

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“A” BENCH,  
BANGALORE**

BEFORE SHRI PRASHANT MAHARISHI,  
VICE PRESIDENT  
AND  
SHRI SOUNDARARAJAN K.,  
JUDICIAL MEMBER

ITA No.1240/Bang/2024
Assessment year: 2018-19

Elegant Builders & Developers, No.34, 10 <sup>th</sup> B Main, 3 <sup>rd</sup> Block, Jayanagar, Bangalore – 560 011. <b>PAN: AADFE 0590L</b>	Vs.	The Deputy Commissioner of Income Tax, Circle 7(1)(1), Bangalore.
APPELLANT		RESPONDENT

ITA No.1679/Bang/2024
Assessment year: 2018-19

The Deputy Commissioner of Income Tax, Circle 7(1)(1), Bangalore.	Vs.	Elegant Builders & Developers, Bangalore – 560 011. <b>PAN: AADFE 0590L</b>
APPELLANT		RESPONDENT

Assessee by	:	Shri Chaitanya K. K., Senior Advocate
Revenue by	:	Smt. Srinandini Das, CIT(DR)(ITAT), Bengaluru.

Date of hearing	:	08.05.2025
Date of Pronouncement	:	21.07.2025

**ORDER**

*Per Prashant Maharishi, Vice President*

1. ITA No.1240/Bang/2024 is filed by Elegant Builders & Developers[ The Assessee/ appellant] and ITA No.1679/Bang/2024 filed by DCIT, Circle 7(1)(1),

Bangalore [ the Ld. AO] for AY 2018-19 against the appellate order passed by National Faceless Appeal Centre, Delhi (NFAC) [ld. CIT(A)] dated 21.6.2024 wherein the appeal filed by the assessee against the assessment order passed u/s. 143(3) of the Income-tax Act, 1961 [the Act] dated 19.4.2021 by the National e-Assessment Center, was partly allowed. Therefore, both the parties are aggrieved and are in cross appeals before us.

2. The brief facts of the case show that assessee is a partnership firm carrying on business of real estate development as builders & developers, filed its return of income on 30.10.2018 at a total income of Rs.1,98,12,669/-. The return was picked up for complete scrutiny to examine the income from real estate business and default in TDS.
3. Assessee firm was incorporated on 1.1.2010 with the main object of construction of residential apartment. During the year it has developed housing projects viz., Elegant Valley at Raj Rajeshwari Nagar and Elegant Esplanade, Bangalore. The ld. AO noted that assessee has sold flats in its various projects such as Elegant Embassy North, Elegant Embassy South, Elegant Esplanade, Elegant Grandeur, Elegant Orchid & Elegant Valley wherefrom total revenue earned was Rs. 38,36,79,497/-. Over and above, further revenue of Rs. 28,37,26,666/- also had been accounted for sale. Assessee has maintained its books of accounts and revenue was recognized on Percentage Completion Method and during the year 47 % of The project is completed. However, the ld. AO noted that for AY 2016-17 itself, the assessee has shown the percentage completion at 56.8%, Therefore this year it cannot be less than the earlier year's project completion percentage. Further, estimated cost of project as per assessment order for AY 2016-17 was Rs. 131,79,83,090/-, however for AY 2018-19, the estimated cost is Rs. 105,88,62,900/- and hence, the Ld. AO was of the view that it is not clear about cost of project and percentage of completion. Therefore, notice u/s. 142(1) of the

Act was issued wherein Id. AO asked the details of project-wise and year-wise expenses under various head along with total built-up area and area sold showing the advances and sale agreement along with certificate of Architect.

