

**IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH, BANGALORE**

**BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER AND
SHRI KESHAV DUBEY, JUDICIAL MEMBER**

ITA No. 1442 to 1447/Bang/2024
Assessment Years: 2013-14 to 2018-19

Mrs. Malavika Hegde, L/R of Late Shri V.G Siddhartha, No.165, R.V Road, Near Minarva Circle, Bangalore – 560 004. PAN – ABXPS 1891 D	Vs.	The Dy. Commissioner of Income Tax, Central Circle - 1(3), Bangalore. .
APPELLANT		RESPONDENT

ITA No. 2129 to 2132/Bang/2024
Assessment Years: 2015-16 to 2018-19

The Dy. Commissioner of Income Tax, Central Circle - 1(3), Bangalore.	Vs.	Mrs. Malavika Hegde, L/R of Late Shri V.G Siddhartha, No.165, R.V Road, Near Minarva Circle, Bangalore – 560 004. PAN – ABXPS 1891 D
APPELLANT		RESPONDENT

ITA No.1448 - 1453/Bang/2024
Assessment Years: 2013-14 to 2018-19

Mr. Amarthya Siddhartha, L/R of Late Shri V.G Siddhartha, No.165, R.V Road, Near Minarva Circle, Bangalore – 560 004. PAN – FCEPS 3512 L	Vs.	The Dy. Commissioner of Income Tax, Central Circle - 1(3), Bangalore. .
APPELLANT		RESPONDENT

ITA No.1454 - 1459/Bang/2024
Assessment Years: 2013-14 to 2018-19

Mr. Ishaan Hegde, L/R of Late Shri V.G Siddhartha, No.165, R.V Road, Near Minarva Circle, Bangalore – 560 004. PAN – ALPH 5503 M	Vs.	The Dy. Commissioner of Income Tax, Central Circle - 1(3), Bangalore.
APPELLANT		RESPONDENT

Assessee by	:	Shri C Ramesh, CA
Revenue by	:	Ms. Neha Sahay, JCIT (DR)

Date of hearing	:	22.04.2025
Date of Pronouncement	:	16.07.2025

ORDER

PER WASEEM AHMED, ACCOUNTANT MEMBER:

This is a set of 22 appeals filed by the legal heirs of Late Shri V.G. Siddhartha and Revenue for assessment years 2013-14 to 2018-19 arising from the common order passed by the learned Commissioner of Income Tax- Appeal [here after CIT(A)]-11 Bangalore dated 17th June 2024.

2. Briefly stated facts are that there was search proceedings under section 132 of the Act carried out as on 21st September 2017 at the Coffee Day Group and its associates. During the search several materials were found & impounded, and statement of several persons were recorded. Late Shri V.G. Siddhartha, who was the promotor and CMD of Coffee Day Group of companies, based on materials found and statement recorded agreed to offer additional income for the relevant assessment years. Accordingly, the proceedings under section 153A of

the Act were initiated against late Shri V.G. Siddhartha for A.Ys. 2013-14 to 2017-18 by issuing notice dated 14th November 2018 and assessment proceeding for A.Y. 2018-19 was initiated under section 143(3) r.w.s. 153D of the Act.

2.1 During the pendency of the assessment proceeding, Shri V.G. Sidhartha died as on 29th July 2019. In the assessment proceedings, several notices and show cause notices etc were issued which were replied by the legal heirs of late Shri V.G. Sidhartha. Finally, the AO came to finalized the assessment order for respective assessment years i.e. A.Ys. 2013-14 to 2018-19 as on 31st December 2019 and the order was passed jointly in the name of 3 legal heirs namely Smt. Malavika Hegde, Shri Amartya, and Shri Ishan. We note that the AO has passed a joint assessment order in the name of all three legal heirs, but the legal heirs proceeded to file separate appeal before the learned CIT(A) individually on the same issue. However, the learned CIT(A) adjudicated the dispute by combining the individual appeals filed by the legal heirs as the issue and the amount of dispute involved was same.

2.2 Being aggrieved by the finding of the learned CIT(A), the legal representative again filed separate appeals before this Tribunal in their individual capacity for A.Ys. 2013-14 to 2018-19 and cross appeals by the Revenue for A.Ys. 2015-16 to 2018-19 in the matter of Smt. Malavika Hegde only. Therefore, we, also for the sake of brevity and convenience, are inclined to club all the appeals filed by the legal heirs and proceed to adjudicate appeals filed by Smt. Malvika Hegde for A.Ys. 2013-14 to 2018-19 which will be applicable to all the appeals filed by other two legal heirs namely Shri Amartya, and Shri Ishan for A.Ys.

2013-14 to 2018-19. Accordingly, we proceed to adjudicate the appeals filed by assessee and the cross appeals filed the revenue for respective assessment years in the case of Smt. Malavika Hedge.

First, we take up ITA No. 1442/Bang/2024, an appeal by Smt. Malavika Hegde being a legal heir Late Shri VG Siddhartha for A.Y. 2013-14

3. The assessee has raised the following grounds of appeal:

"1 The order of the learned Commissioner of Income Tax (Appeals)-11, Bangalore is opposed to the facts of the case and law applicable to it.

2. The learned Commissioner of Income Tax (Appeals)-11, Bangalore erred in confirming the addition of Rs.3,00,00,000/- to the income declared under the provisions of section 69 of the act, allegedly investments towards M/s.Kumergode Estates Ltd, ignoring the fact that, there were no such investments made and there as no case for such assessment.

3. The learned Commissioner of Income Tax (Appeals)-1 1, Bangalore, has erred in confirming the addition of Rs.3,00,00,000/- solely relying on the admissions made U/s.132(4) of the act dated 23.09.2017, ignoring the fact that, the appellant had retracted the statement U/s.132(4) of the act, dated 22.09.2017 answer to Q.No.24 and there were no evidences to substantiate the addition.

4. The learned Commissioner of Income Tax (Appeals) -11 Bangalore has erred in ignoring the fact that, the statement of Mr.Sadanand Poojary U/s.132(4) of the act, dated 22.09.2017 wherein he has clarified the nature of transaction of resale of 100 acres of coffee plantation pertains to owners.

5. The learned Commissioner of Income Tax (Appeals)-1 1, Bangalore erred in confirming the addition of Rs.3,00,00,000/- in the hands of the appellant when M/s.Kumergode Estates Ltd shares are purchased by M/s.Gonibedu Estates Ltd and not by appellant clarified in statement U/s.132(4) of the act, dated 22.09.2017, answer to Question No.19 to 22.

6. The learned Commissioner of Income Tax (Appeals)-11, Bangalore, has erred in ignoring the position of law laid down in various decisions wherein it is held that, merely on admissions U/s.132(4) of the act no additions can be made unless substantiated by corroborative evidences.

PRAYER

The appellant prays that the Hon'ble Tribunal may kindly hold that, for the facts and circumstances of the appellant there was no case of addition of Rs.3,00,00,000/- under the provisions of section 69 of the act and hence the same deserves to be deleted."

4. The assessee vide letter dated 28-10-2024 filed additional ground of appeal which reads as under:

"The Appellant while filing Appeal Memo in Form 36, has raised totally 6 Grounds.

Now the Appellant is raising the following Additional Grounds on point of law under SL No being 7 AND 8 for admission and adjudication of the same, for the First time before Hon'ble ITAT. These grounds were not raised before CIT(A) as the Appellant could not raise these grounds due to oversight and on the advise of legal counsel.

ADDITIONAL GROUNDS ON POINT OF LAW

7. The Assessment order passed u/s 153A read with section 143(3) of the act, is bad in law as the AO has passed the assessment order for the year , on the Appellant and also other legal representatives, assessing the same income on all the legal representatives, on substantive basis and thus raised demand u/s 156 of the act, three times more than what would have been otherwise payable by the deceased assessee, if the same were to be assessed in his hands, if he was alive. The Assessment order passed cannot be enforced on all the legal representatives of the late assessee at the same time thus creating legal lacunae in the recovery.

8. The Appellant relies on the Honble Supreme Court decision in the matter of Lalji Haridas, reported in 1961 43 ITR 387 SC, where the Honble Supreme Court , while dismissing the appeal of the Appellant, has given a direction as to how the proceedings taken against all the assessees, simultaneously should be continued and thus opined that though the proceedings against all the assessees can be continued and concluded, the final determination of assessment order should not be concluded in other cases, till the proceeding is concluded and tax is

recovered by one by one. If the department were able to conclude the assessment on one legal representative, and recover the tax dues, there cannot be any proceeding against the other legal representatives.

Wherefore on the above Fresh Additional grounds and original grounds and on such other grounds the Appellant prays the Appellate Authority to delete the additions as above and may pass such other as the Appellate Authority deems fit.

5. The only interconnected issue raised by the assessee in its memo of grounds of appeal is that the learned CIT(A) erred in confirming the addition of ₹3 crores on account of an alleged unaccounted investment.

6. The relevant facts are that, during the search at the premises of the manager of the assessee group companies, namely Shri Javeed Parvez, certain documents marked as Annexure A/S/JP/03 were found in connection with the acquisition of M/s Kumergode Estate Pvt Ltd by M/s Gonibedu Estate Pvt Ltd. These documents contained information regarding the payment of cash over and above the documented price.

6.1 Upon confrontation with the seized materials, Shri Javeed Parvez, in his statement recorded under section 132(4) of the Act, explained that the assessee group i.e. M/s Gonibedu Estate Pvt Ltd. had entered into an MOU for the purchase of 75% (i.e. 67500 shares out of the total 90,000 shares) of M/s Kumergode Estate Pvt. Ltd from the existing shareholders. The purchase consideration for the acquisition was agreed upon at ₹46.50 crores, with the payment to be made through banking channels as well as in cash, in the ratio of 75:25 (i.e., 75% through bank and 25% in cash). Thus, a cash payment involved is of ₹11.625 crores over and above the disclosed price.

6.2 The seized material, along with the statement of the manager, Shri Javeed Parvez, was confronted to the assessee, late Shri V.G. Siddhartha, who agreed to offer an additional income of ₹11.625 crores for the year under consideration on account of unexplained investment.

6.3 Accordingly, a notice under section 153A of the Act was issued to the assessee on 14th November 2018. In response, the assessee filed a return under section 153A of the Act on 31st December 2018, wherein an additional income of ₹8.625 crores was offered to tax.

6.4 During the assessment proceedings, the AO found that the assessee, based on the seized material, had initially agreed to offer an additional income of ₹11.625 crores. However, in the return of income, only ₹8.625 crores were offered. Accordingly, the AO issued a show-cause notice to the assessee, proposing to add the difference amount of ₹3 crores.

6.5 In response to the showcase notice, the assessee (i.e. legal heir of late V G Siddhartha) vide submission dated 16th September 2019 contended Late Shri VG Siddhartha, based on the statement of Shri Javeed Parvez, initially admitted to an undisclosed income of ₹11.625 crores. However, upon a detailed reconciliation, it was established that ₹3 crores out of the alleged cash payment was actually adjusted against the sale of 100 acres and 31 guntas of land from M/s Kumergode Estates Ltd to Premkumar MA Family, who was previous share holder.

6.6 The assessee explained that the shares of M/s Kumergode Estates Ltd were held by various families and promoters groups. M/s Kumergode

Estates Ltd owned land property between 900 to 950 acers. However, one family namely Premkumar MA was not interest in giving land by transfer of their shareholding. Therefore 100 acers of land were sold back to them (old share holder) by M/s Kumergode Estates Ltd after purchase of shares by the assessee group for agreed value of ₹ 6 crores. However, the documented price of the same was for ₹3 crores only. This fact was duly explained by late Shri V G Siddhartha in the subsequent statement recorded under section 131 of the Act while explaining the excel sheet found from one Shri Sadananda Pujary. Thus, the sale consideration for this land was ₹3 crores, was accounted for in the books of M/s Kumergode Estates Ltd. from the said family and remaining amount of on money of Rs. 3 crores adjusted against the cash payable to the said family on account of transfer of their shareholding.

6.7 Furthermore, the assessee highlighted that the noting in the seized sheets of loose papers was only estimates and not actual transactions. The assessee in this regard contended that as per the seized document, the payment through banking channel was for Rs. 34,87,50,000/- whereas the final payment, as per the company's ledger and balance sheet, i.e. the payment via banking channels was of ₹33.71 crores only, which evidences that the payment was not made entirely on the basis of seized material.

6.8 Considering these facts, the assessee submitted that the total cash component required to be paid had been reduced, and an undisclosed income of ₹8.625 crores had already been offered in the return filed in response to the notice issued under section 153A of the Act. Therefore, the additional ₹3 crores should not be added back, as it

had already been adjusted against the land transaction. The assessee urged the AO to consider this reconciliation and avoid double taxation of the same amount.

6.9 However, the AO rejected the assessee's submission regarding the reconciliation of ₹3 crores, stating that the noting in the seized documents was clear evidence of an undisclosed cash transaction of ₹ 11.625 crore in connection with purchase of share of M/s Kumergode Estates Pvt Ltd. The AO pointed out that the argument of the assessee, suggesting that ₹3 crores was adjusted against the sale of land to M.M. Anandaram & Family, was speculative and not supported by concrete evidence.

6.10 Further, the AO emphasized that during the search and post-search proceedings, Shri Javeed Parvez had explicitly confirmed that the cash transaction of ₹ 11.625 crore as recorded in the seized documents, was materialized. The AO also highlighted that in the statement recorded under section 131 of the Act, Late Shri V.G. Siddhartha, did not provide any direct confirmation that ₹3 crores had been adjusted against the land transaction. Instead, the statement only mentioned a dispute over 100 acres of land, which was returned to the previous owners for ₹6 crores, but did not establish any direct link to ₹3 crores in question.

6.11 Accordingly, the AO concluded that the assessee's argument was based on assumptions and inferences drawn from unrelated events. Given the incriminating nature of the seized documents, the admissions made during the search, and the failure of the assessee to provide conclusive evidence for the alleged reconciliation, the AO determined

that the sum of ₹3 crores constituted unaccounted cash investment. Accordingly, the amount was added to the total income of Late Shri V.G. Siddhartha under section 69 of the Act for the year under dispute.

7. The aggrieved assessee preferred an appeal before the learned CIT(A). The assessee before the learned CIT(A) reiterated the submission made during the assessment proceedings. However, the learned CIT(A) concurred with the view of the AO and accordingly confirmed the addition made for Rs. 3 crores.

8. Being aggrieved by the order of the learned CIT(A), the assessee is in appeal before us.

9. The learned AR of the assessee before us filed paper book running from pages 1 to 36, case law compilation, a note explaining the issue with supporting documents and argued that the addition was made on the presumption of unaccounted investment towards M/s Kumergode Estates Ltd., despite the fact that no such investment existed, and there was no case for such assessment. The learned AR further argued that the CIT(A) had solely relied on the admissions made under Section 132(4) of the Act during the search proceedings, without considering that the appellant had subsequently retracted the statement recorded on 22.09.2017 in response to Question No. 24. The retraction, coupled with the absence of any corroborative evidence, rendered the addition unjustifiable.

9.1 It was also pointed out that the CIT(A) had ignored the statement of Mr. Sadanand Poojary, recorded under Section 132(4) on 22.09.2017,

which clarified that the resale of 100 acres of coffee plantation land pertained to its rightful owners. Accordingly, the Id. AR urged to consider that the Id. CIT(A) wrongly attributed the alleged unaccounted cash investment to the appellant when, in fact, the shares of M/s Kumergode Estates Ltd. were acquired by M/s Gonibedu Estates Ltd. and not by the appellant personally. This fact was explicitly clarified in the statements recorded during the search proceedings.

9.2 Furthermore, the learned AR emphasized that judicial precedents establish that mere admissions under Section 132(4) of the Act do not warrant additions unless substantiated by corroborative evidence. Given the facts and legal principles, the learned AR strongly asserted that the addition of ₹3,00,00,000 was unwarranted under section 69 of the Act and prayed to delete the same in the interest of justice.

10. On the contrary, the learned DR vehemently contended that there was no material suggesting that the amount in dispute for ₹ 3 crores was adjusted against the sale of land as claimed by the assessee. According to the learned DR there was sufficient material found during the search operation evidencing the element of cash paid for the acquisition of the shares. The learned DR vehemently supported the finding of the authorities below.

