of the name of the assessee. In this regard, he brought to our notice pages 104 & 105 of the paper book. He also brought to our notice remand report of the AO which is reproduced at pages 10 & 11 of the first appellate order wherein AO has accepted that panchnama of the premises from where the said document RU-1 was seized do not mention the name of the assessee but it is in the name of Rama Group of companies. He prayed that the addition cannot be made in the hands of the assessee.

46. On the other hand, ld. DR of the Revenue relied on the findings of the lower authorities and submitted that these documents belong to Rama Group of companies and assessee being a Director of the company who have indulged in not disclosing the turnover in the books of account, therefore, additions were rightly made in the hands of the assessee.

47. Considered the rival submissions and material placed on record. We observed that the search was conducted at the premises of Rama Group of companies and the transactions were relating to Rama Group of companies and several additions were made in the individual companies of the Rama Group of companies. We also observed that no search was conducted at the premises of the assessee and whatever document found during the search at the premises of the relevant company are presumed to belongings to relevant persons. Therefore, this document also belongs to Rama Group of companies and any addition can be made only in the hands of Rama Group of companies and not in the individual Director from whose premises no document was found. The presumption cannot be applied in the hands of the assessee. Accordingly, addition made in the hands of the assessee is deleted. Ground No.2 raised by the assessee is allowed.

48. Since other grounds of appeal are not pressed we are inclined to partly allow the appeal of the assessee.

49. In the result, the appeal filed by the assessee for AY 2010-11 is partly allowed.

ASSESSEE'S APPEAL : ITA NO.8443/DEL/2019 (AY 2011-12)
AND
REVENUE'S APPEAL : ITA NO.9317/DEL/2019 (AY 2011-12)

47. The assessee has raised the following grounds of appeal :-

> "1. That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in not deleting the addition of Rs.55,79,038/- made by Ld. AO vide para 8.2 page 21-22 of the assessment order and has erred in sustaining a sum of Rs.10,67,500/- and that too without any basis, material and evidence available on record.
>
> 2. That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in not deleting the addition of Rs.48,00,000/- made by Ld. AO vide para 8.2 page 21-22 of assessment order and that too without any basis, material and evidence available on record.
>
> 3. That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in not deleting the addition of Rs.1,19,10,007/- made by Ld. AO vide para 9 page 22-23 of assessment order and has erred in sustaining the same to the extent, the profit of the transaction and that too by giving certain directions and without any basis, material and evidence available on record and without there being authority under the law.
>
> 4. That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in confirming the action of Ld. AO in assuming jurisdiction u/s 153A and erred in passing the impugned order and that too without complying the mandatory conditions as laid down under the Income Tax' Act and without found any incriminating material as a result of search warranting such additions.
>
> 5. That in any case and in any view of the matter, action of Ld. CIT(A) in confirming the action of Ld. AO in assuming jurisdiction u/s 153A, is bad in law and against the facts and circumstances of the case.
>
> 6. That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in not reversing the action of Ld. AO in charging interest u/s 234A, 234B and 234C of Income Tax Act, 1961."

48. The Revenue has raised the following grounds of appeal :-

> "1. That the Ld. CIT(A) has erred in facts and in law in deleting the additions of Rs.48,00,000/- duly admitted by the assessee for the period F.Y. 2010-11 on account of transactions between Mr. Mohit Kumar and the assessee.
>
> 2. That the Ld. CIT(A) has erred in facts and in law in deleting the additions of Rs.48,00,000/- ignoring the fact that these were based on ledger account found during the search and showed date wise transactions and accordingly cannot be set off with initial inflow of Rs.50,00,000/- for A.Y. 2009-10.
>
> 3. That the Ld. CIT(A) has erred in facts and in law in deleting the additions of Rs.45,11,538/- duly admitted by the assessee for the period F.Y. 2010-11 on account of transactions between Smt. Meena Gupta (assessee's sister).
>
> 4. That the Ld. CIT(A) has erred in facts and in law in deleting the additions of Rs.45,11,538/- and confirming only the peak sum of this transaction of Rs.10,67,500/- ignoring the fact that these were based on ledger account found during the search and showed date wise transactions and accordingly peak theory cannot be applied on these transactions.
>
> 5. That the Ld. CIT(A) has erred in facts and in law in deleting the additions of Rs.l,19,10,007/- made by the AO on account of out of the books sale found during the search and seizure operation.
>
> 6. That the Ld. CIT(A) has erred in facts and in law in giving direction that only the profits of the transactions should be taxed and not the transactions recorded of Rs.1,19,10,007/- without appreciating that the date wise transactions have been recorded in the books, based on the data seized and all of those were out of the books and concealed from the Department.
>
> 7. That the Ld. CIT(A) has erred in facts and in law in deleting the additions of Rs.8,69,980/- without appreciating the fact that the assessee was never able to furnish the sources of the money utilised for buying the agricultural land."

49. Ground Nos.1 to 4 raised by the Revenue and Ground Nos.1 & 2 raised by the assessee are on the same issue and the relevant facts are, certain documents were found during the search which are identified as Annexure A-19 seized from the Party RU-2, at the residence of the assessee at Bulandshahr, U.P. which contained the financial transactions with Mohit

Kumar Shahdara and Shahdara Didi which are reproduced at pages 19 & 20 of the assessment order involving transactions of Rs.48,00,000/- and Rs.55,79,038/-. During the course of assessment proceedings, assessee was asked to furnish the explanation or documentary proof in support of the transactions appearing in the seized material. Since assessee has not furnished any details, the AO observed that all the payments made by cheque shown by the assessee are appearing as cash transactions in the seized documents. From the basic perusal of the books of account, the AO observed that these are not accounted in the regular books of account. He observed that Shahdara Didi is the sister of the assessee and her premises were also searched at Shahdara. He observed that majority of the transactions are in cash. Neither assessee nor sister of the assessee has explained the source of the same and whether these are accounted or not. Accordingly, he proceeded to make addition of Rs.55,79,038/-. Similarly, transactions were made by Mohit Kumar who is the son of Smt. Meena Gupta who is sister of the assessee and Assessing Officer observed that no document was submitted along with documentary evidences proving genuineness of the transaction. Accordingly, he proceeded to make addition of Rs.48 lakhs in the hands of the assessee.

50. Aggrieved assessee preferred an appeal before the ld. CIT (A) and filed detailed submissions. After considering the submissions of the assessee, ld. CIT (A) partly allowed the grounds raised by the assessee with the observations that transactions involving AYs 2009-10 and 2010-11. Since the transactions are involving more than one assessment year, the additions cannot be made in one assessment year. With regard to addition of Rs.48 lakhs, ld. CIT (A) observed that it is continuation of ongoing transaction in respect of power point as there are regular debit and credit transactions, the closing debit balance of Rs.10 lakhs can be upheld in this case which is also not sustainable in view of the finding in respect of initial fund inflow of Rs.50 lakhs sustaining in the hands of the assessee. Ld. CIT (A) observed that this clearly impact the subsequent transactions reflected in this appeal also. Since the addition made of Rs.50 lakhs in AY 2009-10 attained finality, he deleted the addition.

51. With regard to Rs.55,79,038/-, he observed that the entire sum cannot be added in one year. The transactions listed in the second document extracted at page 20 of the assessment order are clearly inter-linked as the pay out and receipts are linked together. Therefore, peak sum of these transactions is sustainable being the base investment in the specific endeavor. Accordingly, he upheld the peak credit amount of Rs.10,67,500/-.