4. The assessee submitted its reply on 5.3.2021, but AO was not satisfied stating it to be incomplete. He gave one more opportunity to the assessee to submit details vide notice dated 11.3.2021. This was replied by assessee on 22.3.2021. As per reply, the assessee submitted a chart with respect to each of the project showing the year in which construction commenced, estimated project cost bifurcating into cost of construction and cost of land, cost incurred till 31.3.2017, construction cost incurred in FY 2017-18, total area of the project, area sold up to 31.3.2017 and area sold in FY 2017-18. The assessee also submitted the year-wise total sale agreement value up to 31.3.2017 and total sale agreement value of area sold in FY 2017-18.
5. The Id. AO held that assessee has submitted that it is following Percentage Completion Method, however in AY 2016-17 it stated that it follows Project Completion Method. In the case of Embassy Valley it was earlier submitted that it is almost complete, however subsequently it was stated that only 54% of the cost is incurred. Further assessee has considered 47% of the project completed as on 31.3.2018 whereas for AY 2017-18 56.8% was claimed. The assessee did not submit the details of construction cost incurred till date and further there is discrepancy in submission of project expenses. Further assessee did not show any cost against some of the projects. There was also some discrepancy noticed in the amount of sale. As the assessee did not furnish the certificate of Architect, the AO was of the view that details submitted by the assessee are not corroborated with any documentary evidence. Based on the above findings, he held that according to Percentage Completion Method, the revenue is to be recognized in the ratio of work completed during the year. Hence, he extracted the details

submitted by the assessee and noted that assessee should have shown the revenue of Rs.222.72 crores on project wise percentage completion method. Out of the above, assessee has already disclosed an amount of Rs. 45.34 crores up to 31.3.2018 and therefore he made an addition of Rs.177.38 crores on account of revenue recognition u/s. 69A of the Act.

6. The AO further noted that as per information available with revenue, assessee has made a cash deposit of Rs.77,25,100/- in Dhan Laxmi Bank. The source of the above deposit was explained by assessee as withdrawal from 3 current accounts. Assessee also submitted copies of cash book and cash statement. Thus claim of assessee is that source of cash deposit is withdrawal from the bank account of assessee on earlier occasion. The ld. AO did not believe the explanation of the assessee. Further subsequently the assessee submitted that source of cash deposit of Rs.77,25,100 is out of small booking advance received from various customers as well as rental income received. The ld. AO asked the assessee to provide details of name, address, PAN of customer, date of receipt of above sum and for which property it was given. The ld. AO rejected the details furnished by the assessee holding that why such transaction has not been done through RTGS/NEFT and in absence of further details, the above sum was also added under the provisions of section 69A of the Act.
7. Assessment order was passed on 19.4.2021 u/s. 143(3) r.w.s 144B of the Act determining total income of Rs.180,19,18,278/- wherein above two additions of Rs. 178,15,25,100/- were made.
8. The assessee aggrieved with the same preferred appeal before the Ld. CIT(A) who-
  - (i) deleted the addition of Rs.177.38 crores for the reason that assessee has offered the income of Rs 258,15,12,345/- from AY 2013-14, which is

more than the income added by the Id. AO and therefore no further addition is required to be made. Thus he held that the addition made by the Id. AO is less than the amount already offered by the assessee with respect to various projects in earlier years, hence, no further addition is required to be made. Further in some of the projects there is no cost incurred during the year and therefore same are completed projects.

(ii) Confirmed addition of Rs. 77,25,100/-, as assessee repeated same arguments that amount of cash deposit in Dhan Laxmi Bank is out of the previous withdrawal made from other bank was not accepted for the reason that it is highly improbable that assessee would withdraw an amount and then deposit the same again in his bank account and further explanation of assessee is inconsistent.

9. As, the Id. CIT (A) deleted the addition of Rs.177.38 crores on account of revenue recognition under Percentage Completion Method. Aggrieved by which, the Id. AO is in appeal.
10. Further as the Id. CIT (A) confirmed the addition of Rs.77,25,100/- on account of cash deposit in the bank account where assessee failed to explain the source of cash deposit, assessee aggrieved and is in appeal before us.
11. We first take up the appeal of the Id. AO.
12. The Id. CIT(DR) vehemently submitted that the Id. AO is aggrieved with the deletion of addition account of inappropriate income offered by the assessee. She referred to the order of the Id. AO and submitted that the Id. AO has given 10 reasons for making the addition and while deleting the addition the Id. AO was not given any opportunity or asked for the remand report. It was further submitted that the Id. AO asked information from the assessee, but same was not

provided while deleting the addition. The Id. CIT(A) did not explain how he is satisfied with the income offered by the assessee. Further the Id. CIT(A) has also not given any finding with respect to the observation of the Id. AO, but merely deleted the addition stating that assessee has already offered income higher than the added by the Id. AO. Therefore, according to her, the order of the Id. CIT(A) is not sustainable.