11. We have heard the rival contentions of both the parties and perused the materials available on record. From the preceding discussion and materials available on record, we note there were two companies namely M/s Gonibedu Estates Pvt Ltd and M/s Kumergode Estates Ltd. Both the companies were engaged in the business of coffee estate.

Further, the second company has owned 900-950 acers of land of coffee estate. The first company belong to the assessee group whereas the second company was promoted by Shri M.M. Anandram and the other promoters group.

11.1 As such, in the second company i.e. M/s Kumergode Estates Ltd there were total of 90,000 paid-up shares out of which 47,951 shares were held by the promoters group and remaining were held by the public. The first company intended to acquire 75% of paid -up share (i.e. 67500 shares out of 90000) of second company. Accordingly, an understanding was made between the first company and promoters of second company and as per understanding the promoters group offered to sale 45,900/- out of their holding of 47,951 shares and further agreed to arrange 21600 shares from the other shareholders for a consideration of Rs. 46.5 crore payable through banking channel as well as through cash in the ration of 75:25 which is evident from the materials found during the search at the premises of manager of assessee group namely Shri Javeed Parveez. In other words, the purchase consideration was agreed at Rs. 6890 per share (Rs. 46.5 crores / 67500 share).

11.2 Finally, the first company purchased 66108 shares i.e. 45900 shares from promoters and remaining 20200 from the public for which consideration through banking channel was paid at Rs. 5200 per share. Applying the finding of search proceeding, it is transpired that the out of actual consideration of Rs. 6890 per share an amount of Rs. 1690 per share (6890- 5200) paid through unaccounted cash. Thus, around Rs. 11.17 crores were payable through cash. It is pertinent to note that as per seized document and statement of Shri Javeed Parveez and late Shri

V.G. Siddhartha the cash component was agreed at Rs. 11.625 crores which he agreed to offer to tax. However, we note that such cash component was for 67500 share which valued at 46.25 cored whereas the assessee purchased 66108 shares only. Finally, the assessee offered income of unaccounted investment for Rs. 8.625 crore only leading to difference of Rs. 3 crores.

11.3 It is further noted that out of 45900 shares sold by the promotor group, there were 15,840 shares held by the family member of Shri M.M. Anandram which is detailed as under:

S. No.	Name of person	No. of share
1	M. M. Anandram	9260
2	Premkumar M.A.	4160
3	Premkumari Mysore Anandram	2420
	Total	15840

11.4 From the search materials found from one Shri Sadanand Pujary and statement of Shri Sadanand Pujary as well as of Late Shri V.G. Siddhartha, it is discernible that Shri Peremkumar M.A. and Premkumari Mysore Anandram agreed to transfer their shareholding only if 100 acres and 36 guntas land of coffee estate held by M/s Kumergode Estates Ltd is transferred to his family. As per the search materials, the consideration for transfer of land was decided at Rs. 6 crores but only Rs. 3 crores were paid through banking channel by the family of Shri Premkumar M.A as disclosed in the sale-purchase deed. Thus, it is inferred that the remaining amount of Rs. 3 crores were payable by Shri Premkumar M.A. family in cash.

11.5 The assessee claimed that Rs. 3 crores receivables from Shri Premkumar M.A. on account of transfer of land by M/s Kumergode Estates Ltd was adjusted against cash component payable to his family on account of purchase of shares. We note that a total of 15840 shares were transferred by Shri M.M. Anandram or Premkumar M.A. family. Applying the cash ratio of Rs. 1690 per share as discussed in preceding paragraphs, the cash component payable to this family on account of purchase of share stand at Rs. 2,67,69,600/- whereas cash receivable from said family on account of transfer of land stand at Rs. 3 crores.

11.6 In view of the above discussion, we find that there is force and substance in the claim of the assessee that the cash payable on account of purchase of shares to Shri M.M. Anandram or Premkumar M.A. family is adjusted against the cash consideration receivable on account of transfer of land to them. Accordingly, in our considered opinion the sources of cash investment to the extent of 3 crore/ Rs. 2,67,69,600/- in the shares of M/s Kumergode Estates Ltd has been explained. The provision of section 69 of the Act applies where assessee failed to offer explanation about the nature and sources of investment or the explanation offered found not satisfactory. In the case on hand the source of cash investment to the extent of Rs. 3 crores out of Rs. 11.625 crores accepted by the assessee is the amount receivable on account of land property by M/s Kumergode Estates Ltd or in other words, the amount payable on purchase of share was adjusted toward the amount's receivable on account of transfer of land. Furthermore, the contention raised by the assessee about such adjustment of Rs. 3 crores in the manner discussed was nowhere doubted by the authorities below. As such no verification was carried out by the lower authorities despite

having all the details of the parties and power under section 133(6)/ 131 of the Act. Therefore, in the given facts and circumstances no addition can be made in the hand of the assessee under section 69 of the Act. Hence the ground of appeal of the assessee is hereby allowed.

Coming to the issue raised by the assessee in additional ground of appeal.

12. The assessee, in the application for the admission of additional grounds, argued that the issue raised is legal in nature and fundamental to the resolution of the case. Consequently, the assessee's learned AR requested that these additional grounds be admitted for adjudication.

13. On the other hand, the learned DR opposed the admission of the additional ground of appeal.

14. We have heard the rival submissions of both the parties and perused the materials available on record. The Hon'ble Supreme Court in the case of National Thermal Power Co. Limited vs. CIT reported in 229 ITR 383 has held as under:

" Under section 254 of the Income-tax Act, 1961, the Appellate Tribunal may, after giving both the parties to the appeal an opportunity of being heard, pass such orders thereon as it thinks fit. The power of the Tribunal in dealing with appeals is thus expressed in the widest possible terms. The purpose of the assessment proceedings before the taxing authorities is to assess correctly the tax liability of an assessee in accordance with law. If, for example, as a result of a judicial decision given while the appeal is pending before the Tribunal, it is found that a non-taxable item is taxed or a permissible deduction is denied, there is no reason why the assessee should be prevented from raising that question before the Tribunal for the first time, so long as the relevant facts are on record in respect of the item. There is no reason to restrict the power of the Tribunal under section 254 only to decide the grounds which arise from the order of the Commissioner of Income-tax (Appeals). Both the assessee as well as the Department have a right to file an appeal/cross-objections before the

Tribunal. The Tribunal should not be prevented from considering questions of law arising in assessment proceedings, although not raised earlier.

14.1 Based on the discussion above, it is clear that limiting the powers of the Tribunal only to the issues that were raised before the Commissioner (Appeals) would be too restrictive. The Tribunal has wider powers under the law and can allow new issues to be raised during the appeal, even if they were not part of the earlier proceedings.

14.2 It is important to note that the Tribunal has the discretion—that is, the authority to decide—whether or not to accept a new ground of appeal. This depends on the facts and circumstances of each case.

14.3 In this case, the new ground raised by the assessee involves a question of law, and not one of fact. Since it is a legal issue that does not require further investigation or fresh evidence, and in view of the relevant court decisions that support this approach, we are of the opinion that the new ground should be allowed. Therefore, we admit the additional ground of appeal raised by the assessee.

Now proceeding to adjudicate the issue raised in the additional ground of appeal.

15. The necessary facts are that late Shri V G Siddhartha was subject to search proceedings under section 132 of the Act and accordingly, the proceedings under section 153A of the Act were initiated. During the pendency of assessment proceeding under 153A of the Act, Shir V D Siddhartha died. Accordingly, the AO made the single final assessment order under section 143(3) r.w.s. 153A of the Act in the name of 3

persons namely Smt. Malavika Hegde, Shri Amartya and Shri Ishan by holding them as legal heir. The assessee through the additional ground of appeal filed before us has challenged the validity of assessment order made in the name of 3 different legal heirs.

15.1 The learned AR of the assessee argued that the AO has erred by assessing the same income in the hands of multiple legal representatives on a substantive basis and raising a demand under section 156 of the Act, which is three times more than the amount that would have been payable if the deceased assessee were alive. This results in an unjustified and excessive tax burden that contradicts the fundamental principles of taxation.

15.2 The learned AR further contend that under section 159 of the Act, the liability of legal representatives is limited to the extent of their share in the estate of the deceased. It does not impose joint and several liability on all legal heirs. The AO's approach of issuing parallel assessments to all legal representatives creates legal lacunae in recovery and is contrary to settled legal principles, which mandates that income should be taxed only once in the hands of the rightful assessee.

15.3 Citing judicial precedents in the cases such as CIT v. Surat Cotton reported in 202 ITR 932, CIT v. Durgawati reported in 202 ITR 932 (Bombay-HC), and Jagannath Hanumanbux v. ITO reported in 31 ITR 603, the learned AR emphasizes that taxing the same income in different hands is impermissible under law. Substantive assessments cannot be made simultaneously on multiple legal heirs. At best, the AO could have

made a substantive assessment on one legal heir and protective assessments on the others.

15.4 To buttress the contention the learned AR further placed reliance on the Hon'ble Supreme Court rulings, in the case of Lalji Haridas (1961 43 ITR 387 SC), and contended that the Hon'ble Apex Court ruling clarifies that while proceedings against multiple legal representatives can continue, the final assessment order should conclude only when tax recovery is completed from one legal heir. Thus, issuing identical demand notices to all legal representatives under section 156 of the Act is legally unsustainable.

15.5 Additionally, the learned AR argued that these assessment proceedings are not merely procedural defects but jurisdictional errors that render the orders void ab initio. Section 292B of the Act cannot cure these defects because the AO fundamentally misconstrued the liability of legal representatives. In conclusion, learned AR urged the Tribunal to hold that the assessment orders and demand notices are without authority of law and should be set aside.

16. On the contrary, the leaned DR before us filed written submission and contended that the assessment proceedings have been correctly conducted in the case of late Shri V.G. Siddhartha, covering the assessment years 2013-14 to 2018-19. It was argued that the demand under section 156 of the Act has been raised in the combined name of all three legal representatives, rather than issuing separate assessments to each individual legal heir. This approach, according to the Revenue,

does not result in a demand three times the actual liability, as alleged by the assessee, but instead ensures a consolidated recovery process.

16.1 The learned DR further asserts that the assessee's reliance on the Hon'ble Supreme Court judgment in the case of Lalji Haridas (1961 43 ITR 387 SC) is misplaced. The cited case involved situations where parallel assessments were made, and there was ambiguity regarding individual who was liable for the tax. In contrast, the present case pertains to a joint and combined assessment in the name of all three legal heirs of the deceased, and no separate individual proceeding has been initiated against any one of them. The learned DR submits that since the assessee has not disputed their status as the legal heirs of Shri V.G. Siddhartha, they are collectively liable under section 159 of the Act. Additionally, the assessee has failed to specify their respective shares in the estate or their proportionate liabilities, reinforcing the Revenue's position that liability should be equally distributed among all three legal representatives.

16.2 The learned DR also highlights that judicial precedents prohibit the same income from being taxed multiple times in different hands. However, in this case, the department has merely sought to ensure tax collection from the estate of the deceased, rather than assessing each legal heir independently. The AO's actions are in line with legal provisions that allows recovery from legal representatives up to the extent of the assets inherited by them.

16.3 Given these arguments, the learned DR urges us to reject the appellants' claim that the assessment order is bad in law. The learned

DR insists that the demand raised is legally justified and that the proceedings should not be set aside, as they adhere to the principles of section 159 and established jurisprudence.

17. We have heard the rival contentions of both the parties and perused the materials available on record, and the relevant provisions of the Act. The issue before us is the validity of the assessment order passed by the AO in the joint names of the legal heirs of late Shri V.G. Siddhartha and the corresponding demand notice issued under section 156 of the Act. The assessee contends that the assessment suffers from jurisdictional defects, while the Revenue asserts that the assessment was lawfully conducted under section 159 of the Act.

17.1 The provision of section 159 of the Act, provides that upon the death of an assessee, his legal representatives shall be liable to pay any tax due on behalf of the deceased. However, such liability is limited to the extent of the estate inherited by them. The legal representatives do not become personally liable beyond the value of the assets they receive from the deceased.

17.2 In the present case, the AO has passed a single assessment order in the combined name of the three legal heirs—Smt. Malavika Hegde, Shri Amartya, and Shri Ishan—without issuing separate assessments for each legal representative. Additionally, only one demand notice has been issued collectively in the names of all three legal heirs.

17.3 Thus, the argument of the assessee that the AO's action results in an excessive tax burden and contradicts the principles of taxation is

devoid of any merit. Since no separate or duplicate assessments have been made on each legal heir individually, the allegation of multiple tax assessments on the same income does not hold valid contention/ground. The AO's approach merely consolidates the tax liability of the estate without imposing independent tax obligations on each legal heir.

17.4 At the time of hearing, the Id. AR for the assessee has relied on various judicial precedents, including:

- CIT v. Surat Cotton (202 ITR 932)
- CIT v. Durgawati (202 ITR 932 Bombay HC)
- Jagannath Hanumanbux v. ITO (31 ITR 603)
- Lalji Haridas v. ITO (1961 43 ITR 387 SC)

17.5 These cases establish the principle that the same income cannot be assessed substantively in multiple hands. However, these rulings primarily deal with situations where the AO assessed multiple legal heirs separately on a substantive basis, resulting in multiple tax demands. In contrast, in the present case, the AO has not issued separate independent assessments for each legal heir but rather a single consolidated assessment order in the names of all three legal representatives. This approach does not violate the fundamental principle that the same income should not be taxed multiple times.

17.6 Furthermore, in *Lalji Haridas (1961 43 ITR 387 SC)*, the Supreme Court clarified that while proceedings can be initiated against multiple legal representatives, the final liability should be determined in a manner that ensures tax recovery from the estate, rather than creating a

disproportionate burden on any individual heir. The AO's approach in the present case aligns with this principle.

17.7 The AO's decision to assess the deceased's estate in the combined name of all three legal heirs does not automatically impose joint and several liability on them beyond their inherited estate. The provisions of section 159 of the Act makes it clear that legal representatives are liable only to the extent of the estate they inherit, and not personally liable beyond that.

17.8 Furthermore, the assessee has not provided details regarding their respective shares in the inherited estate. In such cases, the AO is justified in making a single consolidated assessment in the names of all heirs collectively. However, the department's right to recover tax is limited to the extent of assets inherited by the legal heirs, and the Revenue must ensure that tax collection does not exceed this limit.

17.9 The Revenue has argued that the demand notice under section 156 of the Act does not create three times more than the actual liability as alleged by the assessee. Since, only one demand notice has been issued in the name of the three legal heirs collectively, and not separately for each individual, there is no duplication of tax demand. The AO has sought to ensure that the outstanding tax liability is recovered from the estate, rather than holding the legal heirs personally liable in their individual capacities.

17.10 The department's approach is in line with tax recovery principles, as it ensures that the liability is collected from the assets of the

deceased rather than assessed separately in the hands of each heir. The appellants' contention that they are being taxed three times more is therefore misconceived and factually incorrect.

17.11 The appellants have argued that the assessment order suffers from jurisdictional defects and should be treated as void *ab initio*. However, since the AO has issued only one assessment order and one demand notice, and has not made multiple substantive assessments for the same income, there is no jurisdictional flaw in the proceedings.

17.12 The provision of section 292B of the Act provides that minor error, omissions, or misdescriptions in an assessment order do not render it invalid, as long as the substance of the proceedings remains legally correct. Here, the AO's approach is consistent with the statutory framework and judicial principles, ensuring that the liability is assessed at the estate level rather than imposing an undue burden on any single legal representative.

17.13 While the appellants may dispute the quantum of tax liability, the procedural framework adopted by the AO does not suffer from a jurisdictional error that would render the assessment void. The assessment order is, therefore, legally valid. Hence, the additional ground of appeal raised by the assessee is hereby dismissed.

18. In the result, the appeal of the assessee is partly allowed.

Coming to ITA No. 1443/Bang/2024, an appeal by the assessee namely Smt. Malavika Hegde being a legal heir Late Shri VG Siddhartha for A.Y. 2014-15.