52. Aggrieved assessee as well as Revenue are in appeal before us.

53. At the time of hearing, ld. DR of the Revenue brought to our notice pages 19 to 22 of the appellate order. She submitted that these transactions which were found only during search and came to the light that these financial transactions were carried on by the assessee with his relatives. She submitted that these transactions are unaccounted and found during the search for which assessee failed to submit any relevant documents, therefore, addition made by the AO is proper and prayed that the above addition may be sustained.

54. On the other hand, ld. AR of the assessee brought to our notice written submissions made before the ld. CIT (A) and also remand report of the AO. He also brought to our notice rejoinder to the remand report filed by the assessee before the ld. CIT (A). He reiterated that the said documents do not belong to the assessee as it is neither in the handwriting of the assessee nor bear signature of the assessee. No adverse conclusion can be drawn against the assessee when these documents pertained to the assessee. Further these documents are under-stamped and unsigned document, therefore, no addition can be made.

55. Without prejudice to the above submission, with regard to addition of Rs.48 lakhs, he submitted that out of addition of Rs.48 lakhs, Rs.32 lakhs is on

account of opening balance which has already been taxed in AY 2009-10 on the basis of same set of document, therefore, no addition can be made in the current assessment year. With regard to Rs.55,79,038/-, he submitted that the information contained in document has to be considered in its entirety. If the said document is accepted to be that of assessee, addition could only be made on the basis of peak amount reflecting in the account.

56. Considered the rival submissions and material placed on record. We observed that the ledger account in the name of Mohit Kumar Shahdara and Shahdara Didi was recovered during search which is identified as Annexure A-19 RU-2. The relevant extract of ledger accounts were reproduced at pages 19 & 20 of the assessment order. With regard to transaction with Mohit Kumar Shahdara, we observed that during the year, Mohit Kumar Shahdara has returned Rs.48 lakhs against the opening balance of Rs.32 lakhs credit. We observed that during the year, Rs.6 lakhs were credited with the narration as Profit & Loss account and carried forward an amount of Rs.10 lakhs. We observed that the transaction involving Rs.50 lakhs which was opening balance as on 01.04.2009 and further a credit of Rs.6 lakhs were made during the current assessment year which is nothing but a journal entry. We observed that during FYs 2009-10 and 2010-11, these amounts were refunded to the assessee. It is brought to our notice that Rs.50

lakhs was made addition in AY 2009-10 which has reached finality. This transaction involving FY 2009-10 and 2010-11 relating to the same transaction for which addition was already made in the hands of the assessee in AY 2009-10. The addition made during the year is relating to same transaction and addition cannot be made twice in AYs 2009-10 & 2011-12, therefore, we are inclined to delete the addition made during the current assessment year in AY 2009-10. Therefore, we are inclined to delete the addition made during the current assessment year i.e. 2011-12.

57. With regard to addition of Rs.55,79,038/- we observed that there were several cash transactions recorded during the year involving debit of Rs.55,79,038/- and refund of Rs.50,66,000/-. We observed that ld. CIT (A) has considered the above transactions and observed that there is a peak credit of Rs.10,66,500/- with assessee and sustained the same instead of sustaining whole debit transaction of Rs.55,79,038/-. After due consideration, we observed that the assessee has transacted with his own sister and there is a continuous transaction during the year including the payment of Rs.55,79,038/- and receipt of Rs.50,66,000/- and there is outstanding balance of Rs.5,13,038/-. Since it is a related party transaction, we are inclined to direct the AO to make addition of outstanding balance of Rs.5,13,038/- instead of Rs.10,67,000/- which is the peak credit proposed by

the ld. CIT (A). Accordingly, ground nos.1 to 4 raised by the Revenue are dismissed and ground nos.1 & 2 raised by the assessee are partly allowed.

58. With regard to Ground Nos.5 & 6 raised by the Revenue and Ground No.3 of assessee's appeal, the facts are exactly similar to Ground No.7 of Revenue's appeal and ground No.9 of assessee's appeal in AY 2013-14 and our above findings apply mutatis mutandis to Ground Nos.5 & 6 raised by the Revenue and Ground No.3 of assessee's appeal in AY 2011-12. Accordingly, Ground Nos.5 & 6 of Revenue's appeal are dismissed and Ground No.3 of assessee's appeal is allowed.

59. Ground No.7 of Revenue's appeal, brief facts of the case brought to our notice by the ld. DR of the Revenue from pages 22 & 23 of the assessment order. During assessment proceedings, assessee was asked to furnish details of movable and immovable property in his own possession and held along with explanation of exact source of money utilised to make such investments. In response, assessee submitted the details of purchase of land for Rs.8,69,980/- during the year under consideration and the details of land submitted by the assessee are reproduced at page 24 of the assessment order. After considering the same, AO observed that assessee has not furnished any documentary evidence with regard to source of money utilized to purchase

the abovesaid land. Accordingly, he proceeded to make the addition u/s 69 of the Act.

60. Aggrieved assessee preferred an appeal before the ld. CIT (A) and filed detailed submissions. Ld. DR brought to our notice pages 26 & 27 of the appellate order wherein ld. CIT (A) has accepted the detailed proceedings submitted before him. Ld. DR relied on the findings of the AO.

61. On the other hand, ld. AR of the assessee relied on the submissions made before ld. CIT (A) and submitted that ld. CIT (A) has deleted the addition relying upon the relevant documents and bank statement submitted before him and also remand report of the AO. He relied on the findings of ld. CIT(A).

62. Considered the rival submissions and material placed on record. We observed that assessee has submitted the source and bank statements before the ld. CIT (A). It is fact on record that no document was submitted before the AO during assessment proceedings, however, in remand proceedings, all the details were submitted before the AO. AO has not made any adverse remarks on the same and it is fact on record that assessee has purchased the abovesaid property in cash, however submitted sources for the same before the authorities. After considering the findings of the ld. CIT (A), we do not

find any reason to disturb the same. Accordingly, ground no.7 raised by the Revenue is dismissed.

63. Grounds No.4 to 7 of assessee's appeal are not pressed, hence dismissed as not pressed.

64. In the result, the appeal of the Revenue for AY 2011-12 is dismissed and the appeal of the assessee AY 2011-12 is partly allowed.

REVENUE'S APPEAL : ITA NO.9318/DEL/2019 (AY 2012-13)
And
ASSESSEE'S APPEAL : ITA NO.8444/DEL/2019 (AY 2012-13)

65. Grounds of appeal raised by the Revenue read as under :-

> "1. That the Ld. CIT(A) has erred in facts and in law in deleting the additions of Rs.6,61,18,988/- made by the Assessing Officer on account of cash sundry creditors appearing in trial balance u/s 68 of the IT Act.
>
> 2. That the Ld. CIT(A) has erred in facts and in law in deleting the additions of Rs.17,00,000/- made by the Assessing Officer on account of loans appearing in trial balance u/s 68 of the IT Act.
>
> 3. That the Ld. CIT(A) has erred in facts and in law in deleting the additions of Rs.6,61,18,988/- & Rs.17,00,000/- without appreciating that these were based on the documents seized from their premises and no explanation has been given by the assessee.
>
> 4. That the Ld. CIT(A) has erred in facts and in law in deleting the additions of Rs.1,14,64,945/- made by the Assessing Officer on account of out of the books sale found during the search and seizure operation.
>
> 5. That the Ld. CIT(A) has erred in facts and in law in giving direction that only the profits of the transactions should be taxed and not the transactions recorded of Rs.1,14,64,945/- without appreciating that the date wise transactions have been recorded in the books, based on the data seized and all of those were out of the books and concealed from the Department.