13. The Id. Sr. Advocate, Shri K. Chaitanya, submitted that the Id. CIT(A) has upheld the order of the Id. AO with respect to infirmities in the books of account. He held that as assessee has already offered higher sum than sum added by the Id. AO in the earlier years and some of the projects have already been completed, based on the details submitted by the assessee, based on which the AO has made the addition, the Id. CIT(A) deleted the addition. The Id. AO has not rejected the books of account and after the verification of the books of account only, addition was made. He, even otherwise, stated that the addition made by the AO u/s. 69A of the Act is not sustainable. He further referred to the paper book containing 614 pages filed before us. He further referred to the details of return of income filed from AY 2013-14 to AY 2017-18 along with copies of Architect's certificate submitted before the Id. CIT(A) and submitted that the CIT(A) has not given any relief to the assessee on the various points raised by the Id. AO, but has deleted the addition only on the basis that even otherwise assessee has offered higher income in earlier years than computed by the Id. AO. He extensively referred to the assessment order and also the order of the Id. CIT(A) to show that there is no infirmity in the order of the Id. CIT(A) in deleting the above addition.
14. We have carefully considered the rival contentions and perused the orders of the Id. lower authorities. The Id. CIT(A) in para 6 has extracted the order of the Id. AO and also given his own findings for deleting the addition of Rs.177.38 crores as under:-

“6. I have perused the facts of the case and have examined the assessment order passed by the AO and also the detailed submission of the appellant. The appellant is a partnership firm and is engaged in the business of housing and real estate development. The return of income for AY 2018-19 was filed on 30.10.2018 declaring a total income of Rs.1,98,12,669/-.

During the course of the assessment proceedings the AO observed that the appellant had developed two residential housing properties namely 'Elegant Valley' and 'Elegant Esplanade'. It was also submitted that two new projects namely 'Elegant Whispering Winds' and 'Elegant Exotica' have also been started in AY 18-19. However, in AY 18-19 the assessee also sold flats belonging to old projects developed by it in earlier years. During the course of the assessment proceedings the AO noticed certain discrepancies in the method of percentage of completion of projects which the appellant had been following for recognizing the revenue accruing to it from various projects. In Paragraph 5 of his assessment order dated 19.04.2021 the AO remarked as follows:

"5. Discrepancy related to the value of percentage of completion.

The assessee firm submitted that it has been following percentage of completion method for revenue recognition since the beginning and during the relevant assessment year, the assessee has taken the percentage of completion of project as 47% and has recognized revenue accordingly. But from the information available with the department, it was gathered that during the AY 2016-17, the assessment order has been passed in the instant case with percentage of completion taken at 56.8% and revenue has been recognized accordingly by making the addition of the difference to the income of the assessee. Further it is also seen that the estimated cost of project as per assessment order of 2016-17 was Rs. 1,31,79,83,090/-, however in for AY 2018-19 assessee has submitted that the estimated cost is Rs. 1,05,88,62,900/-. It is beyond anybody's comprehension to note as to how the cost of the project and percentage of completion of project has reduced from AY 2016-17 to AY 2018-19."

Accordingly, the AO issued a notice to the appellant to provide complete information with respect to all the projects undertaken by the appellant since its inception in order to ascertain the exact percentage of completion and the correct figure for revenue recognition. The appellant vide reply dated 22.03.2021 filed details giving the names of the projects, their commencement date, the estimated project cost in each case, the construction cost incurred till 31.03.2017, the construction cost incurred in FY 2017-18,

the total build up area of each project, the area sold up to 31.03.2017 and the area sold in FY 2017-18. This information which is reproduced on pages 7 & 8 of the assessment order was duly analyzed by the AO. The Assessing Officer pointed out several inconsistencies in the submission of the assessee. These are reproduced below:

"12. Inconsistency/deficiencies in the submission made by the assessee.

Assessee has made submission on various dates but the same are full of inconsistencies. Some of the inconsistencies are listed down as under.

12.1 Vide reply submitted on dated 13.02.2021 assessee has submitted that we are continuously following percentage of completion and there is no deviation in the method of accounting as compared to the previous year. Whereas in reply dated 05.03.2021 assessee has submitted that it has followed project completion method in AY 2016-17. The submission of the assessee has been reproduced as under for ready reference:

" With reference to the difference in the revenue recognition based on the percentage of completion method. The difference of Rs. 6646295/- due to the method of accounting from completion method to percentage of completion method. For the AY 2016-17, we adopted the completion method of account for the projects, however during the course of assessment request us to prepare under the percentage of completion method. Hence the difference in revenue recognize arised only the revenue part for an amount of Rs. 6646295/-. The effect of the same will be in the closing work in progress as carry forward balance."