19. The assessee has raised as many as 7 grounds of appeal which are interconnected to each other. The effective issue raised by the assessee is that the learned CIT(A) erred in confirming the addition of Rs. 16,42,50,969/- by treating the unsecured loan as unexplained cash credit u/s 68 of the Act ignoring the fact that no incriminating material found/unearthed during the search in relation to impugned loan. Further erred in confirming the addition for the want of confirmation only ignoring the other evidence.

20. The necessary facts are that the AO during the assessment proceedings under section 153A r.w.s. 143(3) of the Act noticed that the assessee during the year has received unsecured loans from several parties. Accordingly, the assessee was required to produce the confirmation of the loan creditors. However, the assessee failed to provide confirmations from 7 parties against the loan aggregating to Rs. 16,42,50,969/- only. The details of the parties and the amount of respective loans are available on page 21 of the assessment order. Therefore, the AO treated the impugned loan credit of Rs. 16,42,50,969/- as unexplained cash credit as provided under section 68 of the Act and added to the total income of the assessee.

21. The aggrieved assessee preferred an appeal before the learned CIT(A).

21.1 Before the learned CIT(A), the assessee submitted that the year under consideration is an unabated assessment year as the regular assessment under section 143(3) of the Act was already completed vide

order dated 22nd August 2016. It was argued that in the proceedings under section 153A of the Act, if a year falls under the category of unabated/completed assessment, no addition to the total income can be made in the absence of incriminating material. The assessee argued that as far as the issue of unsecured loan is concerned, which was duly disclosed in the books of accounts and the genuineness of the same was accepted by the AO while completing the regular assessment under section 143(3) of the Act. During the course of search proceedings, no material of whatsoever was found in relation to impugned unsecured loan. Therefore, the addition made in the given facts and circumstances in the absence of incriminating material was not sustainable and required to be deleted. The assessee in support relied on various case laws including the judgment of Hon'ble Supreme Court in the case of PCIT vs. Abhisar Buildwell (P.) Ltd reported in 149 taxmann.com 399.

22. The learned CIT(A), observed that the Hon'ble Supreme court in the case of PCIT vs. Abhisar Buildwell (P.) Ltd (supra) held that "*in case any incriminating material found in relation to unabated/completed assessment year, then the AO will assume the jurisdiction to assess or reassess the total income for such years taking into consideration the incriminating material found during the search and the other material available with the AO including the income declared in the return*". The learned CIT(A) found that the year under consideration falls under unabated/completed assessment category. However, there were incriminating materials found during the search in relation to the year under consideration and based on the same, the addition was also made to the total income of the assessee, though such incriminating material was not in connection with the impugned loan transaction. The learned

CIT(A) based on the Hon'ble Supreme Court's ruling in PCIT vs. Abhisar Buildwell (P.) Ltd (supra) held that the AO can assess the total income of the unabated/completed assessment after considering the incriminating material as well as other materials available with the AO including income declared in return. In the present case, the AO has made addition to the total income of the assessee based on incriminating materials and additionally made addition of unexplained loan credit based on other materials available with the AO including income declared in the return. Accordingly, the learned CIT(A) dismissed the assessee's argument that no addition can be made in the absence of incriminating material in the case of unabated/completed assessment year.

23. Being aggrieved by the order of the learned CIT(A), the assessee is in appeal before us.

24. The learned AR before us among the other contentions argued that the year under consideration is an unabated assessment as the regular assessment under section 143(3) of the Act has already been completed. The loan transactions were carried out through banking channel and duly recorded in the books of accounts. The learned accordingly argued that for the under consideration a regular item already disclosed in the books cannot be disturbed in the absence of incriminating material found during the search. There was no incriminating material found in relation to the loan transaction. Therefore, the AO exceeded the jurisdiction to assess loan transactions in the proceedings under section 153A of the Act in the absence of incriminating material.

25. On the other hand, the learned DR submitted that there were recovered incriminating documents during the search proceedings, based on which the addition was made by the AO. Therefore, other additions can also be made by the AO during the assessment proceedings despite the fact that there was no document of incriminating nature found during the course of search operation. The learned DR vehemently supported the order of the authorities below.

26. We have heard the rival contentions of both the parties and perused the materials available on record. The primary question before us is whether the addition of ₹ 16,42,50,969/- as unexplained cash credit under section 68 of the Act, in an unabated assessment under section 153A of the Act, is legally sustainable when no incriminating material related to the impugned loan was found during the search. The learned CIT(A) found that though there was no incriminating material found in relation to unsecured loan but there were incriminating material found in relation to other transactions pertaining to the year under consideration. The learned CIT(A) relying on judgement of the Hon'ble Supreme Court in PCIT vs. Abhisar Buildwell (P.) Ltd. (149 taxmann.com 399) has held that the AO can assume jurisdiction to assess the total income even considering transactions in relation to which no material was found in relation to other transactions falling under same assessment year. The relevant observation of Hon'ble Apex Court, relied on by the learned CIT(A), is extracted as under:

"In case any incriminating material is found/unearthed, even in case of unabated/completed assessments, the AO would assume the jurisdiction to assess or reassess the 'total income' taking into consideration the incriminating material unearthed during the search and the other material available with the AO including the income declared in the returns."

26.1 Without going into the veracity of inference drawn by the learned CIT(A) based on above extracted observation of Hon'ble Supreme Court, we note that the AO in the assessment order, besides the addition of Rs. 16,42,50,969/-, has also made addition of Rs. 12.5 crores on account of cash loan or cash transaction with the party namely Shri Parkash B Talreja and further made addition of Rs. 34,07,000/- on account of unaccounted interest payment to the certain farmers. These additions were allegedly made by the AO based on certain loose paper of diaries found during the search and statement of the late Shri V G Siddhartha. We note that the assessee against these additions was in appeal before the learned CIT(A) who deleted the addition of Rs. 12.5 crore in relation to cash transaction with Parkash B Talreja by holding that the transactions does not pertain to the year under consideration. Likewise, the addition of Rs. 34,07,000/- was also deleted by the Id. CIT-A in relation to the payment of interest to the farmers by holding that the payment to these parties were made from explained sources being cash withdrawal by the sister concern M/s Mysore Amalgamated Coffee Estate Ltd which is duly accounted.

26.2 The above finding of the learned CIT(A) has not been challenged by the Revenue before the higher forum which evidences that the dispute relating to the said two additions has reached to its finality. Accordingly, we can safely hold that there was no document of incriminating nature found by the revenue during the search pertaining to the year in dispute. Thus, in the absence of any incriminating material for the completed assessment year, the AO cannot acquire the jurisdiction to assess the total income which is settled position of law by the Hon'ble Supreme Court in the case of Abhisar Buildwell (P.) Ltd

(supra) and different Hon'ble High Courts. Accordingly, we hold that the addition made by the AO for 16,42,50,969/- by treating the unsecured loan from 7 parties as unexplained cash credit is unsustainable in the given facts and circumstances. Hence, the ground of appeal of the assessee is hereby allowed.

26.3 As the assessee succeeded on technical ground, we do not find necessary to adjudicate the grounds raised by the assessee on the merit of the addition. As such, the same become redundant. Hence, we dismiss the same as infructuous.

Coming to the issue raised in the additional ground of appeal:

27. At the outset, we note that the issues raised by the assessee in its additional grounds of appeal for the AY 2014-15 is identical to the additional ground raised by the assessee in ITA No. 1442/Bang/2024 for the assessment year 2013-14. Therefore, the findings given in ITA No. 1442/Bang/2024 shall also be applicable for the assessment years 2014-15. The additional ground of appeal of the assessee for the A.Y. 2013-14 has been decided by us vide paragraph No. 12 to 17 of this order against the assessee. The learned AR and the DR also agreed that whatever will be the findings for the assessment year 2013-14 shall also be applied for the assessment year 2014-15. Hence, the issue raised by the assessee in additional ground of appeal is hereby dismissed.

28. In the result, the appeal of the assessee is hereby partly allowed.

Coming to ITA No. 1444/Bang/2024 by the assessee Smt. Malavika Hegde being legal heir of late Shri VG Siddhartha for A.Y. 2015-16

29. Ground No. 1 of assessee's appeal is general in nature and therefore, the same does not require any separate adjudication. Hence the same is dismissed as infructuous.

30. The interconnected issue raised by the assessee through ground Nos. 2 to 7 of the appeal pertains to the addition of alleged unaccounted cash loan of Rs. 4 crores from the parties namely Shri Rachith & Shri Ankith.

31. The relevant facts are that during the search proceedings at the residence of Shri Javeed Parveez (the manager of the assessee group), an excel spread file namely "Timber Statement" was found from his email. The impugned excel sheet contains the details of receipt and payments as per the instruction of late Sri VG Sidhartha from/to various parties. The sheet contains the name of one such party as "Mrs. Nivedhithakka cash" indicating cash receipt of Rs. 70 lakhs. Shri Javeed Parveez in the statement recorded under section 132(4) of the Act explained the cash loan of Rs. 70 lakhs received from the said party which was deposited into the bank account namely Corporation Bank at Chikmagalur and interest of Rs. 8,36,740/- was also paid through cash on the impugned loan amount. He also stated that amount was adjusted in the books of account of M/s Mysore Amalgamated Coffee Estate Ltd (hereafter M/s MACEL) under the ledger "Advance-1". Shri Javeed Parveez also provided the copy of ledger "Advance-1".

31.1 On perusal of impugned ledger "Advance-1", the search team found that there were journal entries dated 3rd August 2017 and 11-08-2017 debiting proprietary concern of the assessee late Shri V.G. Siddhartha namely "Chethanhally D Estate" by an amount of Rs. 4,87,500/- and Rs. 11,37,500/- respectively. The narration to impugned journal entries reads "**(Ankith) towards interest on Rs. 1.5 crore from April 2017 to June" and "(Rachet) towards interest on Rs. 3.5 crores from April to June 2017"**. Accordingly, Shri Javed Parveez was asked to explain the same to which he replied that cash amounting to Rs. 5 crores were received around 2 years ago at Chikmagalur office on the instruction of head office on which interest was paid in cash out of self-withdrawal.

31.2 Further, during the search at the residence of Shri Javeed Parvez, a register was found and seized marked as annexure A/S/JP/07. On the top of page 37 of the seized register, the name of Shri Rachet was written and under the head rachet several entries were recorded suggesting receipts and payment of interest on such register for different periods. As per the impugned page, an amount of Rs. 1,50,00,000=00, 50,00,000=00 and 50,00,000=00 was received as on 29-05-2014, 25-06-2014 and 01-07-2015. Below to that it was noted interest was paid in following manner:

Date	Particular	Amount
16-01-2015	Interest paid up to 31-12-2014	14,90,550=00
01-07-2015	Interest paid up to 30-06-2015	13,00,000=00
05-10-2015	Interest paid up to 30-09-2015	8,12,500=00

31.3 Likewise, on the top of page 39 of impugned register, the name of Shri Ankith was written and below to the head note it was mentioned the amount of Rs. 1,10,00,000=00 and Rs. 40,00,000=00 was received on 27-12-2014 and 02-05-2015. Further, there was noted details of interest payment which are as follows:

Date	Particular	Amount
02-07-2015	Interest paid up to 30-06-2015	8,08,850=00
05-10-2015	Interest paid up to 30-09-2015	4,87,500=00

31.4 The seized register and the statement of Shri Javeed Parveez was confronted to the assessee, late Shri VG Siddhartha while recording his statement under section 132(4) of the Act, to which he agreed to offer an additional income in the A.Y. 2015-16 for Rs. 5.7 crores on account of cash loan from Smt. Nivedithakka, Shri Ankith and Shri Ratchet and an amount of Rs. 1.15 crores on account of interest paid to them in the A.Y 2015-16.

31.5 Subsequently, the proceedings under section 153A of the Act were initiated and the assessee filed return of income under section 153A of the Act wherein the assessee late Shri VG Siddhartha offered additional income on account of cash loan from Smt. Nivedithakka for Rs. 70 lakhs only. In the case of other parties, the assessee failed to offer income of Rs. 5 crores as admitted against the receipt of cash from Shri Ankit and Shri Ratchet. Likewise, the assessee also did not offer the income on account of payment of interest for Rs. 1.15 crores.

31.6 The AO from the seized material (being page 37 & 39 of annexure A/S/JP/07, Advance-1 ledger, statements etc) observed that the interest in cash paid to Shri Ankith, Shri Rachit and Smt. Niveditha in cash over the period of A.Y. 2015-16 to 2018-19 which are detailed as below:

Name	A.Y.	Interest	Total
Ankith	2016-17	17,83,850	47,08,850
	2017-18	14,62,500	
	2018-19	14,62,500	
Rachit	2015-16	14,90,550	1,03,30,150
	2016-17	29,25,500	
	2017-18	25,01,600	
	2018-19	34,12,500	
Niveditha	2016-17	8,36,740	8,36,740

31.7 The AO, in view of the above, proposed to make addition on account of cash loan of Rs. 5 crores and payment of interest in cash to the respective assessment years.

31.8 The assessee submitted that an admission of ₹5.75 crores as unexplained investment for the Assessment Year (A.Y.) 2015–16 had been made in response to a query. However, upon review, it was found that the actual amount admitted should have been ₹5.70 crores, and the higher figure was a result of an arithmetical error. The assessee pointed out that out of the total sum of ₹5.70 crores, ₹70 lakhs pertain to a cash loan received from Mrs. Nivedithakka, while the transaction was genuine, but the assessee preferred not to involve Mrs. Nivedithakka in the proceedings and, to maintain peace with the department, therefore, he voluntarily offered the sum of ₹70 lakhs as undisclosed income for the said year. This amount was accordingly declared in the return filed in response to the notice issued under section 153A of the Income Tax Act, and there was no dispute concerning this position.

31.9 As regards the remaining amount of ₹5 crores, the assessee explained that the amount was not received as a loan, contrary to what was initially admitted during the search proceedings under section 132(4) of the Act. This misunderstanding arose from statements made by Mr. Javeed, an employee, who had inadvertently mentioned that the amounts were received from individuals named Mr. Ankith and Mr. Racheth. These statements were given without cross-verifying with the actual books of accounts maintained at the head office and branch office of M/s MACEL. Unfortunately, late Sri V.G. Siddhartha, during the search, confirmed the statement made by Mr. Javeed, again without verifying the records. The assessee clarified that these transactions were actually internal fund transfers from the head office to the Chikmagalur branch of M/s MACEL, and the amounts were duly recorded in the regular books of accounts.

31.10 It was further submitted that these amounts were transferred from the head office to the branch office out of the cash balances available and were deposited into the Corporation Bank account of M/s MACEL either on the same day or the day immediately following the cash movement. The ledger records and cash book entries corroborating these transactions were enclosed along with the explanation. Moreover, the credits to the bank accounts reflected the internal nature of these transactions and not any loans received from third parties. The assessee emphasized that M/s MACEL had maintained complete and regular books of accounts, and the sources for the credits were fully explainable and documented.

31.11 Another significant point raised by the assessee was that these cash transactions spanned multiple financial years, namely A.Ys. 2015–16, 2016–17, and 2017–18. Therefore, even if considered, the entire sum of ₹5 crores could not be brought to tax exclusively in assessment year 2015–16. Furthermore, since the transactions were recorded in the books of M/s MACEL, the assessee contended that they could not be subjected to assessment in the individual case of late Sri V.G. Siddhartha. The assessee reiterated that the original declaration of ₹5 crores was made under a mistaken understanding and undue pressure during the search, and was based solely on the unverified statements of an employee. As the underlying transactions were explained and supported by records, the assessee argued that they should not be taxed merely on the basis of such statements.

31.12 In conclusion, the assessee maintained that only ₹70 lakhs had been rightfully offered as undisclosed income in the return filed in response to the notice under section 153A of the Act, and the balance ₹5 crores should be excluded from the assessment. The assessee requested the AO to consider the detailed explanations and the documentary evidence submitted, and accordingly exclude ₹5 crores from the income wrongly admitted during the search under section 132(4) of the Act.