6. That the Ld. CIT(A) has erred in facts and in law in deleting the additions of Rs.38,80,560/- without appreciating the fact that the assessee was never able to furnish the sources of the money utilised for buying the agricultural land.

7. That the Ld. CIT(A) has erred in facts and in law in deleting the additions of Rs.13,13,038/- (besides Rs.10,64,925/- enhanced by Ld. CIT (A)) duly admitted by the assessee for the period F.Y. 2011-12 on account of transactions between Smt. Meena Gupta (assessee's sister)."

66. The assessee has raised the following Grounds of appeal :-

"1. That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in not deleting the addition of Rs.17,00,000/- made by Ld. AO on account of secured loan by treating the same as unexplained credit u/s 68 and that too without any basis, material and evidence available on record.

2. That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in making addition of Rs.l0,64,925/- on the basis of Annexure, A-19 seized from the premise ~d that too without any basis, material and evidence available on record

3. That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in confirming the action of Ld. AO in making addition of Rs.4,01,000/- on the basis of Annexure, A-19 seized from the premise RU-2 and that too without any basis, material and evidence available on record.

4. That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in not deleting the addition. of Rs.l,14,64,945/- made by Ld. AO vide para 9 page 22-23 of the assessment order and has erred in sustaining the same to the extent, the profit of the transaction and that too by giving certain directions and without any basis, material and evidence available on record and without there being authority under the law.

5. That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in confirming the action of Ld. AO in assuming jurisdiction u/s 153A and erred in passing the impugned order and that too without complying the mandatory conditions as laid down under the Income Tax Act and without found any incriminating material as a result of search warranting such additions.

6. That in my case and in any view of the matter, action of Ld. CIT(A) in confirming the action of Ld. AO in assuming jurisdiction u/s 153A, is bad in law and against the facts and circumstances of the case.

> 7. That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in not reversing the action of Ld. AO in charging interest u/s 234A, 234B and 234C of Income Tax Act, 1961."

67. With regard to Ground Nos.1 to 3 of Revenue's appeal, at the time of hearing, ld. DR of the Revenue submitted that certain documents were found during search relating to Rama Ex. which are identified as RU-1 at Sayana Road, Bulandshahr and Annexure A-36 which is a digital data. She submitted that all these transactions are in cash. Accordingly, during the course of search action, question was put to Sanjay Mudgal, Accounts Head whose statement was recorded during the course of search on 28.02.2014 and relevant questions were reproduced at page 17 of the assessment order. Similar statement was also recorded from the assessee and relevant statements were reproduced at page 18 of the assessment order. Ld. DR of the Revenue submitted that important datas relating to Rama Ex transactions were found at different locations in the form of tally data-Annexure A-36 and the AO has considered the higher figures of credit entries appearing in the liability side and trial balance and Balance Sheet were considered for making additions. Since these details were found at the address of the Bulandshahr, it is presumed to be belonged to the assessee as per section 132(4A) of the Act. Accordingly, details were sought from the assessee and since the credit entries in the case of sundry creditors were made with a

narration "cash" written in the papers. Accordingly, she submitted that sundry creditors to the extent of Rs.6,61,18,988/- and secured loan to the extent of Rs.17 lakhs were added in the hands of the assessee u/s 69 of the Act.

68. Aggrieved assessee preferred an appeal before the ld. CIT (A) and filed detailed submissions. Ld. DR of the Revenue brought to our notice pages 23 to 29 of the appellate order. Ld. CIT (A) remanded the matter to the AO and after considering the remand report, ld. CIT (A) deleted the same vide paras 5.2.3.2 to 5.2.3.9 of appellate order.

69. Ld. DR of the Revenue objected to the above and submitted that all these informations were found at the premises controlled by the assessee and also Sanjay Mudgal is an employee of the assessee, therefore, these documents no doubt belong to the Rama Group, however all these entities were controlled by the assessee, therefore, AO rightly made the additions and prayed that the additions may be sustained.

70. On the other hand, ld. AR of the assessee relied on the submissions made before the ld. CIT (A) and his findings. Further he submitted that the documents found during the search were not found during the search in the case of the assessee and the same fact was accepted by the AO in the remand. He submitted that when document is not found from the search of

the assessee, no addition can be made or presumption cannot be made in the hands of the assessee. Further he submitted that document no.A-36 was digital document for which there was no certificate under section 65B of the Indian Evidence Act was brought on record. Therefore, addition cannot be made on this count itself. In this regard, he relied on the case of RituTuli vs. AO (supra).

71. Considered the rival submissions and material placed on record. We observed that certain documents were found during the search in the case of Rama Group of companies which are identified as document A-36 and RU-1. From the submissions, we observed that the document found during the search belongs to various entities of the Rama Group and its associate companies. The last Panchnama was in the name of RU-1 and it was observed that there is no mention of the assessee's name anywhere in the Panchnama. Therefore, all these materials found during the search belong to the Rama Group entities. Therefore, the addition should have been made in the hands of the relevant entity based on the material found and Panchnama on record. Therefore, no addition can be made on the basis of third party without examining and linked to various contents of the documents with the third party. Various courts have held that no addition can be made in the hands of the assessee treating the material found during the search, the

relevant search was not initiated in the name of the assessee and such material cannot be applied to make addition in the hands of the assessee. After considering the detailed findings of the ld. CIT (A), in this regard, we are inclined to dismiss ground nos.1 to 3 raised by the Revenue.

72. With regard to Ground Nos.4 & 5 raised by the Revenue, the facts are exactly similar to Ground No.7 raised by the Revenue in AY 2013-14, therefore, our above findings apply mutatis mutandis to these grounds. Accordingly, Ground Nos.4 & 5 of the Revenue's appeal for AY 2012-13 are dismissed.

73. Ground No.6 of Revenue's appeal in AY 2012-13 is relating to the addition for the sources of the money utilised for buying the agricultural land having similar facts to Ground No.7 of AY 2011-12 and our above findings in Ground No.7 of AY 2011-12 apply mutatis mutandis to this ground also. Hence, Ground No.6 of Revenue's appeal for AY 2012-13 is dismissed.

74. With regard to Ground No.7 of Revenue's appeal and Ground Nos.2 & 3 of assessee's appeal, brief facts brought to our notice by the ld. DR of the Revenue that certain documents were found during search identified as Page 4 of Annexure A-19 RU-2 alleged transactions were not recorded in the books of account. The above facts are similar to the facts found during the search and additions made during AY 2011-12 in the case of Shahdara Didi.

Ld. CIT (A) partly allowed the ground raised by the assessee and also enhanced an amount of Rs.10,64,924/- by observing as under :-

> "The document referred is clearly indicating unrecorded transactions including inflow and outflows of funds as the appellant could not furnish any evidence about such entries having been fleeted in the declared income for the period/s relevant. The finding in respect of the flow of Rs 10,64,925/- is for the current period and is unlinked from the earlier period transactions as seen from this document. Therefore, the above sum shall get added to the income of the appellant and the amount of Rs 13,13,038/- shall get deleted. This ground is disposed off as partly allowed subject to the above remarks. The AO is also directed to make a note to this effect in the folder for the AY 2009-10. The appellant has sought to explain away the sum of Rs.401000/- without offering any substantive explanation about the nature and purport of the transaction, hence the explanation furnished therein is not acceptable as it does not overcome the reasons advanced by the AO. This amount gets upheld on the facts. These grounds are disposed off as partly allowed."

75. Ld. DR objected to the above findings and prayed that addition made by the AO may be sustained since all these documents were found during the search for which assessee has not offered any explanation.