12.2 The assessee in reply dated 05.03.2021 has submitted under 'Remarks' column that Elegant Valley is almost completed but in the submission dated 22.03.2021 the cost of construction for this project up to 31.03.2018 is given as 14.98 crores which is approx. 54% of the estimated cost of the project.

12.3 The assessee has considered the percentage completion of projects as 47% (as on 31.03.2018) for recognizing the revenue during the relevant assessment year whereas percentage completion was determined as 56.8% by the AO during AY 2016-17 in the assessment

order. In contrast to the above, on perusing the submission of the assessee dated 22.03.2021 it is seen that the estimated cost of the projects is almost equal to the cost of construction incurred till March 2018, implying thereby that the projects are almost complete.

12.4 In the table assessee was asked to submit the construction cost incurred till 31.03.2017 and construction cost incurred in FY 2017-18. It can be seen, from the table reproduced above assessee has not submitted the details correctly.

12.5 During the relevant AY assessee has shown project expenses of Rs. 33,29,30,184/- in the P&L A/c, however from the details submitted by assessee vide letter dated 22.03.2021, it is seen that the total construction cost incurred during the relevant AY is a mere Rs. 5.12 Cr

12.6 No cost has been shown as incurred by the assessee against projects Elegant Whispering Winds and Elegant Exotica in the submission dated 22.03.2021 whereas the in table as given by assessee vide letter dated 05.03.2021, he has submitted that these two projects have started during the year and has also mentioned total built-up area against these projects. No project can be constructed without incurring cost.

12.7 During FY 2017-18 the total sale agreement/sale deed value of area sold is Rs. 88.61 Cr as per the submission dated 22.03.2021 whereas as per the submission dated 05.03.2021 the assessee has shown sales revenue as Rs. 38,36,79,497/-.

12.8 No Architect's Certificate has been furnished by the assessee till date.

All figures with respect to estimated costs, cost incurred till date. total area of the project, area sold, sale deed executed etc. are not corroborated with any documentary evidence."

In light of the above mentioned inconsistencies the AO expressed his dissatisfaction with the figure of 47% of percentage completion as claimed by the assessee in the financials submitted for AY 2018-19. Based on his own analysis and the data submitted by the appellant the AO prepared a project wise chart for recognizing revenue based on the percentage completion method. This chart is as under:-

Project name	Total value of the Area Sold up to 31.03.2018 (in Cr)	Percentage completion	Revenue to be Recognized up to 31.03.2018 (in Cr)
Elegant Embassy	50.07	100	50.07
Elegant Embassy	73.35	100	73.35
Elegant Esplanade	22.13	100	22.13
Elegant Grandeur	12.55	100	12.55
Elegant Orchid	43.28	100	43.28
Elegant Valley	39.42	54.16	21.35
Elegant Whispering Winds	0	Commenced during the year	0
Elegant Exotica	0	Commenced during the year	0
Total			222.72

Based on this table, the AO stated that the amount of revenue to be recognized up to 31.03.2018 is Rs.222.72 cr., out of which the assessee had already recognized an amount of Rs.45.34 cr. up to 31.03.2018. Hence, the AO added an amount of Rs.177.38 cr. to the assessee's income under section 69A of the I.T. Act, 1961

Coming now to the submissions of the appellant, the principal argument made by the appellant is that the projects of Elegant Embassy North, Elegant Embassy South, Elegant Esplanade, Elegant Grandeur and Elegant Orchid have been completed before 31.03.2017 and that all the revenue accruing to these projects has already been recognized and accounted for in the assessment years prior to AY 2018-19. Hence, out of the eight projects mentioned by the AO, five were completed before 31.03.2017 and no cost associated with these five projects was incurred in AY 2018-19. The assessee submitted that the AO made a gross error in assuming that these five projects were completed in AY 2018-19 and in recognizing the entire revenue accruing to these projects in AY 2018-19 whereas the same had been recognized and brought into the books of account of the assessee in the assessment years prior to AY 2018-19. The assessee stated that the AO violated the principles laid down in the Income Computation and Disclosure Standards-III (ICDS) that has been devised u/s 145(2) of the I.T. Act and has also disregarded the provisions of Accounting Standard-7 (AS-7). As per the ICDS-III, the contract revenue and expense should be recognized as revenue and expense based on the stage of completion of the contract. Accordingly, the revenue has to be determined by the percentage of completion method. The appellant stated that contrary to the ICDS-III guidelines issued by the