31.13 Regarding the proposed addition on account of alleged payment of interest, the assessee submitted a detailed argument refuting the declaration of ₹1,15,00,000 as undisclosed income. The assessee clarifies that the reference to this amount arises from statements made under Q. No. 60, 41, and 43 of Mr. Javeed Parveez deposition dated

23.09.2017, which alleges that interest payments were made to three individuals: Ankit, Racheth, and Niveditha in the following manner:

Ankit	Amount	Asst. Year
04.01.2016	4,87,500	2016-17
13.04.2016	4,87,500	2016-17
06.07.2016	4,87,500	2017-18
13.10.2016	4,87,500	2017-18
31.05.2017	9,75,000	2018-19
03.08.2017	4,87,500	2018-19
Total	34,12,500	

Rachet	Amount	Asst. Year
05.10.2015	8,12,500	2016-17
13.04.2016	8,12,500	2016-17
06.07.2016	8,12,500	2017-18
20.10.2016	8,76,600	2017-18
08.06.2017	22,75,000	2018-19
11.08.2017	11,37,500	2018-19
Total	75,39,100	

Niveditha	Amount	Asst. Year
05.10.2015	2,39,200	2016-17
16.04.2016	5,86,200	2016-17
08.12.2015	11,340	2016-17
Total	8,36,740	

31.14 The assessee contends that these payments were not interest payments as alleged, but were sourced directly through withdrawals via self-cheques from Corporation Bank account No. 898 of M/s. MACEL. The payments were recorded in the books of M/s MACEL and were

reflected as receivables from the proprietary concern of Chethanaldi 'D' Estate belonging to late Sri V.G. Siddhartha. Since these payments were through official banking channels and duly recorded in the books, no income can be deemed to have arisen outside the books or classified as undisclosed.

31.15 Furthermore, the assessee reiterated that there was no loan taken from Mr. Ankith or Mr. Racheth. The transactions in their names merely reflect inter-office fund transfers from the head office in Bangalore to the Chikmagalur branch which were duly recorded in the books of MACEL. As there is no existence of loans, the question of interest payments to these individuals does not arise. The alleged declaration of ₹1.15 crore as interest payment appears having been misunderstood or misreading of the seized materials by Mr. Javeed Parveez, who gave statements based on memory without corroboration from the accounting records. Late Sri V.G. Siddhartha, relying on those unverified statements, appears to have admitted the declaration, which the assessee now retracts upon verification.

31.16 It is also highlighted that three of the cited payments were passed as journal entries, while the remaining were direct cash withdrawals made through self-cheques. Since no interest expenditure has been claimed by M/s MACEL or late Sri V.G. Siddhartha, the assessee argues that disallowance of such notional interest payments cannot be construed as income. Therefore, the declaration of ₹1.15 crore as undisclosed income was erroneous and is not offered to tax in the return filed in response to the notice issued under section 153A of the Act for the A.Y. 2015–16.

31.17 In conclusion, the assessee contends that there is no taxable income arising from these transactions and the deviation from the earlier admission is justified based on verified accounting records, absence of actual loan or interest payments, and proper source of funds.

31.18 However, the AO evaluated the submissions made by the assessee and found them to be unacceptable for several reasons. It was observed that there was no formal retraction was filed by Late Shri V.G. Siddhartha during or post-search proceedings. The assessee stated that the cash in question was part of general fund transfers from the Head Office to the Chikmagalore branch, but this was not substantiated with sufficient evidence. The AO highlighted that the names Ankith and Racheth were not identified in any ledger accounts, and this raised questions about the authenticity of the transactions.

31.19 Ledger copies from MACEL between April 2016 and September 2017 showed entries narrating interest payments to Ankith and Rachith, indicating loans and not mere fund transfers. These entries include for Rs. 1.5 crore representing loan from Ankith and Rs. 2.5 crore from Rachith with a subsequent loan entry of Rs. 1 crore addition on 08.06.2017, with narration explicitly mentioning Rs. 3.5 crores. These entries contradicted the assessee's narrative of routine cash transfers. Further, the AO pointed out discrepancies in the tabulation of dates between Head Office and branch office books, which were inconsistent with the assessee's claim of synchronized cash movement. It was also observed that the assessee failed to explain the roles of Ankith and

Rachith in the coffee day group or provide evidence for their involvement in cash transportation.

31.20 Moreover, Shri Javeed Parveez's statement under question No. 43 indicated that Rs. 5 crores had been received in cash in two years prior on the instructions from the head office and deposited into MACEL's Corporation Bank account. He confirmed that interest was paid in cash after self-cheque withdrawals. The AO noted that Late Shri V.G. Siddhartha, in his sworn statement, confirmed these facts and voluntarily agreed to offer the sum of Rs. 5 crores on account of loan and Rs. 1.15 crore on account payment of interest as undisclosed income, as he could not substantiate the genuineness of the transactions.

31.21 The AO found that it was clearly established that unaccounted cash transactions had taken place with individuals namely Ankith, Racheth, and Niveditha. These transactions involved interest payments and cash loans, and the assessee himself admitting to an unaccounted loan in Niveditha's case. Despite the assessee's claims that there were no loans from Ankith and Racheth and that payments were mere internal transfers recorded in MACEL's books, but no proper documentation was submitted to establish these transactions as genuine business movements.

31.22 The AO highlighted inconsistencies in the assessee's explanation regarding the source and purpose of cash withdrawals from Corporation Bank account No. 898. While the assessee argued these were accounted for via journal entries and treated as receivables in MACEL's books, it was revealed that these entries were not recorded as payments to

Ankith, Racheth, or Niveditha. The assessee had only provided debit entries in Chetanahalli D Estate's ledger, failing to link them directly to the cash payments, thus not satisfactorily discharging the burden of proof. Furthermore, Shri Javeed, whose statement formed a key part of the evidence, admitted that the payments were cash withdrawals by self-cheque, without providing clarity on when and to whom they were paid.

31.23 The AO also noted that the payments to Ankith and Racheth were fixed sums disbursed at regular intervals, indicating interest payments rather than operational cash flows. This undermined the assessee's claim that the transactions were mere fund transfers. A detailed chart of interest payments spread across multiple assessment years was provided, showing significant sums paid to all three individuals.

31.24 Based on the materials available, the AO concluded that the transactions represent unaccounted income liable to be taxed under section 69A and 69C of the Income Tax Act. A comprehensive tabulation of the amounts across assessment years was provided. In total, Rs. 4 crore and Rs. 1 on account of loan from Shri Ankit and Shri Rachit added to the total income of the assessee for A.Ys. 2015-16 and 2018-19 respectively. Furthermore, addition on account of payment of interest was made for Rs. 1,29,90,550/- in A.Y. 2015-16 being Rs. 14,90,550/- paid to Rachet and Rs. 1.15 crore as cash loan as admitted by late Shri VG Sidhartha.

31.25 In addition to the above, an addition on account of payment of interest to Ankith, Rachit and Niveditha was also made in A.Ys. 2016-17 to 2018-19 as provided in the table in preceding paragraph.

31.26 All the above additions were made on account of cash loans and payment of interest as made in the hand of present assessee and also made in hands of M/s MACEL on protective basis in the relevant assessment years.

32. Aggrieved assessee preferred an appeal before the Id. CIT-A, the assessee before the learned CIT(A) made similar argument as made before the AO.

32.1 The learned CIT(A) after considering the facts in totality confirmed the addition made in respect of receipt of cash loan from Shri Ankith and Rachet, however deleted the addition made on account of payment of interest to them. The relevant observations of learned CIT(A) read as under:

7.3 The submissions filed by the appellants, the assessment order and the facts of the case has been duly perused. It is noticed that substantive addition is made in respect of unaccounted cash loan and interest transactions in the case of late Shri. V G Siddhartha and protective addition in case of MACEL. The appellants have not explained the sources of cash amount of Rs 2.5 crores received from Racheth and Rs. 1.5 crores received from Ankit on which interest is shown to be paid of Rs. 8.12 lac and Rs. 4.87 lacs respectively as per entry dated 6.7.2016 in the ledger reproduced in assessment order, whereas in the other entries in the ledger it is clearly stated that interest is being paid to shareholders in Kumergode estates. Racheth and Ankit are not shareholders in Kumergode estates, and therefore as per the narration the amount of Rs. 2.5 crores and Rs. 1.5 crores (for AY 2015-16) stands unexplained. Appellants has failed to submit any cogent reason for linking the cash transactions with Racheth and Ankit to the transactions with shareholders in Kumergode estates. It is also noted by the AO that appellants has failed to prove the role and responsibility of Ankit and Racheth in the Coffee Day Group and why these persons were carrying cash. The submission of the appellants relying on

transactions recorded by Javed stating that cash withdrawal from head office and deposit in branch office on different dates has been rejected by AO in para 12.6 of the order wherein detailed analysis of the submission of the appellants has been made and the addition made by the AO is on the basis of the amount appearing in ledger reproduced in the assessment order. Further in para 12.6 of the assessment order, AO has pointed out discrepancies in submission of the appellants and hence the addition of Rs. 2.5 Crores and Rs. 1.5 crores in respect of cash loan transaction with Ankit and racheth are sustained for AY 2015-16 u/s 69A of the Act. The additions are here by confirmed substantively in the hands of the appellants.

7.3.1 *Similarly, following the above discussion, the substantive addition in respect of unaccounted cash loan transaction with Ankit and Racheth of Rs. 1 cr for the AY 2018-19 are sustained.*

7.3.2 *Considering the above, the grounds of appeal no 9 to 11 and 7 to 9, for AY 2015-16 and AY 2018-19, respectively are dismissed.*

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In respect of interest payments and amounts paid in cash of Rs. 1,15,00,000/- admitted by the Shri V.G. Siddhartha, it is noticed that the additions have been made twice on one issue, which is sources of interest payment made. It is apparent from the submission of the appellants that the amount of Rs. 1,15,00,000/- is an albedo consolidated amount of all the transactions put together and therefore the addition of such amount is deleted.

Further, it is also noticed that with regard to interest payment made to Ankit and Racheth, the amount is reflected in books of MACEL and Chembanhalli D estate, therefore source stands explained. Once the appellants have discharged the onus cast upon them through proper explanation with supporting documents (details of withdrawal of MACEL), the source has been therefore proved and thereafter duty is cast upon the AO, to contest the claims of the appellants, which has not been carried out in a cogent manner. The AO nowhere in the order has contested the submissions of the appellants on the source of interest payments and has not brought any material on record nor has drawn any adverse inference with respect to the cash withdrawal from MACEL. Unless it is proved that such withdrawals have been used for some other purpose, the same is presumed to available for making the interest payments.

7.4.1 *Therefore, additions made u/s 69A (towards interest payments made in respect of loan transactions) with Ankit, Racheth and Nivedita for the AYs 2015-16 to 2018-19 are deleted in case of the appellants.*

7.4.2 *Considering the above, Grounds of appeal no 12 to 18, Grounds of appeal no 7 to 10, Grounds of appeal no 10 to 13, and Grounds of appeal no 10 to 16 respectively for AYs 2015-16 to 2018-19 are allowed.*

33. Being aggrieved by the order of Id. CIT-A, both the assessee and the revenue are in appeal before us. The assessee is appeal against the confirmation of the addition in respect of alleged cash loan from Shri Ankit and Shri Rachit whereas the revenue is in appeal against the

deletion of addition made on account of payment of interest on the alleged cash loan.

34. The learned AR before us argued that the addition of ₹4,00,00,000/- was wrongly made by the AO and confirmed by the learned CIT(A). He explained that there were no loans from Mr. Rachith or Mr. Ankith in the appellant's books to justify this addition under section 68 of the Act. Instead, the cash movements were simply transfers from the head office of M/s. MACEL in Bangalore to its branch office at Chikkamagaluru, carried physically by Mr. Ankith and Mr. Rachith. These transactions were properly recorded in both the head office and branch office books of MACEL, which is an independent company assessed separately for tax.

34.1 The learned AR claimed that the addition was made only based on statements from Mr. Javeed Parveez, an employee, and late Sri V.G. Siddhartha under section 132(4) without verifying the actual books of accounts and bank statements. Even after Mr. Siddhartha retracted his statement, the authorities did not reconsider the evidence. The learned AR stressed that since the sources were properly explained, no unexplained income or loans existed in the hands of the appellant. He emphasized that the authorities should have appreciated the facts and evidence rather than relying solely on retracted statements, as no corroborative evidence supported the addition.

35. On the other hand, the Id. DR before us reiterated the contentions raised in the order of lower authorities. Both the Id. AR and

DR vehemently supported the order of the authorities below as favourable to them.

36. We have heard the rival contentions of both the parties and perused the materials available on record. It is an admitted fact that certain documents relating to financial transactions were found during the search, including a register and ledger entries indicating cash receipts and interest payments. However, a critical piece of evidence arises from the statement of Shri Javed Parveez (employee and manager in the assessee group) under section 132(4) of the Act, where he clearly stated in response to Question No. 43 that the cash of ₹5 crores was received from the head office and deposited into the Corporation Bank account of M/s. Mysore Amalgamated Coffee Estate Ltd. (MACEL).

36.1 Notably, this statement has not been rebutted or controverted by the revenue at any stage. The assessee has further corroborated this explanation by submitting accounting records from MACEL demonstrating that the transactions were internal cash transfers between the head office and the Chikmagalur branch, and were duly accounted for in MACEL's books.

36.2 Therefore, the financial transactions forming the crux of the dispute—being cash movements and alleged interest payments—pertain squarely to MACEL and not to the individual assessee, Late Shri V.G. Siddhartha. The use of Shri Siddhartha's statement—given under presumed duress during a search and based on the unverified remarks of an employee—cannot alone be a conclusive basis for sustaining the addition. As such, the admissions made during search proceedings, especially when based on statements of employees and made without

verification of accounting records, cannot be solely relied upon to justify additions, particularly where the transactions are later clarified and appropriately explained. Furthermore, the protective additions made in MACEL's hands further reinforce that the real entity responsible for the questioned transactions is MACEL, not the assessee. Accordingly, we hold that the addition of ₹5 crores cannot be made in the hands of the assessee, as the transactions relate to MACEL, and there is no evidence proving otherwise.

36.3 Similarly, the interest payments allegedly made to Shri Ankith and Shri Rachit are claimed to have been made out of cash withdrawn from MACEL's bank account through self-cheques. The assessee has clearly explained that these transactions were accounted for in MACEL's books and not claimed as expenses by the assessee.

36.4 Furthermore, the entries in question—made as journal debits to the proprietary concern of the assessee (Chethanhally D Estate)—represent subsequent internal adjustments within MACEL's accounts and cannot establish the existence of actual third-party loans. The mere presence of such journal entries does not establish a link between the cash withdrawals and any benefit accrued to the individual assessee. In the absence of a direct nexus between the alleged interest payments and the individual, the onus lies on MACEL to explain the nature and source of these entries, not the assessee.

36.5 As such, we find no justifiable ground to sustain the addition on account of interest in the hands of the assessee. The Id. CIT(A) has rightly deleted these additions, and we find no reason to interfere with that conclusion. Hence, the grounds of appeal of the assessee are allowed whereas the grounds of appeal of the Revenue are dismissed.

37. The next issue raised by the assessee through ground Nos. 8 & 9 of the appeal is that the learned CIT(A) erred in confirming the disallowance representing the capital loss of Rs. 59,40,45,851/- only.

37.1 The relevant facts are that during the search proceeding under section 132 of the Act, on perusal of assessee's income tax return for the year under consideration, it was found that the assessee late Shri V.G. Siddhartha has claimed long-term and short-term capital loss of Rs. 21,97,52,425/- and Rs. 37,42,93,426/- respectively on account of redemption of debenture of M/s Kesar Marbles & Granites Ltd. The search team also noticed that the one Shri Nitin Bagamane who holds majority shares and director in M/s Kesar Marbles & Granite Ltd is also one of director in M/s Tanglin Development Ltd which was one of the main companies of assessee late Shri V.G. Siddhartha. Accordingly, the search team was of the view that M/s Kesar Marbles & Granites Ltd. was a close associate of the assessee, which suggests the possibility of artificial loss booking. Accordingly, a question was posed to the assessee late Shri V.G. Siddhartha regarding the genuineness of claim of impugned capital loss while recording his statement under section 132(4) of the Act. The assessee in reply agreed to offer income on account of impugned claim of capital loss of Rs. 59,40,45,851/- (Rs. 21,97,52,425/- + Rs. 37,42,93,426/-).