76. On the other hand, ld. AR of the assessee relied on the detailed submissions filed before the ld. CIT (A) and also rejoinder to the remand report.

77. Considered the rival submissions and material placed on record. We observed that the AO has made addition based on the ledger account for the period 01.06.2011 to 30.06.2011. We observed that amount of Rs.5,13,038/- was already added in the previous assessment year which is running balance carried forward from previous assessment year. During the year, there is a

cash receipt of Rs.10,64,925/- and cash payment of Rs.8 lakhs. We observed that there is further credit of Rs.2,48,113/-. From the above, we observed that to the extent of Rs.5,13,038/-, the same addition was already sustained in the AY 2011-12. During the year, AO has made the addition of Rs.4,01,000/- which is part of the opening balance and with regard to enhancement of Rs.10,64,925/- made by the ld. CIT (A) based on the cash receipts from Shahdara Didi during the year, in our view, he failed to consider the repayment of Rs.8 lakhs. Therefore, in our considered view, if at all any addition has to be made, addition can be made only to the extent of Rs.2,64,925/- (Rs.10,64,925/- - Rs.8,00,000/-). To this extent, assessee is granted relief. Accordingly, we are inclined to direct the AO to sustain the addition of Rs.2,64,925/- and ground no.7 raised by the Revenue is partly allowed and ground nos.2 & 3 of assessee's appeal are partly allowed.

78. With regard to Ground No.1 raised by the assessee, the same is not pressed, hence dismissed as such.

79. With regard to Ground Nos.2 & 3, these grounds are disposed off along with Ground No.7 of Revenue's appeal above and the same are partly allowed.

80. With regard to Ground No.4 raised by the assessee, the same is exactly similar to Ground Nos. 4 & 5 of Revenue's appeal in AY 2012-13 and accordingly, Ground No.4 raised by the assessee is dismissed.

81. Ground Nos.5 & 6 of assessee's appeal are not pressed, hence dismissed as not pressed.

82. Ground No.7 of assessee's appeal is consequential in nature.

83. In the result, the appeal of the Revenue for AY 2012-13 is partly allowed and the appeal of the assessee for AY 2012-13 is also partly allowed.

REVENUE'S APPEAL : ITA NO.9896/DEL/2019 (AY 2014-15)
And
ASSESSEE'S APPEAL : ITA NO.8590/DEL/2019 (AY 2014-15)

84. The Revenue has raised the following grounds of appeal :-

> "1. That the Ld. CIT(A) has erred in facts and in law in allowing relief to the assessee amounting to Rs.10,87,77,710/- by treating the said amount being subsumed in surrendered amount and should be taxed in assessment year 2013-14.
>
> 2. That the Ld. CIT(A) has erred in facts and in law in deleting the additions of Rs.9,00,000/- by ignoring the fact that assessee has failed to offer any valid supporting document to verify that the narrations depicting transactions without bills were actually accounted for in the books of account.
>
> 3. That the Ld. CIT(A) has erred in facts and in law in deleting the addition of Rs.35,52,220/- made by the Assessing Officer on account of out of the books transaction voucher seized during the search operations by grossly ignoring the provisions of section 132(4A) of the Act.
>
> 4. That the Ld. CIT(A) has erred in facts and in law in deleting the addition of Rs.1,85,85,568/- made by the AO on account of out of the books sale found during the search and seizure operation.
>
> 5. That the Ld. CIT(A) has erred in facts and in law in deleting the additions of Rs.71,72,400/- without appreciating the fact that the assessee

was never able to furnish the sources of the money utilised for buying the agricultural land."

85. The assessee has raised the following grounds of appeal :-

"1. That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in not deleting the addition ofRs.11,65,77,710/- made by Ld. AO on the basis of Annexure A-39, Party RU-1, and that too without any basis, material and evidence available on record and has erred in giving certain directions in this regard.

2. That having regard to the facts and circumstances of the case, Ld. CIT (A) has erred in law and on facts in not deleting the addition of Rs.46,40,000/- made by Ld. AO on account of cash found during the course of search.

3. That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in confirming the action of Ld. AO in making addition of Rs.29,42,525/- on account of jewellery found during search and that too without any basis, material/evidence available on record and in violation of principles of natural justice.

4. That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in not deleting the addition of Rs.l,85,85,568/- made by Ld. AO vide para 13 page 28-29 of the assessment order and has erred in sustaining the same to the extent, the profit of the transaction and that too by giving certain directions and without any basis, material and evidence available on record and without there being authority under the law.

5. That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in not deleting the addition of Rs.71,72,400/- made by Ld. AO on account of purchase of movable and immovable properties and erred in making addition of the amount of profit on the transaction of sale/purchase of lands and has erred in giving certain directions in this regard and that too without any basis/material/evidence available on record.

6. That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in not excluding the amount of Rs.79,00,000/- which was not the income of assessee and wrongly offered in the return of income of assessee and has erred in not admitting and adjudicating the additional ground raised by the assessee.

7. That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in not reversing the action of Ld. AO in charging interest u/s 234A, 234B and 234C of Income Tax Act, 1961."

86. Brief facts of the case are, search and seizure action was carried out on the Rama and Param Group and other related cases on 28.02.2014 at the various residential and business premises. The last authorization of search was executed on 22.04.2014. Certain incriminating documents were found during the search which pertained to assessment year under consideration. This being the assessment year of the search, notice u/s 143(2) was issued and served on the assessee. Several notices u/s 142(1) were issued on the assessee to comply the same. However, assessee has submitted the relevant information through e-portal. Based on the information available on record and various disclosures and surrenders were made by the assessee during search proceedings, the AO completed the assessment after considering the submissions of the assessee and proceeded to make following additions :-

> "1. Addition of Rs.11,65,77,710/- as turnover comparison of the data seized from party.
>
> 2. Addition of Rs.9,00,000/-(Rs.7,00,000/- for without bill + Rs.2,00,000/- advance)
>
> 3. Addition ofRs.32,52,220/- on account of out of transaction voucher found.
>
> 4. Addition ofRs.46,40,000/- on account of unexplained money within section 69A of I.T Act.

5. Addition of Rs.29,42,525/- on account of unexplained jewellery seized from locker of the assessee.

6. Addition of Rs.1,85,85,568/- on account of out of books-sales,

7. Addition of Rs.71,72,400/- on account of purchase of agricultural land from unaccounted cash."

87. Aggrieved with the above order, assessee preferred an appeal before the ld. CIT(A) and filed detailed submissions along with evidences. Ld. CIT (A) remanded the matter to the AO and based on the remand report and rejoinder to the remand report, ld. CIT (A) has decided various issues and partly allowed the appeal preferred by the assessee.