Income Tax Department, the AO has computed revenue from these projects using the Project Completion method and has thus recognized the entire revenue of these five projects in AY 2018-19. This action of the AO also amounts to double taxation as the entire income from these five projects has been offered to tax in the assessment years prior to AY 2018-19. The assessee furnished his Income Tax Returns for Assessment Years 2013-14, 2014-15, 2015-16, 2016-17 and 2017-18 in support of his contention. As regards the project 'Elegant Valley', the assessee submitted that till AY 18-19, 54.17% of the overall project cost had been incurred and out of the Rs.21.35 crore of revenue, Rs.9.10 crore had been recognized in AY 17-18 and the remaining amount of Rs.12.25 crore was recognized in AY 18-19. A detailed computation was submitted in support of this contention.

I have examined the matter and considered the arguments submitted by both the AO and the appellant. The appellant is engaged in the profession of building housing flats and thus the ICDS guidelines issued us/ 145(2) are applicable to him. Specifically, the assessee is governed by ICDS-III. As regards the recognition of contract revenue and expenses, the ICDS guidelines are as follows:

"Recognition of contract revenue and expenses

16. Contract revenue and contract costs associated with the construction contract should be recognised as revenue and expenses respectively by reference to the stage of completion of the contract activity at the reporting date.

17. The recognition of revenue and expenses by reference to the stage of completion of a contract is referred to as the percentage of completion method. Under this method, contract revenue is matched with the contract costs incurred in reaching the stage of completion, resulting in the reporting of revenue expenses and profit which can be attributed to the proportion of work completed.

18. The stage of completion of a contract shall be determined with reference to:

- a. The proportion that contract costs incurred for work performed up to the reporting date bear to the estimated total contract costs; or
- b. Surveys of work performed; or
- c. completion of a physical proportion of the contract work.

Progress payments and advances received from customers are not determinative of the stage of completion of a contract."

Now, the appellant firm was constituted in 2010 and as mentioned on Page 7 of the assessment order for AY 18-19, it has undertaken the following projects since its inception:

1. Elegant Embassy North Commenced in FY 12-13
2. Elegant Embassy South commenced in FY 12-13
3. Elegant Esplanade commenced in FY 14-15
4. Elegant Grandeur commenced in FY 14-15
5. Elegant Orchid commenced in FY 12-13
6. Elegant Valley commenced in FY 14-15
7. Elegant Whispering Winds commenced in FY 17-18
8. Elegant Exotica commence in FY 17-18.

The assessee's contention is that as regards the first five projects, the same were completed before AY 2018-19 and the revenue from these projects has been recognized in previous assessment years. The AO, on the other hand, held that these project were completed in AY 18-19 and thus recognized the entire revenue from these five projects in AY 18-19 itself. Now, if we examine the assessment order for AY 16-17 in the assessee's own case under section 143(3) dated 22.12.2018, it is seen that the assessee has been following the percentage completion method and out of the estimated cumulative project cost of Rs.1,31,79,83,090/- the assessee had already incurred an expenditure of Rs.74,85,82,785/- by 31.03.2016. The scrutiny assessment for AY 16-17 shows that the assessee had been following the percentage completion method for recognizing revenue and was not following the Project Completion method.

Further, an examination of the Income Tax Returns of the appellant for the Assessment Years 2013-14, 2014-15, 2015-16, 2016-17 and 2017-18 yields the following data:

Assessment Year	Revenue declared as per Income Tax Returns
2013-14	Rs. 41,40,50,953/-
2014-15	Rs. 50,46,50,772/-
2015-16	Rs. 39,16,97,141/-
2016-17	Rs. 63,99,88,032/-
2017-18	Rs. 63,11,25,447/-
<b>Total Revenue declared: Rs. 258,15,12,345/-</b>	