37.2 However, the assessee, while filing the return of income in response to the notice issued under section 153A of the Act, did not offer/disallow the claim of the impugned capital loss.

37.3 During the assessment proceeding, the legal heir of the assessee explained that M/s Kesar Marbles & Granites Ltd, as on 28th March 2007, issued fully convertible debenture of Rs. 129,84,00,000/- to M/s Lehman Brothers, a USA based global financial service firm/investment banker. The debentures were due for conversion into preference shares on or before 30th June 2009. Before the due date of conversion, M/s Lehman Brothers announced its intention to file petition under US Bankruptcy code. Therefore, the debenture was not converted into preference share and an arrangement was made between late Shri V.G. Siddhartha and M/s Lehman Brothers through agreement dated 19th February 2010. As per the agreement late Shri V.G. Siddhartha agreed to purchase the debenture held by M/s Lehman Brothers in phased manner starting from March 2010 to August 2013 for a consideration of Rs. 189,24,45,851/- only. The payment for purchase of debenture to M/s Lehman Brothers was made through banking channel in the form of foreign remittance after obtaining necessary approval from RBI. Therefore, the genuineness of the purchase/investment in the said debenture cannot be doubted. The said debenture redeemed during the year under consideration at the face value of Rs. 129,84,00,000/- and in this process, the assessee incurred short term & long-term capital loss of Rs. 59,40,45,851/- only. Hence the claim of capital loss on account of redemption of debenture of M/s Kesar Marbles & Granites Ltd is genuine loss. The assessee regarding the accrual of interest on the said debenture at 13.75%, submitted that the impugned interest receivable from group company was waived off.

37.4 The AO observed that the assessee has not provided any documents substantiating why the assessee had purchased debentures

of M/s Kesar Marbles & Granites Ltd. from Lehman Brothers for Rs. 1,89,24,45,851/-, which were subsequently redeemed by the related party/ entity M/s Kesar Marbles & Granites Ltd. at a much lower value of Rs. 1,29,84,00,000/-, resulting in a substantial capital loss. It was noted that the entity i.e. M/s Kesar Marbles & Granites Ltd. was closely connected with the assessee, and no proper documentary evidence or independent valuation was furnished to justify the steep loss. The transaction lacked business rationale and appeared to be structured solely to create artificial capital losses for the purpose of setting off against future capital gains. The AO also pointed out that as per the original debenture purchase agreement, the holder of debentures was entitled to a coupon payment at 13.75%. However, no such coupon or interest income was realized or considered at the time of redemption. The assessee's claim that waiver of interest was based on an informal agreement was found to be unsubstantiated and treated as a colourable device to forgo the income and artificially inflate the loss. The AO referring to the judgment of Hon'ble Supreme court in the case of McDowell & Co reported in 154 ITR 148, in the case of Sumati Dayal reported in 80 Taxman 89, in the case of Durga Paras More reported in 82 ITR 540 and the judgment various High Courts concluded that the transaction was devoid of any commercial substance and amounted to a sham intended to evade taxes. Consequently, the loss claimed by the assessee on account of debenture redemption was held to be non-genuine and liable to be disregarded. Hence, the AO disallowed the above loss claimed by the assessee.

38. The aggrieved assessee preferred an appeal before the learned CIT(A).

39. The learned CIT(A) dismissed the ground of appeal of the assessee and confirmed the disallowance made by the AO by holding that the assessment order is very well reasoned and based on relevant case laws. Hence, the order of the AO does not require any interference.

40. Being aggrieved by the order of the learned CIT(A), the assessee is in appeal before us.

41. The learned AR before us submitted that the Late Shri V.G. Siddhartha, had made genuine investments amounting to Rs. 189,24,45,851/- in fully convertible debentures of M/s Kesar Marbles & Granites Ltd. This investment was made over several years, from 2010 to 2014, and was properly recorded in the books of accounts and reflected in the financial statements.

41.2 During the financial year relevant to Assessment Year (A.Y.) 2015-16, these debentures were redeemed for a consideration of Rs. 129,84,00,000, which led to a net capital loss of Rs. 59,40,45,851/-. The appellant classified this as both long-term and short-term capital loss, depending on the holding period of the debentures. Importantly, as per the law, no indexation was claimed in computing the long-term capital loss.

41.3 The learned AR pointed out that although during the course of search proceedings, a statement under section 132(4) of the Act was recorded from late Sri V.G. Siddhartha, in which he agreed to withdraw the claim of this capital loss, this statement was later retracted. Upon

verification of the relevant books of accounts and supporting documents, it was clear that the transactions were genuine and that the capital loss was real and allowable. Therefore, the appellant, in the return filed under section 153A of the Act, correctly claimed the capital loss.

41.4 Despite detailed explanations and production of supporting evidence during the assessment proceedings, the AO chose to disallow the entire capital loss purely on the basis of the earlier statement made under section 132(4) of the Act, ignoring the later retraction and the factual documentation provided. Furthermore, the learned CIT(A), without properly appreciating the detailed explanations and submissions, confirmed the AO's disallowance.

41.5 The learned AR argues that all payments for the acquisition of debentures were made through legitimate banking channels to a foreign entity, M/s Lehman Brothers, after obtaining the required RBI approvals. The transactions were part of regular business dealings, properly accounted for, and there was no evidence of them being sham or fabricated.

41.6 The AR also emphasizes that the case laws cited by the AO and learned CIT(A) such as McDowell & Co. vs. CTO 154 ITR 148, Premier Synthetics 208 taxman 195(Mad), Smt. Sumathi Dayal 80 taxman 89 (SC), and others are not relevant to the appellant's case because those decisions relate to situations involving tax avoidance schemes, colorable devices, or related party transactions. Here, the transactions involved independent third parties (Sri V.G. Siddhartha and Lehman Brothers), and thus the cited legal principles do not apply.

41.7 Importantly, the learned AR highlights the settled legal position that no addition can be made solely on the basis of a statement recorded under section 132(4) of the Act unless it is supported by corroborative evidence. In this case, no incriminating material was seized or found during the search to challenge the genuineness of the capital loss. Therefore, the disallowance made by the AO and upheld by the learned CIT(A) was both factually and legally incorrect.

41.8 In conclusion, the learned AR respectfully requests us to carefully consider the genuine nature of the investment and the losses suffered, the complete evidence placed on record, and the legal principles applicable to such cases, and accordingly request to allow long-term capital loss of Rs. 59,40,45,851 as per the provisions of the Act.

42. On the other hand, the learned DR before us submitted that the assessee has accounted the impugned loss by carrying out the transaction with the closed group of companies. Therefore, the same does not represent a genuine loss as claimed by the assessee. The Id. DR Vehemently reiterated the findings contained in the order of the lower authorities.

43. We have heard the rival contentions of both the parties and perused the materials available on record. The main issue in this case is the assessee's claim of capital loss of Rs. 59,40,45,851 arising from the redemption of debentures of M/s Kesar Marbles & Granites Ltd.

43.1 It is not in dispute that late Shri V.G. Siddhartha acquired fully convertible debentures from M/s Lehman Brothers, a well-known foreign financial services firm, for a total consideration of Rs. 189,24,45,851/-, using proper banking channels with RBI approvals. These debentures were later redeemed at a value of Rs. 129,84,00,000, resulting in the reported capital loss. The investment, redemption, and resulting loss were all properly recorded in the books and reflected in the assessee's tax return.

43.2 We note that the department has largely relied on the initial statement made under section 132(4) of the Act during the search, where the assessee appeared to admit that the capital loss claim would be withdrawn. However, the assessee later retracted this statement and provided detailed explanations, supported by agreements, books of account, and payment records, showing that the transactions were genuine and driven by business considerations, especially given Lehman Brothers' bankruptcy situation.

43.3 Regarding the waiver of interest, we note that although the original debenture terms included a 13.75% coupon (interest), the parties mutually agreed to waive the interest. Importantly, it has been brought on record that the corresponding party, M/s Kesar Marbles & Granites Ltd., did not claim the interest as an expense in their accounts. This establishes that there was no double benefit or tax avoidance on either side, and the waiver of interest was a genuine commercial arrangement, not a sham or colorable device.

43.4 We also address the argument raised by the department that the transaction lacked “business expediency” or commercial substance. It is a well-settled legal principle that the revenue authorities cannot sit in the chair of the businessman and decide what is or is not an appropriate business decision. Whether to invest, what risks to take, or how to structure a transaction is the prerogative of the assessee, not the tax department. What may seem like a loss-making or unwise transaction to one person may appear as a strategic business opportunity to another. The department’s role is to examine whether the transaction is genuine and lawful, not to substitute its judgment for that of the businessman regarding commercial wisdom.

43.5 In this case, the department has not produced any concrete material or evidence to prove that the debenture purchase and subsequent loss were sham or fabricated. The transactions involved independent third parties, were conducted through legal banking routes, and were duly documented and accounted for. Simply because the assessee incurred a loss does not mean the transaction was not genuine or that it lacked business purpose.

43.6 It is also important to note that a mere statement under section 132(4) of the Act is not enough to sustain an addition or disallowance unless it is supported by independent and corroborative evidence. In the present case, no such supporting evidence has been provided. Moreover, there is also no allegation by the revenue suggesting that such loss was set off against the income of the assessee in the year under consideration or subsequent assessment year.

43.7 In view of all these facts and the settled legal position, we hold that the assessee's claim of capital loss is genuine and allowable under the law. The waiver of interest does not attract disallowance since the corresponding party has not claimed it as an expense. Moreover, the department cannot question the assessee's business judgment or commercial decisions. We, therefore, set aside the orders of the learned CIT(A) and direct the AO to allow the claimed capital loss of Rs. 59,40,45,851 as per law. Hence the ground of appeal of the assessee is hereby allowed.

44. The next issue raised by the assessee through ground Nos. 10 to 15 pertains to the addition made under section 68 of the Act for Rs. 4,59,00,000/- by treating the unsecured loan as unexplained cash credit.

45. The necessary facts are that the AO during the assessment proceedings under section 153A r.w.s. 143(3) of the Act noticed that the assessee during the year has received unsecured loans from several parties. Accordingly, the assessee was required to produce the confirmation of the loan creditors. However, the assessee failed to provide confirmations from certain parties against the loan aggregating to Rs. 5,27,00,000/- only. The details of the parties and the amounts of respective loans are available on page 63 of the assessment order. Therefore, the AO treated the impugned loan credit of Rs. 5,27,00,000/- as unexplained cash credit as provided under section 68 of the Act and added to the total income of the assessee.

46. The aggrieved assessee preferred an appeal before the learned CIT(A).

46.1 Before the learned CIT(A), the assessee submitted that the year under consideration is an unabated assessment year as the time limit to issue notice 143(2) of the Act of the Act was already expired on 30th September 2016 whereas search was carried out on 21st September 2017. It was argued that in the proceedings under section 153A of the Act, if a year falls under the category of unabated/completed assessment, no addition to the total income can be made in absence of incriminating material. The assessee argued that as far as the issue of unsecured loan is concerned, which duly disclosed in the books of accounts and during the course of search proceeding, no material of whatsoever was found in relation to impugned unsecured loan. Therefore, the addition made in the given facts and circumstances in the absence of incriminating material was not sustainable and required to be deleted. The assessee in support relied on various case laws including the judgment of Hon'ble Supreme Court in the case of PCIT vs. Abhisar Buildwell (P.) Ltd reported in 149 taxmann.com 399.

46.2 On merit the assessee submitted that during the assessment proceedings, the name and PAN of all the loan creditors under dispute were provided to the AO except the confirmation letter due to short time. The transaction was carried out through the banking channel and very much identifiable. The assessee before the learned CIT(A) further submitted additional evidence in the form of complete address of the creditors, PAN, ledger account showing the repayment detail and mode of repayment and settlement agreement with creditors.

47. The submission of the assessee along with the additional evidence was forwarded to the AO for the remand report. The AO in the remand report submitted that there were incriminating materials found during the course of search evidencing that the assessee was indulged in unaccounted cash transactions. Based on such documents, the assessee has admitted additional income. Further the additional evidence submitted includes detail of the person from whom the loan was claimed to be received, PAN of some of the lenders, extract of ledger copy from the assessee's book and settlement agreement. However, none of these documents satisfactorily explained the identity, creditworthiness and genuineness of the loan transaction in relation to which the addition was made. The extract of ledger account is from the assessee's books of accounts only, hence the same does not constitute independent evidence to substantiate the genuineness of the transaction. Likewise, the settlement agreement cannot prove the credibility to the cash credit. The AO further submitted that the assessee has claimed that the transaction was carried through banking channel however no bank account was submitted to verify the claim. Even assuming, the transaction was carried out through banking channel, but it does not absolve the assessee for discharging its burden of proving the identity, credit worthiness and genuineness of the transaction.

48. The learned CIT(A) after considering the facts in totality rejected the assessee's legal argument by observing that, though the year under consideration falls under unabated/completed assessment category, but, there were incriminating materials found during the search in relation to the year under consideration and based on the same, the addition was also made to the total income of the assessee, though such incriminating

material was not in connection with the impugned loan transaction. The learned CIT(A) based on the Hon'ble Supreme Court's ruling in PCIT vs. Abhisar Buildwell (P.) Ltd (supra) held that the AO can assess the total income of the unabated/completed assessment after considering the incriminating material as well as other materials available with the AO including income declared in the return of income. In the present case, the AO has made additions to the total income based on incriminating materials and additionally made addition of unexplained loan credit based on other materials available with the AO including income declared in the return. Accordingly, the learned CIT(A) dismissed the assessee's argument that no addition can be made in the absence of incriminating materials in the case of unabated/completed assessment.

48.1 On the merit of the addition made by the AO, the learned CIT(A) noted that the additional evidence submitted was mainly confirmation letters from the parties who gave loans and settlement agreements where amounts were reduced. Some of these could not be provided earlier because the Shri V.G. Siddhartha, passed away during the assessment. The CIT(A) found there was a valid reason for the delay and admitted the additional evidence.

48.2 The learned CIT(A) also pointed out that while the AO accepted some confirmation statements during the assessment, in the remand report, the AO dismissed the additional evidence without doing proper checks or pointing out specific flaws.

48.3 The learned CIT(A) found that the additional evidence provided complete details, like names, addresses, PAN, amount repaid, repayment

dates, and settlement agreements in each case. Accordingly, the learned CIT(A) was of the view that loan accepted by the assessee are genuine as some of the loan amount repaid in full and in some case. However, the learned CIT(A) in case of some of the loan creditor the confirmation is still not furnished.

48.4 Thus, the Id. CIT(A) concluded that the additions made by the AO in respect of those parties from whom proper confirmations and supporting documents were received are not sustainable, and therefore, the additions were deleted to that extent. However, in cases where confirmations or settlement agreements were not furnished despite opportunities, the Id. CIT(A) upheld the additions made by the AO. The Id. CIT(A) also tabulated the details of parties for different assessment years and made clear distinctions based on whether confirmations were provided or not. As per the table, there were 24 individuals from whom unsecured for sum of Rs. 5.27 crore was received out of which the assessee has provided confirmation in case 14 individual from whom loan aggregating to Rs. 68 Lakh was received. Hence the learned CIT(A) deleted the addition to that extent and confirmed the addition for Rs. 4.59 crore.

49. Being aggrieved by the order of the learned CIT(A), both the assessee and the Revenue are in appeals before us. The assessee is appeal before us against the confirmation addition for Rs. 4.59 crore whereas the revenue is in appeal against the deletion addition for Rs. 68 Lakh by accepting the additional evidence in ground No. (v) in ITA No. 2129/Bang/2024.

50. The Learned AR before us submitted that the AO had asked for confirmations of loans totaling to ₹5,27,00,000/-, but due to lack of time and the sudden passing of late Sri V.G. Siddhartha in July 2019, the legal heirs couldn't gather all confirmations before the assessment deadline. Despite this, the AO added the full loan amount to the income, without making further inquiries or considering the genuine nature of the loans, which were through banking channels and recorded properly in the books.

50.1 The learned AR pointed out that during the appellate proceedings, names, addresses, PANs, and even settlement agreements for many creditors were provided, showing the genuineness of the loans. The CIT(A) gave partial relief by allowing ₹68,00,000/- as confirmed, but mistakenly left out the case of Sri Rajesh Kamath, where ₹60,00,000/- was backed by a settlement agreement but no relief was given.