88. Based on the order of the ld. CIT (A), both assessee as well as Revenue are in appeal before us.

89. With regard to Ground No.1 raised by the Revenue relating to addition of Rs.11,65,77,710/- as alleged unreconciled turnover of M/s. Rama Royal Residency, relevant facts are, during search certain data identified as Annexure A-39 from the Party RU-1 at Rama Royal Regency. During search, assessee has surrendered and declared an amount of Rs.2,80,00,000/- for the current assessment year with the working as under :-

	Explanation / Working of Amount Surrendered			
	Rama Royal Residency			
	Cash Receipts in cashier A/c during Assessment Year 2014-15			
Ledger Name	Amount	Amount	Previous year Receipts	Remarks
Raj Kumar Gupta		71,50,000	11,00,000	Received on 23.01.2013
			12,00,000	Received on 31.03.2013
Hariom		71,50,000	11,00,000	Received on 23.01.2013
(Sandeep) Prasun Rastogi		75,00,000	11,00,000	Received on 23.01.2013
Vivek		1,00,000		
Vijay Kharbanda		45,00,000	11,00,000	Received on 2.02.2013
Arvind		45,00,000		
Naresh Goel		50,00,000	11,00,000	Received on 23.02.2013
ABC	62,50,000			
Less: Payments	10,00,000	52,50,000		
Bharat		3,00,000		
Mahesh	17,50,000			
Less: Payments	2,50,000	15,00,000		
Mukesh		30,00,000		
Ved		30,00,000		
Vikas Kharbanda		30,00,000	11,00,000	Received on 2.02.2013
	Total	5,46,50,000	78,00,000	
Less: Previous Year receipts included in above receipts		78,00,000		
		4.68,50,000		
Less: Expenses detailed below				
Batra Ji	4,50,000			
BKDA	2,50,000			
Exp.	2,11,36,497			
R.K. Malik	6,00,000			
Shobhat	16,57,505			
Vijay Arc.	1,35,000			

Asst. Commissioner of Income Tax * Central Circle-11, New Delhi *

Salvr	6,50,000	2,48,79,002		
Balance		2,19,70,998		
Amount Surrendered		**2,80,00,000**		

90. During assessment proceedings, AO observed that an amount of Rs.11,65,77,710/- was reflected in the above chart as projected figure for the period. On enquiry with the assessee, assessee has submitted that it is only a projection made for the period, however no amount was received. It was submitted that based on the tally data, assessee has actually received Rs.5,46,50,000/- and after set off of the expenditure, the net cash received of Rs.2,19,70,998/-. Assessee submitted that the assessee has already surrendered Rs.2,80,00,000/- relating to the above transaction based on the statement recorded u/s 132(4) of the Act. After considering the submissions of the assessee, the AO rejected the same and proceeded to make the gross receipts as turnover in the hands of the assessee, accordingly, proceeded to make the whole turnover as the income of the assessee.

91. Ld. CIT (A), after considering the submission in the remand and rejoinder to the remand report, deleted the abovesaid addition with the observation that the amount disclosed has a clear nexus with the final work out in the above referred documents, the AO is incorrect in holding entire turnover as taxable income. This gets peculiarly difficult especially when the details of

disclosure filed clearly linking the surrendered amount with the earnings with this document. The same gets subsumed in the surrendered amount.

92. At the time of hearing, ld. DR of the Revenue submitted that ld. CIT (A) has deleted the addition based on the statement submitted by the assessee and there was no clear finding that the abovesaid amounts were not received by the assessee. It is fact on record that the abovesaid amount was mentioned in the seized documents. Therefore, she submitted that the abovesaid amount is not notional but actual receipt of the assessee which was not declared as turnover of the firm. She prayed that the addition may be sustained.

93. On the other hand, ld. AR of the assessee submitted as under :-

> "The case of the assessee is that out of the said alleged unreconciled turnover of Rs.11,65,77,710/-, only an amount of Rs.4,68,50,000/- is unreconciled for the year under consideration and after deducting expenses of Rs.2,48,79,002/- from the said unreconciled turnover, the balance amount of Rs.2,19,70,998/- rounded off to Rs.2,80,00,000/- was surrendered by the assessee in his return of income."

94. He further relied on the findings of the ld. CIT (A).

95. Considered the rival submissions and material placed on record. We observed that during search proceedings, certain documents recovered relating to Rama Royal Regency and from the same document, it was found

that assessee has declared projection for the operation and also actual receipt of cash during the year under consideration. The assessee has confirmed receipt of Rs.5,56,50,000/- during the year under consideration and claimed the expenditure to the extent of Rs.2,48,79,002/- and the net balance amount of Rs.2,19,70,998/- was declared as undisclosed income. However, assessee has surrendered an amount of Rs.2,80,00,000/-. We observed that AO has noticed that assessee has declared unreconciled turnover from the data seized from RU-1 Annexure A-39 to the extent of Rs.11,65,77,710. We observed that AO has not brought on any record to show that assessee has received more than the amount found during the search as per Annexure A-39. That being so, in our considered view, the actual income alone can be brought on record for taxation and not on the basis of notional income or anything on presumption basis. Therefore, after considering the relevant document on record, the assessee has already accepted the actual receipt of cash as actual income and declared the same during search proceedings. Therefore, we do not see any reason to disturb finding of the ld. CIT (A). Accordingly, ground no.1 raised by the Revenue is dismissed.

96. With regard to Ground No.2 of Revenue's appeal, during search proceedings, a handwritten document was found which was identified as Annexure A-3 of Party RU-1 from the office of Rama Group at Sayana

Road, Bulandshahr. The AO proceeded to make the addition with the observation that the above mentioned amount was already materialized based on the narration found as advance of Rs.2,00,000/- dated 06.02.2014. Since the abovesaid document was not reconciled with the regular books of account, Rs.9,00,000/- was made in the hands of the assessee.

97. Aggrieved assessee preferred an appeal before the ld. CIT (A) and ld. CIT(A) after considering the detailed submissions and remand report from the AO deleted the same with the observation that assessee is an individual and liability accruing to a company cannot be fastened to an individual. The ld. CIT (A) considered various documents placed on record at pages 85 to 96 of the paper book which are in the name of Rama Dairy Products Pvt. Ltd..

98. At the time of hearing, ld. DR of the Revenue heavily relied on the findings of the AO and argued that the said document no doubt belongs to Rama Group of companies, however assessee being incharge of the transaction, corporate veil has to be removed and addition has to be made in the hands of the assessee. Therefore, addition was rightly made in the hands of the assessee.

99. On the other hand, ld. AR of the assessee relied on the detailed submissions made before the ld. CIT (A) and relied on the findings of the ld. CIT (A).

100. Considered the rival submissions and material placed on record. We observed that during search, certain documents were found at the various premises of the group companies and whatever documents found at the business premises of the group companies were identified as RU-1. Since these documents pertained to the company and also transaction relating to the company, the same cannot be added in the hands of an individual. Nothing was brought on record on the reasons to remove corporate veil in this case, all the documents relating to the respective companies were found and assessments were also made in respect of company's cases. Therefore, the tax authorities have already acknowledged that these documents were pertained to Group companies. Therefore, no addition can be made in the individual cases considering the fact that companies are assessed as a separate person. Therefore, we do not see any reason to disturb the findings of the ld. CIT (A). Accordingly, ground no.2 is dismissed.

101. With regard to Ground No.3 of Revenue's appeal, during search, expense voucher found which were identified as Page No.24 of A-3 of Party RU-1 from the office of Rama Group, Bulandshahr (U.P.) and the relevant voucher was reproduced at page 24 of the assessment order. The AO proceeded to make addition on the basis of 'Baynama Kharcha' slip and the receiver and payer has duly signed on this document on 22.02.2014. The transaction of

Rs.32,52,220/- is accounted on this page and the sources of the same are remained unexplained. Accordingly, he proceeded to make the addition in the hands of the assessee.

102. Aggrieved assessee preferred an appeal before the ld. CIT (A). Ld. CIT (A), after considering the detailed submissions and remand report and rejoinder to the remand report, deleted the addition based on the finding that these documents belonged to Rama Dairy Products Pvt. Ltd. and assessee is an individual and liability accrued to a company cannot be fastened on an individual.

103. Aggrieved Revenue is in appeal before us.

104. At the time of hearing, ld. DR of the Revenue vehemently argued and supported the findings of the AO and prayed that addition should be sustained.