Hence, by the assessment year 2017-18 (i.e., till 31.03.2017). the appellant had recognized a revenue of more than Rs.258 crores. In the last three assessment years i.e. Assessment Years 2015-16, 2016-17 and 2017-18, the revenue recognized comes to more than Rs.166 crores. Since the appellant firm had only executed the projects of Elegant Embassy North, Elegant Embassy South, Elegant Esplanade, Elegant Grandeur, Elegant Orchid and Elegant Valley till 31.03.2017, this revenue is from these project only. The Assessing Officer made an error in assuming that these projects have been completed in AY 2018-19 and also in recognizing the entire revenue from these projects in one year only i.e. in AY 2018-19. Further, as far as the Elegant Valley project is concerned, it was still being constructed in AY 18-19 with 54.17% of the project having been completed by 31.03.2018. Out of the total revenue recognized of Rs.21.35 crore, Rs.9 crore had been shown in AY 2017-18 and the balance was shown in AY 18-19. The AO incorrectly recognized the entire revenue of Rs.21.35 crore in AY 18-19 itself on the wrong assumption that the entire cost of construction had been incurred in AY 18-19 itself.

In conclusion, it is held that no cost of construction was incurred by the appellant firm in AY 2018-19 for five projects namely Elegant Embassy North, Elegant Embassy South, Elegant Esplanade, Elegant Grandeur and Elegant Orchid. The entire revenue from these project had been recognized by the assessee in the assessment years prior to AY 18-19. As regards Elegant Valley project, the assessee has correctly apportioned the recognition of revenue in the two years i.e. AY 17-18 and AY 18-19. With these remarks, **the entire addition of Rs.1,77,38,00,000/- made by the AO under section 69A is deleted and the assessee's appeal is allowed.**"

15. From the discussion made by the Id. CIT(A), it is clear that, he has accepted all the findings of the Id. AO about infirmities in the details submitted by assessee. Regarding the quantum of addition, he has held that as the assessee has already offered higher income than what is estimated by the Id. AO, no further addition is required to be made. Even in the grounds of appeal also the only grievance of the LD AO is that he has not been given any opportunity to verify the claim of the assessee. In this case Id. CIT (A) has also agreed with all contentions of the Id. AO and upheld all the findings of the Id. AO. For the purposes of the quantum of addition, he examined various tables reproduced in the assessment order and

from the same tables he found that though the findings of the ld. AO is correct, but the quantum of addition is not correct as assessee has already offered higher income than determined by the ld. AO in earlier years. Therefore, for the amount of revenue to be offered for this year, the Ld. AO should have taken in to account revenues already offered by the assessee in earlier years. Thereafter, only the balance addition should have been made. He found that, on the same principles, the income already offered by the assessee in earlier years is higher than what is estimated by the ld. AO, and therefore, no further addition is required in this year. Hence, he deleted the addition.

16. The Revenue could not show that as far as the above findings of the ld. CIT (A) which is based on the findings and working of the ld. AO is incorrect. Revenue also did not controvert that the figures of the income earlier offered by the assessee from various projects shown is lower than the amount of addition made by the ld. AO as well as the details mentioned in various charts , submitted by the assessee, used by the ld. AO for making addition, confirmed by the ld. CIT (A), to delete the addition.
17. In view of above, we do not find any infirmity in the order of the Ld. CIT (A) in deleting the addition on account of revenue recognition of Rs 177 Crores. In the result, Solitary Ground of appeal is dismissed.
18. Thus, we dismiss appeal of the ld. AO in ITA No 1679/Bangalore/22024 for AY 2018-19.
19. Coming to the appeal of the assessee where the assessee is aggrieved with the confirmation of addition of Rs.77,25,100/- made by the ld. AO on account on unexplained cash deposits made in the bank account, assessee has raised the following grounds of appeal:-