50.2 Furthermore, the learned AR argued that many of the other loans had been fully repaid through banking channels, making separate confirmations unnecessary. The learned AR stressed that no incriminating evidence was found during the search, and the entire addition of ₹4,59,00,000 confirmed by the CIT(A) was factually incorrect.

51. On the other hand, the learned DR before us submitted that there were recovered incriminating documents evidencing the impugned loan entries represent bogus transaction. Both the learned DR and the AR before us vehemently supported the order of the authorities below to the extent favourable to them.

52. We have heard the rival contentions of both the parties and perused the material available on record. From the preceding discussion we note that the assessee during the year under consideration has accepted an unsecured loan from 24 individuals for a sum of Rs. 5.27 crore. The AO treated the entire unsecured loan from these 24 individuals as unexplained credit under section 68 of the Act in the absence of confirmation. subsequently the assessee during appellate proceedings filed certain additional evidence to substantiate the genuineness of the impugned loan credit. The learned CIT(A) based on the same accepted the genuineness of part of loan credit and found confirmation from certain individual from whom sum of Rs. 4.59 crore received still not furnished by the assessee. Hence the learned CIT(A) confirmed the addition to that extent. Those loan creditors in whom respect the addition confirmed are detailed as under:

S. No.	Name	Amount	Status
1	Anand Rao T.N	5 lakh	Paid in full
2	Rajesh Kamath	60 Lakh	Settlement
3	Suchetha HP	40 Lakh	Paid in full
4	B L Kalpana	4 Lakh	Paid in full
5	Vedakumari BP	3 Lakh	Paid in full
6	Shreenthji Enterprises	25 Lakh	Paid in full
7	Ekta Kukreja	50 Lakh	Paid in full
8	Pavana Kishore	2.6 crore	Paid in full
9	Shahsikala HM	10 lakh	Paid in full
10	Preetha MC	2 Lakh	Open

52.1 As far as the revenue's ground of appeal is concerned, we find the learned CIT(A) before accepting the additional evidence provided sufficient opportunity to the AO. However, the AO besides opposing the admittance of additional evidence not pointed out any infirmity in such evidence. Therefore, in our considered opinion the learned CIT(A) rightly admitted such evidence and provided the appropriate relief to the assessee.

52.2 Regarding the remaining loan credits, we note that the learned AR of the assessee before us submitted that amount from these loan creditors were received through banking channels and further except for Rajesh Kamath and Preetha MC, the loan received from the other 8 individuals was repaid in full through banking channels. The learned AR in this respect draws our attention to page 420 to 463 of the paper book where the ledger account, leger confirmation and bank statement are placed showing the loan amount were received through the banking channel and repaid in the year under consideration itself or in the subsequent years. Therefore, we are of the considered opinion that once it is established the unsecured loan was received through banking channel and subsequently repaid through the banking channel, the genuineness of such loan transaction cannot be questioned. In holding so, we draw support and guidance from the judgment of Hon'ble Gujarat High Court in the case of PCIT vs. Ojas Tarmake Pvt Ltd reported in 156 taxmann.com 75 where it was held as under:

3. What is evident is that the Tribunal found on facts that the amount of loan received by the assessee was returned to the loan party during the year itself and all transactions were carried out through banking channel. The ITAT on the decision of CIT v. Rohini Builders [2003] 127 Taxman 523/[2002] 256 ITR 360 (Guj.), held in favour of the assessee.

52.3 In view of the above we hold that addition in respect of loan credit from 8 parties in the above-stated list cannot be sustained in the given facts and circumstances.

52.4 Now coming to receipt of loan of Rs. 60 Lakh from party namely Rajesh Kamath we note from the impugned party the assessee has received Rs. 60 lakh and there were opening balance of Rs. 30 lacs. Hence, a total of Rs. 90 loan was payable to the said party. We find that an amount of Rs. 60 lakh repaid to the said party through banking channel in March 2018 and June 2019 and remaining amount of Rs. 30 lakh transferred in the name of Smt. Malvika Hegde. This fact can be verified from the ledger copy, bank statement, ledger confirmation available at page 425 to 429 of paper book. Thus, considering the facts that loan amount received through banking channel and repaid through banking channel in subsequent years. The genuineness of such credit is established and addition made under section 68 of the Act cannot be sustained.

52.5 Coming to loan amount of Rs. 2 Preetha MC we note that the assessee has already provided name address and PAN of the impugned party. Therefore, considering the facts that the assessee has established the genuineness of almost entire loan credit we hold that assessee has discharged primary onus reading the credit of Rs. 2 lakh from Preetha MC.

52.6 Hence considering the overall material fact we set aside the finding of the learned CIT(A) to the extent of addition confirmed and direct the AO to delete the entire addition. Thus, the ground of appeal

filed by the assessee is allowed whereas the ground of appeal of the revenue is hereby dismissed.

Coming to the issue raised in the additional ground of appeal:

53. At the outset, we note that the issues raised by the assessee in its additional ground of appeal for the AY 2015-16 is identical to the additional ground raised by the assessee in ITA No. 1442/Bang/2024 for the assessment year 2013-14. Therefore, the findings given in ITA No. 1442/Bang/2024 shall also be applicable for the AY 2015-16. The additional ground of appeal of the assessee for the A.Y. 2013-14 has been decided by us vide paragraph No. 12 to 17 of this order against the assessee. The learned AR and the DR also agreed that whatever will be the findings for the assessment year 2013-14 shall also be applied for the assessment year 2015-16. Hence, the issue raised by the assessee in additional ground of appeal is hereby dismissed.

54. In the result, the appeal of the assessee is hereby partly allowed.

Coming to ITA No. 2129/Bang/2024 an appeal by the Revenue in case of legal heir of Late Shri VG Sidhartha represented by Smt. Malvika Hegde for A.Y. 2015-16

55. The first issue raised by the revenue is whether the learned CIT(A) is justified in deleting the unaccounted cash loan from Shri Chiman Lal.

56. The relevant facts are that during the search at the residence as well as at the chamber of the Finance Manager of the assessee group namely Shri K M Deekshith, certain documents/data marked as annexure CCDGLT8/1 were found and seized from his laptop. Shri KM Deekshith while recording his statement, in reply to question 3 and 4 stated that the data maintained in the impugned sized material represents the details of the parties namely Shri Prakash Talreja, Shri Mahesh Ramchand and Shri Chiman Lal, who has given unsecured loan through cheque as well as through cash which he collected on the instruction of Shri V G Siddhartha. Further through question no. 5 he was asked to provide the amount of cash loan taken from the above stated parties and detail of interest paid. In reply he stated that cash loan of Rs. 12.75 crore, Rs. 6.9 crore and Rs. 3 crores (chiman) respectively received from the said parties and interest @ 1.95% per month paid on the same. He stated that the loan amount of 3 crores from Chiman Lal was repaid in full along with the interest in cash.

56.1 The fact was confronted to the Late Shri VG Siddhartha, which he ultimately agreed to offer income of Rs. 22.65 crore (12.75 Cr + 6.9 Cr + 3 Cr) as an unexplained income on account of cash loan transaction with Shri Prakash B Talreja (Rs 12.75 Cr), Shri Mahesh Ramchand (Rs. 6.9 Cr) and Shri Chiman Lal (Rs. 3 Cr). However, in the return filed under section 153A for the year under consideration he only offered an amount of Rs. 20.65 crore which included Rs. 12.75 crore, Rs. 6.9 Crore and Rs. 1 Crore against the receipt of cash loan from Shri Prakash Talreja, Shri Mahesh Ramchand and Shri Chiman Lal respectively. In other words, the assessee offered only an amount of Rs. 1 crore against the loan of Rs. 3 crores from Shri Chiman Lal. Accordingly show cause

notice issued proposing to make addition of Rs. 2 crores on account of loan from Chiman Lal.

56.2 The legal heirs of Shri VG Siddhartha submitted that on verification of books of account it is noticed total of Rs. 3 of unsecured was arranged by the Shri Chiman Lal from different persons out of which an amount of Rs. 2 crore was received through banking channel duly recorded in the books of M/s Sivan & Co (a proprietary concern of VG Sidhartha). Therefore, only cash portion of loan of Rs. 1 crore was offered to tax.

57. However, the AO dismissed the submission of the assessee by holding that Shri KM Deekshith categorically stated that cash loan of Rs. 3 crores received from Chiman Lal was repaid in cash along with interest and the same were not recorded in the books. Further, Late Shri VG Siddhartha confirmed his statement and agreed to offer the loan amount of Rs. 3 as an unexplained income. But now the assessee camouflaging the unaccounted cash transactions with transaction recorded in books. Hence the AO held that the remaining amount of Rs. 2 crore needs to be added as unexplained income under section 69A of the Act. The AO found that seized material suggest transaction were carried out in the A.Y. 2017-18, however the assessee has offered part amount of Rs. 1 crore in the year under consideration i.e. A.Y. 2015-16. Hence the AO added an amount of Rs. 2 crores to the total income of the assessee in the year under consideration on a substantive basis and added an amount of Rs. 3 crores in the A.Y. 2017-18 on a protective basis.

58. The aggrieved assessee preferred an appeal before the learned CIT(A). The assessee before the learned CIT(A) reiterated its submission as made during the assessment proceedings and contended that merely relying on statement, the addition was made which are not sustainable.

58.1 The learned CIT(A) after considering the facts in totality deleted the addition made by observing as under:

6.5.5 However, it is noticed that the AO did not cause enquires after the letter dated 16.9.2019 was filed by the appellants and did not counter the claims made by the appellants except for reiterating the admission u/s 132(4) by Shri V G Siddartha and the employee Shri K M Deekshit. The AO has also not brought any evidence on record to contradict the claims made by the appellants. Further in response to the show cause notice dated 18.11.2019, reply was filed by the appellants dated 2.12.2019, reiterating the stand taken earlier that the entire amount was not taken in cash and a sum of Rs. 1 crore was received in cash and the balance sum was received in cheque. As such, the addition made towards unaccounted cash loan transactions done by the appellants with Shri Chaman Lal is confirmed in respect of Rs. 1 crore declared by the appellants in the return of income filed in response to notice u/s 153A of the Act, whereas the additions of Rs. 2 crores for the AY 2015-16 and the protective addition of Rs. 3 Crore for the AY 2017-18 are deleted.

59. Being aggrieved by the order of the learned CIT(A) the Revenue is in appeal before us.

60. The learned DR before us reiterated the findings contained in the assessment order.

61. On the other hand, the learned AR before us vehemently supported the order of the learned CIT-A.

62. We have heard the rival contentions of both the parties and perused the materials available on record. The main issue relates to the addition of Rs. 2 crores as unaccounted cash loan allegedly received from Shri Chiman Lal, in addition to Rs. 1 crore already offered by the assessee in the return filed under section 153A of the Act. The AO based

this addition primarily on the statements recorded during the search proceedings from Late Shri V. G. Siddhartha and the employee Shri K. M. Deekshith, who mentioned that a loan of Rs. 3 crore was received in cash and repaid along with interest, also in cash.

62.1 However, we note that the legal heirs of Shri V. G. Siddhartha provided a plausible explanation, supported by documentary evidence, that only Rs. 1 crore was received in cash while the balance Rs. 2 crores were routed through banking channels and duly recorded in the books of account of M/s Sivan & Co., a proprietary concern of Shri Siddhartha. These details were submitted in the reply dated 2.12.2019 in response to the show cause notice dated 18.11.2019. The AO did not carry out any further enquiry to verify or disprove the claim. There was no independent corroborative evidence brought on record to counter the explanation of the assessee. Instead, the AO merely reiterated the statements made under section 132(4) of the Act during the search and rejected the explanation without sufficient reasoning.

62.2 It is a settled position of law that statements recorded during search operations, though admissible, cannot form the sole basis for addition unless supported by material evidence. The CBDT, through Instruction No. F. No. 286/2/2003-IT(Inv.) dated 10.03.2003, has categorically directed that no addition should be made merely on the basis of a statement recorded during the course of search and seizure or survey operations, without corroborative evidence. The CBDT emphasized the need for gathering credible evidence during investigation to support such statements.

62.3 Further, judicial precedents have consistently held that additions made solely on the basis of uncorroborated statements are unsustainable in law. In the case of PCIT v. Best Infrastructure (India) Pvt. Ltd. [2017] 397 ITR 82 (Del), the Delhi High Court held that mere admission in a statement without any independent evidence cannot justify addition.

62.4 In the present case, the AO failed to conduct any further inquiry even after receiving a detailed reply supported by records. The AO did not attempt to examine the bank transactions, verify the accounting entries, or summon Shri Chiman Lal to confirm the nature of the transactions. Therefore, the approach of the AO, based solely on unverified and general statements, runs contrary to the settled principles of law.

62.5 Therefore, we concur with the findings of the learned CIT(A) that only the cash component of Rs. 1 crore admitted and disclosed in the return can be brought to tax. The addition of Rs. 2 crores for A.Y. 2015–16 and the protective addition of Rs. 3 crores for A.Y. 2017–18 are not supported by cogent material evidence and are liable to be deleted. Accordingly, we uphold the order of the learned CIT(A) and direct the Ao to delete the addition made by him. Hence, the ground of appeal of the Revenue is hereby dismissed.

63. The next issue raised by the revenue is that the learned CIT(A) erred in deleting the addition of interest paid to Shri Prakash B Talreja in cash.

64. The relevant facts continuing from previous ground of appeal is that Shri KM Deekshith in the statement recorded under section 132(4) of the Act admitted the cash loan of Rs. 12.75 crore received from Shri Prakash B Talreja. He further stated that on the impugned loan interest of Rs. 3 crores per annum for A.Y. 2015-16 to 2017-18 and Rs. 10 lakhs for A.Y. 2018-19 paid through cash.

64.1 The assessee Late Shri VG Siddhartha agreed to offer the amount of Rs. 12.75 crore and finally offered the same. The AO was of the view that the assessee also required to offer the amount of interest paid to Shri Prakash B Talreja as the same was paid through unaccounted cash. Hence, the AO relying on the statement of Shri KM Deekshith made an addition of Rs. 3 crores to the total income of the assessee.

64.2 The aggrieved assessee preferred an appeal before the learned CIT(A) and contended that there was not any material found during the search suggesting the payment of interest made to the Shri Prakash B Talreja. The AO merely relied on the statement of Shri KM Deekshith without bringing any corroborative material. Accordingly, the assessee requested to the learned CIT(A) to delete the addition.

64.3 The learned CIT(A) after considering the facts in totality deleted the addition made by the AO by holding that AO has merely relied on the statement of Shri KM Deekshith. As such there is no reference to any material on record suggesting the payment of interest. The AO also did not conduct any independent enquiry. The learned CIT(A) further held the principal amount of loan has already been offered to tax by the assessee. Therefore, in the given circumstances the question of payment

of interest does not arise. Even assuming the interest was paid still it would be assumed that the sources of such payment of interest were out of loan amount offered to tax and the assessee will be entitled to the benefit of telescoping of the loan amount already offered to tax.

65. Being aggrieved by the order of the learned CIT(A), the revenue is in appeal before us.

66. The learned DR before us reiterated the findings contained in the assessment order.

67. On the other hand, the learned AR before us vehemently supported the order of the learned CIT-A.

68. We have heard the rival contentions of both the parties and perused the materials available on record. The main issue is whether the AO was right in adding ₹3 crore as interest allegedly paid in cash to Shri Prakash B. Talreja. In this regard, we note the addition made by the AO is based solely on the statement of Shri K.M. Deekshith, who admitted that interest was paid in cash on a loan of ₹12.75 crores from Shri Prakash B. Talreja. However, there was no evidence found during the search to prove that the interest was actually paid. No documents, records, or confirmations supported the statement. Also, the AO did not conduct any further independent inquiry to verify this claim. The assessee, Late Shri V.G. Siddhartha, had already admitted and offered the principal loan amount of ₹12.75 crores for taxation. The Learned CIT (A) rightly held that once the principal amount is taxed, there is no clear

basis to assume interest was also paid, especially when there is no proof.

68.1 Even if it is assumed that interest was paid, it could reasonably be considered to have been paid from the same loan amount that has already been taxed. In such a case, the assessee should get the benefit of "telescoping", which means avoiding double taxation on the same funds.