105. On the other hand, ld. AR of the assessee submitted that the said seized page no.24 of Annexure A-3 RU-1 was not seized from the premises of the assessee but from the premises of M/s. Rama Dairy Products Pvt. Ltd. and thus, no addition can be made in the hands of the assessee. He relied on the findings of the ld. CIT (A).

106. Considered the rival submissions and material placed on record. We observed that certain Kacha expenses bills were found to the extent of

Rs.32,52,220/- at the business premises of Rama Dairy Products Pvt. Ltd. and the AO observed that this is a kacha bill and both buyer and receiver has signed on the document and no explanation was offered relating to this document, accordingly proceeded to make the addition in the hands of the assessee. We observed that it is a fact on record that abovesaid document relating to Rama Dairy Products Pvt. Ltd., therefore, no addition can be made in the hands of the individual. Rama Dairy Products Pvt. Ltd. is a separate person under the Income-tax Act. Hence, we do not see any reason to disturb the findings of the ld. CIT (A). Accordingly, ground no.3 raised by the Revenue is dismissed.

107. With regard to Ground No.4, during search, certain documents have been found relating to Rama Central Store which are identified as Annexure A-40 of Party RU-1 to the extent of undisclosed turnover of Rs.1,85,85,568/-. The AO observed that the assessee has indulged in recording the abovesaid sales out of books. Accordingly, he proceeded to make the abovesaid amount in the hands of the assessee for the reason that assessee owned and managed the Rama Group of companies and the digital data was found at the Sayana Road, Bulandshahr of Rama Group.

108. Aggrieved with the above order, assessee preferred an appeal before the ld.CIT(A) and ld. CIT (A) after considering the detailed submissions of the

assessee, remand report and rejoinder to the remand report partly allowed the same on the basis of the capital investment which was to be taxed in AY 2009-10 as the activities were started in that year as per the documents seized by the Revenue. He followed the directions given in AY 2013-14 and gave relief to the assessee.

109. Aggrieved Revenue is in appeal before us.

110. At the time of hearing, ld. DR of the Revenue and ld. AR of the assessee reiterated the submissions made for Ground No.7 of Revenue's appeal and Ground No.9 of assessee's appeal in AY 2013-14.

111. Since we have already decided this issue against the Revenue while dealing with Ground No.7 of Revenue's appeal for AY 2013-14, accordingly Ground No.4 of Revenue's appeal for AY 2014-15 is dismissed.

112. With regard to Ground no.5, the relevant facts are subsequent to the search and assessee was asked to furnish the details of movable and immovable properties owned and possessed by him along with explanation of the exact source of money utilized to make such investment. Based on the information submitted by the assessee, AO observed that assessee has purchased land as under :-

S. No.	Date of Purchase	Particulars	Address	Principal Amount	Stamp Duty	Other Expenses	Total
1	21.02.2014	Land purchased 0.2710 Hectare	Vill. Imaliya, Bulandshahr	20,60,000	1,44,500	11,520	22,16,020
2	21.02.2014	Land purchased 6102590 Hectare	Vill. Imaliya, Bulandshahr	19,70,000	1,38,000	11,860	21,19,860
3	21.02.2014	Land purchased 8.2720 Hectare	Milak Mausam Garh	26,40,000	1,85,000	11,520	28,36,520
			Total	66,70,000	4,67,500	34,900	71,72,400

113. After considering the submissions, the Assessing Officer proceeded to make the addition of the above amount for the reason that assessee has not furnished any reply or documentary evidence with regard to the source of money utilised to purchase the abovesaid land.

114. Aggrieved assessee preferred an appeal before the ld. CIT (A) and submitted detailed submissions. Ld. CIT (A), after considering the detailed submissions of the assessee, remand report and rejoinder to the remand report, deleted the same with the observation that the assessee has made the purchases in cash but provided the source of the same and the capacity of making such purchases cannot be doubted. He further observed that as per the document submitted in paper book filed before him that there is a credit of Rs.30 lakhs, Rs.23 lakhs and Rs.5.7 lakhs on account of sale of land kept as stock-in-trade in Rama Royal Residency. This is on account of sale of

stock in trade. The above said credit helped to explain the source of making the payment of agricultural land, yet the transaction involving the stock-in-trade are not in the domain of agricultural proceeds. Accordingly, he directed the Assessing Officer u/s 150 of the Act to tax the profit on account of transactions involving sale and purchase of such lands kept as stock-in-trade. With the above direction, he deleted the addition.

115. Aggrieved Revenue is in appeal before us.

116. At the time of hearing, ld. DR objected to the above findings and submitted that assessee has not filed any source for purchase of abovesaid land and relied on the findings of the Assessing Officer and prayed that addition may be sustained.

117. On the other hand, ld. AR of the assessee relied on the submissions made before the ld. CIT (A) and rejoinder to the remand report which are kept at the paper book pages 29 & 30 and 39 & 40.

118. Considered the rival submissions and material placed on record. We have already discussed this issue in Ground No.7 of AY 2011-12 and our above findings in Ground No.7 of AY 2011-12 apply mutatis mutandis to this ground also. Hence Ground No.5 of Revenue's appeal for AY 2014-15 is dismissed.

119. In the result, the appeal filed by the Revenue for AY 2014-15 is dismissed.

120. With regard to assessee's appeal for AY 2014-15, assessee has raised ground no.1 which is similar to ground no.1 raised by the Revenue. However, ld. AR has not pressed this ground, hence the same is dismissed as not pressed.

121. With regard to Ground No.2 regarding addition of Rs.46,40,000/- u/s 69A of the Act as unexplained cash found during the courses of search, the relevant facts are, during search certain cash was found at RU-1, Sayana Road, Bulandshahr of Rs.6,40,000/- and an amount of Rs.42 lakhs was seized from RU-2 at Rama Kutir, D.M. Road, Bulandsahar. The Assessing Officer observed that the abovesaid amounts were not offered for taxation. During assessment proceedings, the assessee was asked to clarify the same and based on the questionnaire issued vide letter dated 22.05.2014, AO considered the reply of the assessee which was reproduced at page 26 of the assessment order as per which it was submitted that the assessee has surrendered the same during FY 2013-14. When the assessee was specifically asked to explain the above cash vide letter dated 09.12.2016 to furnish the explanation or documentary proof in support of the cash seized as mentioned above. However, due to non-submission of any details, he proceeded to make the abovesaid amount in the hands of the assessee.

122. Aggrieved assessee filed an appeal before the ld. CIT (A) and filed detailed submissions in this regard. Ld. CIT (A) remanded the issue back to the

Assessing Officer to verify the cash seized during search and considered the related disclosures of the assessee and if it is found proper the abovesaid addition should be excluded.

123. Aggrieved assessee is in appeal before us.

124. At the time of hearing, ld. AR of the assessee submitted that Rs.6,40,000/- was seized from the assessee belongs to Rama Dairy Products and Rs.42 lakhs is part of the income surrendered by the assessee to the extent of Rs.2.80 crores. In this regard, he submitted a detailed submissions made by the assessee before the ld. CIT (A) and the relevant submissions are at pages 11 & 12 of the paper book. He submitted that with regard to Rs.6,40,000/-, the cash was found at Rama Dairy Products and the relevant Panchnama was not in the name of the assessee. Further he brought to our notice pages 1 to 5 of the paper book wherein the assessee has declared the additional income of Rs.2.80 crores on account of unreconciled cash transactions which includes the above said amount of Rs.42 lakhs.

125. On the other hand, ld. DR of the Revenue objected to the above submissions and submitted that the assessee has declared Rs.2.80 crores relating to Rama Royal Residency and this amount is not part of the above transaction.