- “1. The impugned Appellate order dated:21-06-2024 passed by the National Faceless Appeal Centre (NFAC), Delhi is opposed to law, facts and circumstances of the case.
  2. That the Ld. CIT (A), NFAC erred in confirming additions of Rs.77,25,100 being the additions made U/s 69A of the Act on ground of cash deposits made into Dhanalakshmi Bank without appreciating the fact that the source for deposits into bank account is out of earlier withdrawals.
  3. The Ld. CIT(A) NFAC erred in not appreciating the cash flow statement submitted by the appellant explaining the source of cash deposits made during the relevant financial year.
  4. The Ld. CIT(A), NFAC erred in not appreciating the fact that there is direct nexus between cash withdrawals from bank account and subsequent cash deposits and, therefore, the impugned additions confirmed is arbitrary and without any basis.
  5. The Appellant craves leave to add, alter, amend and delete any of the grounds at the time of hearing.”
20. The Id. AR submitted the copies of audited financial statements, cash book, bank book along with bank statement. Assessee also submitted the statement showing the withdrawals and deposits made by the assessee in various banks. On the basis of above statement, the Id. AR submitted that there is no inconsistency in the submission of the assessee. Assessee has deposited the above sum in the bank account by withdrawal from the bank as well as on receipt small advances from the customers. He referred to the cash book at pages 548-549 of PB wherein amount of cash deposit in the bank account of Dhan Laxmi Bank is explained. He further referred to page 541 of PB wherein he explained that a sum of Rs.78,25,100 was deposited in Dhan Laxmi Bank and on each date when the same was deposited in the bank account, what was the cash balance available as cash on hand in the regular books of account. It was submitted that identical statement was also relied upon before the Id. CIT(A), but he did not consider the same in the right perspective.

21. The Id. CIT(DR) vehemently supported the order of the Id. CIT(A) and submitted that when the submission of the assessee at the lower authority is inconsistent, the explanation made by the assessee could not be accepted and therefore addition is confirmed. She submitted that the order of the Id. CIT(A) is reasoned and does not have any infirmity.
  
22. We have carefully considered the rival contentions and perused the orders of the Id. lower authorities. The addition has been made by the Id. AO of Rs.77,25,100/- being the amount of cash deposit in Dhan Laxmi Bank a/c No.691. This amount is deposited by the assessee throughout the whole year of different amounts on 70 different occasions. Most of the deposits are of less than Rs. 1 lakh and highest amount of deposit was Rs.5,20,000/-. On analysis of the amount of deposit made with Dhan Laxmi Bank and the available source of funds in cash book with the assessee which is tabulated at pages 541-544 of PB, it clearly shows that the date on which the amount was deposited in cash in the bank account with Dhan Laxmi Bank, assessee had substantially higher amount of cash available in its cash book. Thus, amount of deposit in the bank account in cash with Dhan Laxmi Bank is emanating out of the available cash in the books of account of the assessee which is made up of cash withdrawals from the bank accounts as well as amount received from the customers. The assessee has submitted the cash book, bank book, cash summary statement and statement showing source of funds available out of which the amount is deposited in cash with Dhan Laxmi Bank. No infirmities were pointed out in the details submitted by the assessee. The books of account were also before the Id. lower authorities wherein availability of cash in books of accounts was never doubted. Thus, when the availability of cash on hand prior to date of deposit of cash in Dhan Laxmi Bank account is higher, as demonstrated by regular books of accounts of assessee, naturally the deposit is made by the assessee in cash is out of the source available in the books of account of assessee, unless it is proved by revenue that the amount of cash available in

books of accounts is used by assessee for some other purposes and therefore the cash balance shown in cash book is non-existent. Revenue failed to prove so. Even before us, no infirmities were pointed out to show that cash on hand shown in cash book is not the actual cash available with the assessee. Therefore the addition made by the Id. AO and confirmed by the Id. CIT(A) cannot be sustained, hence deleted. Thus ground No.2 of the appeal of the assessee is allowed.

23. Assessee has also made application for admission of several additional grounds from sl.no.5 to 10 covering cross appeals. As the addition on merits is deleted by allowing ground No.2 of the appeal of the assessee, and confirming the order of the Id. CIT (A) in appeal of revenue, the additional grounds as well as other grounds become infructuous.
24. In the result, the appeal of the assessee is partly allowed.
25. To sum up, the appeal of the Revenue is dismissed and the appeal of the assessee is partly allowed.

Pronounced in the open court on this 21<sup>st</sup> day of July, 2025.

Sd/-

(SOUNDARARAJAN K)  
JUDICIAL MEMBER

Bangalore,

Dated, the 21<sup>st</sup> June 2025.

*/Desai S Murthy /*

Sd/-

(PRASHANT MAHARISHI)  
VICE PRESIDENT

Copy to:

1. Appellant 2. Respondent 3. Pr. CIT 4. CIT(A)  
5. DR, ITAT, Bangalore.

By order

Assistant Registrar  
ITAT, Bangalore.