68.2 Therefore, we agree with the findings of the learned CIT(A). The AO's addition of ₹3 crores was not backed by any evidence beyond a single statement. The addition is unjustified and cannot be sustained. Hence, the ground of appeal filed by the Revenue is dismissed.

69. **The next** issue raised by the Revenue is that the learned CIT(A) erred in deleting the addition made on account of unaccounted cash payment of interest to Mamta Ajila.

70. The necessary facts are that along with the search on the assessee group, a search was also carried out on the residence of Smt. Mamta Ajila on the same day i.e. 21st September 2017 where 2 diaries were found and marked as annexure A/MAR-CCD/01 and A/MAR-CCD/02. As she was not available on the date of search her statement was recorded under section 131(1) of the Act as on 20th November 2017. While explaining the noting made in the impugned diaries, she stated that page 118 & 119 of the annexure A/MAR-CCD/01 contains the calculation of interest to be receivable from Shri VG Sidhartha on account of outstanding cash loan of Rs. 65 Lakh as on 1st April 2016.

She further stated that a total of Rs. 1 crore was lent at an interest rate of 14% to Shri VG Sidhartha through cash in March 2014 which included Rs. 60 Lakh lent by herself and Rs. 40 lakh by her sister Jasmine Shah. Further page 119 also contains the details of interest of Rs. 4 lakh approximately received in cash on outstanding loan of Rs. 65 Lakh.

70.1 Likewise, she stated that page 34 of annexure A/MAR-CCD/03 again contains the noting in respect of same cash loan of Rs. 1 crore lent to Shri VG Siddhartha. As per the note in the impugned page, interest amounting Rs. 7 Lakh each was received as on 6 September 2014 and 6th March 2015 (total 14 Lakh). Further principal amount of Rs. 35 lakhs (out of Rs. 60 Lakh by Mamta Ajila) and interest amounting of Rs. 11.55 Lakh received in F.Y. 2015-16. Also, the principal amount of Rs. 25 Lakh and interest of Rs. 8.65 Lakh received in F.Y. 2016-17. Furthermore, interest of Rs. 2.8 lakh paid on remaining outstanding loan of Ra. 40 lakh in F.Y. 2017-18. All the transactions are carried out through cash only. Shri Mamta Ajila agreed to offer an unaccounted interest income of Rs. 34.2 lakhs over a period of A.Y. 2015-16 to 2017-18.

70.2 The AO found that the assessee (Late Shri VG Siddhartha) has not offered impugned payment of interest in cash to Smt. Mamta Ajila and Smt. Jasmine Shah paid over 2015-16 to 2018-19 in following manner:

1. A.Y. 2015-16	Rs. 14 Lakh
2. A.Y. 2016-17	Rs. 11.55 Lakh
3. A.Y. 2017-18	Rs. 8.65 lakh
4. A.Y. 2018-19	Rs. 2.8 lakh

70.3 Hence, the AO added the same to the total income of the assessee in the respective assessment years in the assessment framed under the Act.

71. The aggrieved assessee preferred an appeal before the learned CIT(A).

71.1 The assessee contended that addition was made solely relying on the statement of Smt. Mamta Ajila and based on noting made by her in a diary found from her residence. The assessee claimed that there were no transaction of loan and payment of interest thereon carried on with Smt. Mamta Ajila. There was not any material found from the assessee premises or from the group company premises suggesting transaction carried with Smt. Mamta Ajila. It was further claimed that the assessee has information about the simultaneous search being carried out on the residence of Smt. Mamta Ajila. The seized material and her statement not provided for rebuttal, nor any explanations sought by the AO in this regard. The AO without providing the material and opportunity of being heard, opportunity of cross examination and without issuing show cause noticed in this regard made the addition which is against the principle of natural justice. Accordingly, the assessee prayed to the learned CIT(A) to delete the addition made by the AO.

71.2 The learned CIT(A) after considering the facts in totality found that the Late Shri VG Sidhartha was not confronted with the statement of Smt. Mamta Ajila and material found from her residence at any stage of search proceeding or post search proceeding. The AO also failed to provide the opportunity of cross examination. The learned CIT(A) also

observed that at this stage, providing the opportunity of cross examination also does not arise as Shri VG Sidhartha is no more. Hence, the learned CIT(A) in view of the above deleted the addition made by the AO.

71.3 Being aggrieved by the order of the learned CIT(A), the Revenue is in appeal before us.

71.4 The learned DR before us reiterated the findings contained in the assessment order.

71.5 On the other hand, the learned AR before us vehemently supported the order of the learned CIT-A.

72. We have heard the rival contentions of both the parties and perused the materials available on record. From the preceding discussion, it is noted that the AO made addition on account of alleged unaccounted cash interest payments by Late Shri V.G. Siddhartha to Smt. Mamta Ajila and her sister, Smt. Jasmine Shah.

72.1 The addition of the AO is based solely on entries found in certain diaries seized during a search at the residence of Smt. Mamta Ajila, as well as her subsequent statement. These diaries allegedly recorded cash loans and interest payments from Shri V.G. Siddhartha. However, it is important to note that no documents, diaries, or materials indicating any such cash loan or interest transactions were found at the premises of Shri V.G. Siddhartha or any of his related group entities. We note that the Hon'ble Supreme Court in landmark judgment of Common Cause (A

Registered Society) v. Union of India reported in 77 taxmann.com 245 has held that *entry in loose sheets or diary recovered from third parties cannot be used as the sole basis for assessment unless supported by independent, credible, and admissible evidence.*

72.2 Further, we note that Shri V.G. Siddhartha was never shown these documents or statements during the search or thereafter, nor was he given an opportunity to explain or deny the alleged transactions. Critically, no cross-examination of Smt. Mamta Ajila was allowed, and no-show cause notice or proper hearing was given before the additions were made. These actions go against the fundamental principles of natural justice. The Hon'ble Supreme Court in the case of Andaman Timber Industries v. CCE reported in (2015) 281 CTR 241 (SC) held that *denying cross-examination of a person whose statement is relied upon is a clear violation of the principles of natural justice. Any addition made on such evidence is legally untenable.*

72.3 Therefore, in the given facts and circumstances, we are of the view that the learned CIT(A) rightly observed that since Shri V.G. Siddhartha had passed away, the question of cross-examining Smt. Mamta Ajila could not arise. In the absence of any evidence found from the assessee's side, and since the additions were made purely based on third-party statements and documents without the assessee's involvement or opportunity to respond, the learned CIT(A) rightly held that the addition was unjustified and deleted it. Agreeing with the order of Id. CIT(A), we find that the AO's actions were procedurally flawed and lacked sufficient evidentiary support. Therefore, the deletion of the

addition is upheld. Hence the ground of appeal filed by the Revenue is hereby dismissed.

73. The next issue raised by the Revenue is that the learned CIT(A) erred in deleting the addition made by the AO on account of payment of interest on cash loan received from Shri Ankith, Rachit and as well as addition made for the payment of interest to M/s Kummergodu Investors.

74. At the outset, we note the issue regarding the addition on account of payment of interest to Shri Ankith and Shri Rachit has been adjudicated along with the assessee's ground of appeal in ITA No. 1444/Bang/2024 for A.Y. 2015-16. We have decided the impugned issue in favour of the assessee and against the Revenue vide paragraph No. 36 of this order. For detailed discussion, please refer the aforesaid paragraph of this order. Hence, the ground of appeal of the revenue in respect of addition on account of payment of interest to Shri Ankith and Shri Rachit is hereby dismissed.

75. Coming to the issue of addition made on account of payment of interest to M/s Kummergode Investors. The relevant facts are that during the search at the residence of the manager, Shri Javeed Parveez, a notebook was found and sized marked as annexure A/S/SP/07. Pages 12 to 15 of the said notebook contains details of payment of interests. On confrontation, Shri Javed Parveez explained the noting made therein by stating that it represents payment of interest to the farmers & planters. He further explained that that these farmers and the planters have made investment in the share of M/s Kummergode Estate on the

advice of the assessee. Subsequently, shares on M/s Kummergode were acquired by the new company floated by the assessee group namely M/s Gonibedu and the investment of the farmers converted in the hands of new company into loan on the advice given by the assessee. Accordingly, interest was paid to them out of cash withdrawal from the bank account of company M/s MACEL. Shri Javeed Parveez, also provided the details of payment of interest to these farmers in different years which are as under:

1. A.Y. 2014-15	Rs. 34,07,000/-
2. A.Y. 2015-16	Rs. 1,30,99550/-
3. A.Y. 2016-17	Rs. 1,27,04,000/-
4. A.Y. 2017-18	Rs. 1,27,04,000/-
5. A.Y. 2018-19	Rs. 66,45,560/-

75.1 On confrontation, all these seized documents and the statement of Shri Javed Parveez to the assessee, late Shri VG Sidhartha agreed to offer the impugned amount of interest expenses as income in the statement furnished under section 132(4) of the Act. However, the assessee in the return of income has not offered such payment of interest in cash as income of the assessee on the ground that such payment of interest was made after withdrawing cash from the bank of the company namely MACEL and in some case through cheque from M/s MACEL. Therefore, the assessee contended that such amount of interest payment does not represent unaccounted payment and accordingly claimed that no addition is warranted.

75.2 However, the AO rejected the contention of the assessee by observing that the assessee failed to establish, based on the documentary evidence, that the impugned payment of interest was paid

out of the cash withdrawal from the bank of the company namely M/s MACEL. Therefore, the AO disallowed the same by treating as unexplained cash payment and added to the total income of the assessee for relevant assessments years.

76. On appeal, the learned CIT-A deleted the addition made by the AO by observing as under:

6.74 The submissions filed by the appellants, the facts of the case and the reasoning given by the AO in the assessment order passed are duly considered. It is noticed that these interest payments were paid mostly through self-cheque withdrawal from Mysore Amalgamated Coffee Estates Limited and some through account payee cheque from Mysore Amalgamated Coffee Estates Limited. As such source of payment found explained. The AO's contention that the self-withdrawal cheque are not supported with any other evidence is misplaced. It is notice that the appellant has explained the sources to be out of self-withdrawal cheque and the same cannot be negated unless any other evidence exist contrary to the same. The AO has not carried out any independent inquiry which could sustain the addition made. In view of the above facts, the addition made toward unaccounted cash interest paid to Kummergode Estate investors is deleted for the A.Y. 2014-15 to 2018-19. Further the addition under section 69A can be made only if the transaction is not recoded in the books of accounts whereas in the instant case appellant has recorded the transactions in the books of accounts.

77. Being aggrieved by the order of learned CIT-A, the revenue is in appeal before us.

78. Both the learned DR and the AR before us vehemently supported the order of the respective authorities below.

79. We have heard the rival contentions of both the parties and perused the materials available on record. It is clear from the facts that the payments in question, the interest paid to farmers and planters who had invested in M/s Kummergode Estate were made using funds withdrawn from the bank account of M/s MACEL, either through self-

cheques or account payee cheques. The assessee has provided a reasonable explanation, linking the payments to recorded withdrawals from an identifiable and accounted source. The AO, however, simply doubted these withdrawals without bringing any independent evidence to challenge the assessee's claim. It is well settled that mere suspicion or disbelief by the AO cannot substitute the requirement of having evidence, especially when the transactions are reflected in the books of accounts. Further, the section 69A/69C of the Act applies only when transaction found not recorded in the books, but here the transactions were indeed accounted for. The learned CIT(A), after properly reviewing the facts and the law, rightly concluded that the source of funds was explained and no addition was justified. We find no error or infirmity in the Id. CIT(A)'s decision. Accordingly, we uphold the deletion of the addition for all the relevant assessment years, and the grounds of appeal of the revenue stand dismissed.

80. The last issue raised by the revenue is that the learned CIT(A) erred in deleting the addition made under section 68 of the Act on account of unsecured loan.

81.1 At the outset, we note the issue raised by the revenue in captioned ground of appeal has been adjudicated along with the assessee's ground of appeal in ITA No. 1444/Bang/2024 for A.Y. 2015-16. We have decided the impugned issue against the revenue vide paragraph no 52 of this order. For detailed discussion, please refer to the aforesaid paragraph of this order. Hence, the ground of appeal of the revenue is hereby dismissed.

82. In the result, the appeal of the Revenue is hereby dismissed.

Coming to ITA No. 1445/Bang/2024, an appeal by the assessee namely Smt. Malavika Hegde being legal heir of Late Shri VG Siddhartha for A.Y. 2016-17.

83. The assessee has raised as many as 8 grounds in the appeal which are interconnected. The effective issue raised by the assessee is that the learned CIT(A) erred in confirming the addition of Rs. 4,39,98,000/- by treating the unsecured loan as unexplained cash credit u/s 68 of the Act ignoring the fact that no incriminating material was found/unearthed during the search operation in relation to impugned loan. Further, the Id. CIT-A erred in confirming the addition for the want of confirmation only after ignoring the other evidences.

84. The necessary facts are that the AO during the assessment proceedings under section 153A r.w.s. 143(3) of the Act noticed that the assessee during the year has received unsecured loans from several parties. Accordingly, the assessee was required to produce the confirmation of the loan credit. However, the assessee failed to provide confirmation from 25 parties, from whom loan aggregating to Rs. 6,27,98,000/- was received. The details of the parties and the amounts of respective loans are available on pages 44 to 45 of the assessment order. The assessee claimed that the transaction was carried out through the banking channel, hence the genuineness and credit worthiness are duly established.

84.1 However, the AO held that merely the transaction carried out through the banking channel is not sufficient to establish the

genuineness of the transaction and credit worthiness of the lender/creditor. The AO held that it is the duty of the assessee to explain the nature and sources of the credit and thereby assessee is required to establish genuineness of transaction and credit worthiness of the creditor which the assessee failed. Therefore, the AO treated the impugned loan credit of Rs. 6,27,98,000/- as unexplained cash credit as provided under section 68 of the Act and added to the total income of the assessee.

85. The aggrieved assessee preferred an appeal before the learned CIT(A).

85.1 Before the learned CIT(A), the assessee submitted that the original return for year under consideration was filed on 05-08-2016 and there was no action taken on the on the return of income. Accordingly, there was no proceeding pending to treat the year under consideration as abated. Therefore, the year under consideration becomes an unabated/completed assessment year. Hence, it was argued that in the proceedings under section 153A of the Act, if a year falls under the category of unabated/completed assessment year, no addition to the total income can be made in absence of incriminating material. The assessee contended that the issue of the unsecured loan had been duly disclosed in the books of account and its genuineness was not disturbed by the Revenue. Furthermore, during the course of the search proceedings, no incriminating material whatsoever was found in relation to the impugned unsecured loan. Therefore, the addition made in the given facts and circumstances, in the absence of incriminating material was not sustainable and required to be deleted. The assessee in support

of her case relied on various case laws including the judgment of Hon'ble Supreme Court in the case of PCIT vs. Abhisar Buildwell (P.) Ltd reported in 149 taxmann.com 399.

85.2 On merit, the assessee submitted that during the assessment name and PAN of all the loan creditor under dispute was provided to the AO except the confirmation letter due to short time. However, the transaction was carried through banking channel and very much identifiable. The assessee before the learned CIT(A) further submitted additional evidence in the form of complete address of the creditor, copy of ledger account, detail of repayment and mode of repayment and settlement agreement with creditor.

85.3 The submissions of the assessee along with the additional evidence were forwarded to the AO for the remand report. The AO in the report submitted that there were incriminating materials found during the course of search evidencing the assessee is indulge in unaccounted cash transactions, based on which, the assessee has admitted additional income. Further, the additional evidence submitted includes detail of the person from the loan was claimed to be received, PAN of the some of the lenders, extract of ledger copy from the assessee's book and settlement agreement. However, none of these documents satisfactorily explained the identity, creditworthiness and genuineness of the loan transaction in relation to which addition was made. The extract of ledger account is from the assessee's books only and hence, the same does not constitute independent evidence to substantiate the genuineness of the transaction. Likewise, the settlement agreement cannot prove the post facto credibility to the cash credit; the AO further submitted that the

assessee has claimed that the transaction was carried through banking channel however no bank accounts submitted to verify the claim. Even assuming the transaction was carried through banking channel but that does not absolve the assessee from the burden to prove the identity, credit worthiness and genuineness of the transactions.