126. Considered the rival submissions and material placed on record. We observed that certain cash was found during the search at the premises of

Rama Dairy Products of Rs.640,000/- and another Rs.42 lakhs was found at the premises of the assessee. After considering the detailed submissions, we observed that assessee has surrendered Rs.2.80 crores in its return of income for the year under consideration which was undeclared in the case of Rama Royal Residency to the tune of Rs.2,19,70,998/-. , however assessee has declared Rs.2.80 crores. Therefore, assessee has already surrendered additional amount of Rs.60,29,000/-. The dispute under consideration is only Rs.48,40,000/-. With regard to Rs.6,40,000/-, the same was found during the search at Rama Dairy Products. The same can be added in the case of Rama Dairy Products. With regard to cash found at the residence of the assessee, we observed that the assessee has already declared Rs.2.80 crores during the AY 2014-15, which includes the surrender for the unreconciled receipt in the case of Rama Royal Residency (Proprietary Concern) to the extent of Rs.2,19,70,998/- and the additional cash found during the search. Therefore, the additional cash surrendered by the assessee is part of overall declaration for the year under consideration. Therefore, we are inclined to delete the abovesaid additions in the hands of the assessee and accordingly ground no.2 raised by the assessee is allowed.

127. With regard to ground no.3, the relevant facts are, during the course of search proceedings, jewellery worth Rs.29,42,525/- was seized from the

Locker No.171 in the name of the assessee and Smt. Leena Agarwal with Bank of Baroda, Moti Bagh Branch, Bulandsahar, U.P. During post-search enquiries, when the assessee was asked to explain the same, in reply assessee has submitted that the seized jewellery belongs to brother and sister-in-law of Mrs. Leena Agarwal, wife of the assessee. Since the above said parties are agriculturist and do not have locker facility with them, therefore, they kept the jewellery for safe keeping in Locker No.171 of Bank of Baroda. The assessee has declared other relatives who have kept the jewellery with him. Since no explanation was offered to the Assessing Officer relating to source of money utilised to purchase the abovesaid jewellery, he proceeded to make the addition in the hands of the assessee.

128. Aggrieved assessee preferred an appeal before the ld. CIT (A) and filed detailed submissions. After considering the submissions, remand report and rejoinder to the remand report, ld. CIT (A) dismissed the ground raised by the assessee with the following observation :-

> “”vi. Grounds 11 and 12
>
> a. The AO has made the addition on account of jewellery found and seized from the appellant’s bank locker. The appellant has sought to explain away some jewellery as belonging to a relative Mrs. Leena Aggarwal. This is not a tenable argument as there are no compelling circumstances when a relative would’ve kept her jewellery with the appellant. It is understood that the AO/Investigations have followed the CBNT Circular in this regard. Hence the explanations of this nature are nothing but a clear case of afterthought to attempt to

explain the valuable seized and that remain with unexplained sources. It is basically a case of failure to explain the source of acquiring the valuables. The action of the AO is upheld basis above discussions and the facts of the case.

b. These grounds are dismissed."

129. Aggrieved assessee is in appeal before us.

130. At the time of hearing, ld. AR of the assessee relied on the submissions made before ld. CIT (A) which was kept at page 12 of the paper book. Further he brought to our notice affidavits of Sachin Goel, brother-in-law of the assessee who has stated on oath that jewellery seized during the course of search at assessee's place are belonging to him and his family. Further he brought to our notice page 13 of the paper book which is the copy of affidavit of Prachi Goel, wife of brother-in-law of assessee who has stated on oath that jewellery seized during the course of search at assessee's place belong to her and her family. Further he brought to our notice question no.9 raised to the assessee in the statement recorded u/s 132(4) of the Act wherein assessee has deposed that jewellery found in his locker belongs to her brother-in-law and his family. Therefore, he submitted that the addition made by the Assessing Officer is unwarranted and may be deleted.

131. On the other hand, ld. DR of the Revenue relied on the findings of the Assessing Officer.

132. Considered the rival submissions and material placed on record. We observed that 1074.05 grms. of jewellery were found during the search from locker no.171 which was in the name of the assessee as well as Leena Agarwal. We observed that the assessee has stated that the abovesaid jewellery belongs to brother-in-law and sister-in-law, namely, Sachin Goel and Prachi Goel. In support, they have also filed affidavits claiming the same that these jewellery belongs to them. Considering the fact that assessee has submitted at the time of recording statement during the course of search as well as subsequently that these jewellery belong to brother-in-law and sister-in-law of the assessee. In this regard, they also filed specific affidavits. After considering the due submissions, we observed that assessee has submitted and claimed the jewellery belongs to his in-law family including mother-in-law and other family members. After due consideration of the affidavits filed by Sachin Goel and Prachi Goel, we are of the view that no doubt the material found at the time of search presumed to belongs to the assessee as per section 132(4A) of the Act, but in case of rebuttal during the search on subsequent proceedings, the tax authorities are under obligation to put to test the material as well as the affidavits filed before them. In case if failure is on the part of the authorities below, it is presumed that the affidavits filed are true. In this regard, we rely on the case of Mehta

Parikh & Co. vs. CIT reported in 130 ITR 181 wherein Hon'ble Supreme Court has held as under :-

> "It has to be noted, however, that beyond there calculations of figures, no further scrutiny was made by the Income-tax Officer or the Appellate Assistant Commissioner of the entries in the cash book of the appellants. The cash book of the appellants was accepted and the entries therein were not challenged. No further documents or vouchers in relation to those entries were called for, nor was the presence of the deponents of the three affidavits considered necessary by either party. The appellants took it that the affidavits of these parties were enough and neither the Appellate Assistant Commissioner, nor the Income tax Officer, who was present at the hearing of the appeal before the Appellate Assistant Commissioner, considered it necessary to call for them in order to cross- examine them with reference to the statements made by them in their a affidavits. Under these circumstances it was not open to the Revenue to challenge the correctness of the cash book entries or the statements made by those deponents in their affidavits."

133. Accordingly, Ground No.3 raised by the assessee is allowed.

134. With regard to Ground No.4 raised by the assessee, since the facts in this ground are exactly similar to Ground No.9 of assessee's appeal for AY 2013-14, our above findings in Ground No.9 of AY 2013-14 apply mutatis mutandis to Ground No.4 raised by the assessee in this assessment year wherein we have allowed the ground of the assessee. Accordingly, Ground No.4 raised by the assessee is allowed.

135. Ground Nos.5 & 6 are not pressed, hence the same are dismissed as not pressed.

136. In the result, the appeal of the assessee for AY 2014-15 is partly allowed.

ASSESSEE'S APPEAL : ITA NO.2898/DEL/2022 (AY 2011-12)

137. The assessee has raised following grounds of appeal against the order of ld. CIT (A)-26, New Delhi dated 14.10.2022 and the order dated 26.02.2014 passed u/s 143(3) of the Act passed by the Assessing Officer :-

> "1. That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in upholding the action of Ld. A.O. in confirming the additions made by the Ld. AO for Rs.1,73,43,277/- and that too without assuming jurisdiction as per law and without appreciating the facts and circumstances of the case.
>
> 2. That the Ld. CIT(A) failed to appreciate the fact that the Assessment order passed under section 143(3) though passed after the date of search i.e. 28.02.2014 but with pre-conceived notion and pre-dated for 26.02.2014 making the entire scrutiny proceedings and the assessment order unlawful and void.
>
> 3. That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in confirming the additions made by the Ld. AO for Rs.1,73,43,277/- without giving an adequate opportunity before passing the Ld. CIT(A) order dated 14.10.2022.
>
> 4. That having regard to the facts and circumstances of the case, the Ld. CIT(A) ought to have deleted the additions for Rs. 1,50,34,397/- made by Ld. AO on account of additions made in capital account u/s 68 for Rs.1,35,92,080/- and on account of net profit for Rs.14,42,317/- which was not covered under the jurisdiction of Ld. AO. Since, the reasons mentioned under such limited scrutiny through CASS only specify examine the genuineness of claim of agricultural income only.
>
> 5. That having regard to the facts and circumstances of the case, the Ld. CIT(A) was not justified in confirming the addition made by the Ld. AO on account of additions made in capital account for Rs.1,35,92,080/-.

6. That having regard to the facts and circumstances of the case, the Ld. CIT(A) was not justified in confirming the addition made by the Ld. AO by treating the pure agricultural income as income under the head other sources for Rs.23,08,880/-.

7. That having regard to the facts and circumstances of the case, the Ld. CIT(A) was not justified in confirming the addition for Rs.14,42,317/- made by the Ld. AO by assuming the net profit at 5% in wholesale trading business of cattle feed etc. that on estimate basis only.

138. At the time of hearing, ld. AR of the assessee submitted that the case of the assessee was selected for scrutiny for AY 2011-12 u/s 143(2) of the Act. The assessee has filed its return of income declaring income of Rs.6,40,383/- from the business, remuneration from firm and other sources and agricultural income of Rs.23,08,880/-. Statutory notices u/s 143(2) and 142(1) were issued and served on the assessee. During assessment proceedings, the Assessing Officer observed that assessee has credited additional capital introduced during the year of Rs.1,35,92,080/- in his capital account. Further he observed that assessee has declared agricultural income of Rs.23,08,880/- in his return of income and assessee was asked to produce proof of agricultural income with evidences and details of agricultural income held by him. In absence of proper compliance from the assessee, the Assessing Officer proceeded to make addition u/s 68 of the Act for the additional capital introduced by the assessee during the year, agricultural

income declared by the assessee as income from other sources and also estimated 5% of the net profit on other agricultural income relating to cattle seed business to the extent of Rs.14,42,317/- and proceeded to complete the assessment u/s 144 of the Act by making the addition of Rs.1,79,83,660/-

139. Aggrieved with the above order, assessee preferred an appeal before the ld. CIT (A)-26, New Delhi. Assessee had filed detailed submissions including additional evidences before the ld. CIT (A) with the submissions as under :-

> "i) Rs.1,35,92,080/- addition is made on account of sum of credits in capital account (Without considering debit transactions) ignoring general principle of accounting, ignoring the fact that entire transaction in capital account is routed through banking channel that too from the saving account of the assessee' himself and without making adequate enquiry and without producing any contradictory material fact in support of the opinion of the Ld AO.
>
> ii) Rs.23,08,800/- addition is made by the Ld. AO cannot be hold good as while rejecting the Sale vouchers (GR Receipts) on the ground that receipts are in the name of "Sanjeev Kumar Adi" and not in the name of "Sanjeev Kumar" AO ignores the general practice followed in the market and without making adequate enquiry and without producing any contradictory material fact in support of the opinion of the Ld AO.
>
> iii) Rs.14,42,317/- addition made by taking Sera net profit ratio and not considering audited books of account of the assessee cannot be hold on merits as Ld. AO did not substantiate any material fact or evidence in support of not considering / rejecting audited books of accounts of the assessee and he has not considered the previous trend of net profit ratios of the assesses. The Ld. AO has also missed to consider the previous assessment in the case of the assessee for A Y 09-10 where in NP ratio of 0.64% was accepted. The Ld. AO also erred in taking the inference from section 44AF which is applicable on retail business and not on whole sale business.
>
> iv) The order is bad in Law as assessee has been sufficiently prevented from producing documentary evidences, which were in his possession. As the order has been passed in a hasty manner and in back date in order to protect his order from getting abate under the provision of section 153A. Therefore, the order passed' by Ld. AO is bad in Law."

140. Ld. CIT (A) remanded the matter to the Assessing Officer and after considering the rejoinder to the remand report, he proceeded to sustain the addition by observing as under.

141. With regard to additional capital introduced by the assessee during the year, ld. CIT (A) analysed the payment received from HDFC Star LIC Policy, M/s. Santosh Agro Equipment Pvt. Ltd., Shri Ravi Kumar and Smt. Leena Aggarwal (wife of the assessee). After analysing the above receipts, he sustained the addition made by the Assessing Officer with the observation that wife of the assessee being a Director in Rama Hygienic Products Pvt. Ltd. and M/s. Allied Products Marketing Pvt. Ltd. and it was stated that cold storage unit was sold by her for Rs.94,00,000/- on 03.05.2010. However none of these facts are reflected in her return of income. Further, with regard to payment received from Shri Ravi Kumar, he analysed the creditworthiness of Ravi Kumar based on the information submitted before him and observed that creditworthiness of the transaction is not proved in this case. With regard to M/s. Santosh Agro Equipment Pvt. Ltd., he observed that the genuineness of the transaction is doubtful and not proved. Accordingly, he sustained the additions made by the Assessing Officer with the above observation.

142. From the findings of the ld. CIT (A), we observed that he merely analysed the information available before him based on the remand report and rejoinder. However, he did not give proper opportunity to the assessee to

explain those observations made by him and then passed the appellate order with the above observation.

143. Further we observed that ld. CIT (A) dismissed the ground raised by the assessee on the agricultural income declared by the assessee and observed that the copies of receipt of sales through Krishi Utpadan Mandi Samiti are filed which are totally illegible and the details of ownership of land along with family members were filed, further he observed that not a single evidence was filed to show that the said agricultural products were cultivated on this land. He sustained the addition without giving proper opportunity to the assessee. He could have asked the assessee to submit legible copies of receipts of sale and submit the relevant details of land holding.

144. Further he sustained the addition of net profit @ 5% in wholesale trading business of cattle feed and observed that assessee did not produce books of account, bills and vouchers of his business in support of his income. In absence of books of account, bills and vouchers, the same could not be verified. He observed that looking at the business of the assessee and the trading profit determined by the Assessing Officer is reasonable. Ld. CIT (A) overlooked the fact that books of account were audited and submitted before him.

145. From the above, we observed that the ld. CIT (A) has sustained the addition merely relying on the information submitted before him in the form of remand report and rejoinder to the remand report. He observed certain discrepancies on the information supplied by the assessee, however he could have asked the assessee to substantiate those observations before dismissing the appeal. In our considered view and for the sake of complete justice, we are inclined to remit this matter back to the file of ld. CIT (A) to decide the matter on merits as per law after giving proper opportunity of being heard to the assessee.

146. In the result, the appeal being ITA No.2898/Del/2022 is allowed for statistical purposes.

147. To sum up : The appeals filed by the Revenue for AYs 2011-12 & 2014-15 are dismissed and appeals filed by the Revenue for AYs 2012-13 & 2013-14 are partly allowed. The appeals filed by the assessee for AYs 2010-11, 2011-12, 2012-13, 2013-14 & 2014-15 are partly allowed and ITA No.2898/Del/2022 for AY 2011-12 is allowed for statistical purposes.

Order pronounced in the open court on this 19th day of June, 2025.

Sd/-	sd/-
(MAHAVIR SINGH)	**(S. RIFAUR RAHMAN)**
VICE PRESIDENT	**ACCOUNTANT MEMBER**

Dated: 19.06.2025
TS

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT, NEW DELHI