86. However, the learned CIT(A) found that the assessee for the year under consideration filed return of income as on 05-08-2016, therefore the time limit for issue of notice under section 143(2) of the Act for regular assessment was available till 30th September 2017. The learned CIT(A) further found that search under section 132 of the Act carried out on 21st September 2017. Accordingly, the learned CIT(A) held that the assessment for the year under consideration was pending on the date of search and the year under consideration becomes an abated. Hence, the ratio of Hon'ble Supreme Court in the case of PCIT vs. Abhisar Buildwell (P.) Ltd is not applicable. Thus, the learned CIT(A) dismissed the technical ground of appeal of the assessee.

86.1 On merit of the addition made by the AO, learned CIT(A) noted that during the assessment proceedings, the AO had accepted the confirmation statements submitted by some parties without conducting any independent verification or necessary enquiries to test their veracity. However, during the remand proceedings, when additional evidence and detailed confirmation statements were submitted, the AO merely dismissed these by stating that they were an afterthought, without actually pointing out any specific defects or shortcomings or conducting further verifications.

86.2 The Id. CIT(A), upon detailed perusal of the additional evidence, observed that the confirmation statements submitted contained full particulars, including the names, addresses, PANs of the concerned parties, amounts involved, and the details of repayments or settlements, which were often supported by agreements executed on stamp papers. It was further noted that the appellants had also furnished ledger copies and other documentary evidence establishing the identity, creditworthiness, and genuineness of the transactions. The Id. CIT(A) recorded a categorical finding that the evidence produced during the appellate proceedings sufficiently established the genuineness of the loans and repayments in respect of many parties.

86.3 Accordingly, the CIT(A) concluded that the additions made by the AO in respect of those parties from whom proper confirmations and supporting documents were received are not sustainable, and therefore, the additions were deleted to that extent. However, in cases where confirmations or settlement agreements were not furnished despite opportunities granted to the assessee, the Id. CIT(A) upheld the additions made by the AO. The Id. CIT(A) also tabulated the details of parties for different assessment years and made clear distinctions based on whether confirmations were provided or not. As per the table, the total addition made by the AO for the year under consideration was of Rs. 6,27,98,000/- out which the confirmation and other details were provided for the loan amount of Rs. 1.88 crores only. Meaning thereby no confirmation was provided for loan amount of Rs. 4.3998 crore. Thus, considering the entire materials and circumstances, the Id. CIT(A) partly allowed the appeal of the assessee, deleting the additions where

documentary confirmations and settlement agreements were provided, and upholding the additions where such evidence was lacking.

87. Being aggrieved by the order of the learned CIT(A), both the assessee and the Revenue are in the appeal before us. The assessee is in appeal against the confirmation of addition to the extent of Rs. 4,39,98,000/- whereas the Revenue is in appeal against the relief provided by the AO based on additional evidence in ground No. (iv) in ITA No. 2130/Bang/2024.

88. The learned AR before us argued that during the assessment, the credits raised by the appellant were genuine, made through banking channels, and properly recorded in the regular books of accounts. The AO added the total receipts of ₹6,27,98,000/- to the income without making proper inquiries or giving the appellant a chance to explain the sources, which goes against the principles of natural justice. The learned AR also argued that no incriminating material was found during the search, and no adverse evidence was seized. The Id. AR pointed out that after the unfortunate demise of late Sri V.G. Siddhartha, the legal heirs discussed repayment with creditors, and most cases resulted in settlement agreements or repayments through banks. The appellate authority, learned (CIT(A)) accepted confirmations up to ₹1,88,00,000 but ignored the rest, even though names, PAN, addresses, and repayment proofs were provided. The Id. AR stressed that repayments of ₹3,53,00,000 during the year were ignored, and the learned CIT(A)'s decision to confirm the balance addition of ₹4,39,98,000 was unjustified. Therefore, the learned AR requested the Tribunal to consider all the

evidence and delete the remaining additions. The learned AR supported the finding of Id. CIT-A.

89. On the contrary, the learned DR reiterated the findings contained in the assessment order. The learned DR vehemently supported the order of the AO.

90. We have heard the rival contentions of both the parties and perused the materials available on record. From the preceding discussion, we note that the assessee during the year under consideration has accepted an unsecured loan from 25 individuals for a sum of Rs. 6,27,98,000/- only. The AO treated the entire unsecured loan from these 25 individuals as unexplained cash credit under section 68 of the Act in the absence of confirmation. Subsequently, the assessee during appellate proceedings filed certain additional evidence to substantiate the genuineness of the impugned loan credit. The learned CIT(A) based on the same accepted the genuineness of part of the loan credit and found confirmation from certain individuals from whom sum of Rs. 4,39,98,000/- received still not furnished by the assessee. Hence the learned CIT(A) confirmed the addition to that extent. Those loan creditors in whom respect the additions were confirmed are detailed as under:

1. Devanand A Kalavase	Rs. 20,00,000/-
2. Ekta Kureja	Rs. 1,25,00,000/-
3. Pavana Kishore	Rs. 2,75,00,000/-
4. Radha MB	Rs. 19,98,000/-

90.1 As far as the revenue ground of appeal is concerned, we find the learned CIT(A) before accepting the additional evidence provided

sufficient opportunity to the AO. However, the AO, besides opposing the admittance of additional evidence, has not pointed out any infirmity in such evidence. Therefore, in our considered opinion the learned CIT(A) rightly admitted such evidence and provided the appropriate relief to the assessee.

90.2 Regarding the confirmation of the remaining loan credits, we note that the learned AR of the assessee before us submitted that amount from these loan creditors was received through banking channels and further except for Mrs. Radha MB, the loan received from the other 3 individuals was repaid in full through banking channels. The learned AR in this respect draws our attention to page 102 to 111 of the paper book where the ledger account, leger confirmation and bank statement are placed showing the loan amount were received through the banking channel and repaid in the year under consideration itself or in the subsequent years. Therefore, we are of the considered opinion that once it is established the unsecured loan was received through banking channel and subsequently repaid through the banking channel, the genuineness of such loan transaction cannot be questioned. In holding so, we draw support and guidance from the judgment of Hon'ble Gujarat High Court in the case of PCIT vs. Ojas Tarmake Pvt Ltd reported in 156 taxmann.com 75 where it was held as under:

3. What is evident is that the Tribunal found on facts that the amount of loan received by the assessee was returned to the loan party during the year itself and all transactions were carried out through banking channel. The ITAT on the decision of CIT v. Rohini Builders [2003] 127 Taxman 523/[2002] 256 ITR 360 (Guj.), held in favour of the assessee.

90.3 In view of the above, we hold that the addition in respect of loan credit from first three parties in the above-stated list cannot be sustained in the given facts and circumstances.

90.4 Now coming to receipt of loan of Rs. 19,98,000/- from the party namely Mrs. Radha MB, we note that the amount was received through the banking channel, the assessee has provided name address and PAN of the party, and the ledger confirmation were also available on record. Therefore, in our considered opinion, the assessee has discharged the initial burden to explain the nature and source of the credit and the burden shifted on the revenue authority to bring contrary material. We further note the assessee is able to substantiate the genuineness of the majority of loan credit during the year. Hence considering, the overall material facts, we set aside the finding of the learned CIT(A) and direct the AO to delete the entire addition made by him. Thus, the ground of appeal filed by the assessee is allowed whereas the ground of appeal of the revenue is hereby dismissed.

Coming to the issue raised in the additional ground of appeal:

91. At the outset, we note that the issue raised by the assessee in the additional grounds of appeal for the AY 2016-17 is identical to the additional ground raised by the assessee in ITA No. 1442/Bang/2024 for the assessment year 2013-14. Therefore, the findings given in ITA No. 1442/Bang/2024 shall also be applicable for the assessment year 2016-17. The additional ground of appeal of the assessee for the A.Y. 2013-14 has been decided by us vide paragraph No.12 to 17 of this order against the assessee. The learned AR and the DR also agreed that whatever will be the findings for the assessment year 2013-14 shall also be applied for the assessment year 2016-17. Hence, the issue raised by the assessee in additional ground of appeal is hereby dismissed.

92. In the result, the appeal of the assessee is partly allowed.

Coming to ITA No. 2130/Bang/2024 an appeal by the Revenue for A.Y. 2016-17 in case of legal heir of late Shri VG Sidhartha represented by Smt. Malvika Hegde.

93. The first issue raised by the Revenue is that the learned CIT(A) erred in deleting the addition on account of payment of interest by allowing the benefit of telescoping of income offered on account of receipt of cash loan.

93.1 At the outset, we note that the issues raised by the Revenue in its grounds of appeal for the AY 2016-17 is identical to the issue raised by the Revenue in ITA No. 2129/Bang/2024 for the AY 2015-16. Therefore, the findings given in ITA No. 2129/Bang/2024 shall also be applicable for the assessment year 2016-17. The appeal of the Revenue for the A.Y. 2015-16 has been decided by us vide paragraph No. 68 of this order against the Revenue. The learned DR and the AR also agreed that whatever will be the findings for the assessment year 2015-16 shall also be applied for the assessment year 2016-17. Hence, the ground of appeal filed by the Revenue is hereby dismissed.

94. The next issue raised by the Revenue is that the learned CIT(A) erred in deleting the addition on account of payment of interest on cash loan from Smt. Mamta Ajila.

94.1 At the outset, we note that the issues raised by the Revenue in its grounds of appeal for the AY 2016-17 is identical to the issue raised by

the Revenue in ITA No. 2129/Bang/2024 for the assessment year 2015-16. Therefore, the findings given in ITA No. 2129/Bang/2024 shall also be applicable for the assessment year 2016-17. The appeal of the Revenue for the A.Y. 2015-16 has been decided by us vide paragraph No. 72 of this order against the Revenue. The learned AR and the DR also agreed that whatever will be the findings for the assessment year 2015-16 shall also be applied for the assessment year 2016-17. Hence, the ground of appeal filed by the Revenue is hereby dismissed.

95. The next issue raised by the Revenue is that the learned CIT(A) erred in deleting the addition on the payment of interest to Shri Ankith, Shri Ratchet and the investor of M/s Kummergodu.

95.1 At the outset, we note that the issues raised by the Revenue in its grounds of appeal for the AY 2016-17 are identical to the issue raised by the Revenue in ITA No. 2129/Bang/2024 for the assessment year 2015-16. Therefore, the findings given in ITA No. 2129/Bang/2024 shall also be applicable for the assessment year 2016-17. The appeal of the Revenue for the A.Y. 2015-16 has been decided by us vide paragraph No. 74 & 79 of this order against the Revenue. The learned AR and the DR also agreed that whatever will be the findings for the assessment year 2015-16 shall also be applied for the assessment year 2016-17. Hence, the ground of appeal filed by the Revenue is hereby dismissed.

96. The last issue raised by the Revenue is that the learned CIT(A) erred in providing the relief on account of addition made under section 68 of the Act on the unexplained loan credit based on additional evidence.

96.1 At the outset, we note that the issue raised by the revenue in its captioned ground of appeal has been adjudicated along with assessee's ground of appeal in ITA No. 1445/Bang/2024 for the AY 2016-17. The detailed finding in this regard given in paragraph No. 90 of this order where we have allowed the issue in favour of the assessee and against the Revenue. Hence, the ground of appeal filed by the revenue is hereby dismissed.

97. In the result the appeal filed by the revenue is hereby dismissed.

Coming to ITA No. 1446/Bang/2024, an appeal by the assessee namely Smt. Malavika Hegde being legal heir of late Shri VG Siddhartha for A.Y. 2017-18.

98. The assessee has raised as many as 8 grounds in the appeal which are interconnected. The effective issue raised by the assessee is that the learned CIT(A) erred in confirming the addition of Rs. 10,22,80,326/- by treating the unsecured loan as unexplained cash credit u/s 68 of the Act ignoring the fact that no incriminating material was found/unearthed during the search operation in relation to impugned loan. Further, the Id. CIT-A erred in confirming the addition for the want of confirmation only ignoring the other evidence.

99. The relevant facts are that the assessee during the year procured unsecured loans from 67 individuals for a sum of Rs. 12,00,55,326/- only. The AO asked the assessee to furnish the confirmation of such loan credits from the parties. However, the assessee failed to furnish the

confirmation but claimed that all the transaction are carried out through banking channel as evident from the bank statements already provided. Therefore, the genuineness and credit worthiness of the transactions are established.

99.1 However, the AO rejected the contention of the assessee and held that mere the fact that the transactions are through banking channel, it cannot be held that the transactions are genuine, and creditworthiness of the creditor is established. Therefore, the AO in the absence of confirmation treated the sum of Rs. 12,00,55,326/- credited from impugned 67 individuals as unexplained cash credit and added to the total income of the assessee.

100. The aggrieved assessee preferred an appeal before the learned CIT(A).

100.1 Before the learned CIT(A), the assessee submitted that during the assessment proceedings, the names and PAN of all the loan creditor under dispute were provided to the AO except the confirmation letter due to short time. The transactions were carried through banking channel and very much identifiable. The assessee before the learned CIT(A) further submitted additional evidence in the form of complete address of the creditors, copy of ledger account, detail of repayment and mode of repayment and settlement agreements with creditors.

100.2 The submission of the assessee along with the additional evidence was forwarded to the AO for the remand report. The AO in the report submitted that there were incriminating materials found during the

course of search evidencing that the assessee is indulged in unaccounted cash transactions, based on which, the assessee has admitted additional income. Further, the additional evidence submitted includes detail of the persons from whom the loan was claimed to be received, PAN of the some of the lenders, extract of ledger copy from the assessee's book and settlement agreement. However, none of these documents satisfactorily explained the identity, creditworthiness and genuineness of the loan transaction in relation to which addition was made. The extract of ledger account is from the assessee's books only, hence the same does not constitute independent evidence to substantiate the genuineness of the transaction. Likewise, the settlement agreement cannot prove the post facto credibility to the cash credit; the AO further submitted that the assessee has claimed that the transaction was carried out through banking channel. However, no bank account was submitted to verify the claim. Even assuming the transaction was carried through banking channel does not absolve the assessee from discharging the burden to prove the identity, credit worthiness and genuineness of the transactions.

100.3 The learned CIT(A) after considering the facts in totality noted that during the assessment proceedings, the assessee had filed the confirmation statements submitted for some parties but the AO without conducting any independent verification or necessary enquiries to test their veracity rejected the same. However, the AO during the remand proceedings, when additional evidence and detailed confirmation statements were submitted, the AO merely dismissed these by stating that they were an afterthought, without actually pointing out any specific defects or shortcomings or conducting further verifications.

100.4 The Id. CIT(A), upon detailed perusal of the additional evidence, observed that the confirmation statements submitted contained full particulars, including the names, addresses, PANs of the concerned parties, amounts involved, and the details of repayments or settlements, which were often supported by agreements executed on stamp papers. It was further noted that the appellants had also furnished ledger copies and other documentary evidence establishing the identity, creditworthiness, and genuineness of the transactions. The Id. CIT(A) recorded a categorical finding that the evidence produced during the appellate proceedings sufficiently established the genuineness of the loans and repayments in respect of many parties.

100.5 Accordingly, the Id. CIT(A) concluded that the additions made by the AO in respect of those parties from whom proper confirmations and supporting documents were received are not sustainable, and therefore, the additions were deleted to that extent. However, in cases where confirmations or settlement agreements were not furnished despite opportunities, the Id. CIT(A) upheld the additions made by the AO. The Id. CIT(A) also tabulated the details of parties for different assessment years and made clear distinctions based on whether confirmations were provided or not. As per the table, total amount during the year of Rs. 12,00,55,326/- was received from 67 individuals out of which the assessee provided confirmation from 16 parties only from whom the sum of Rs. 1,77,75,000/- was received. Hence, the learned CIT(A) deleted the addition to the extent of Rs. 1,77,75,000/- and confirmed the addition made for remaining sum of Rs. 10,22,80,326/- only.

101. Being aggrieved by the order of the learned CIT(A), both the assessee and the Revenue are in the appeal before us. The assessee is in appeal against the confirmation of addition to the extent of Rs. 1,77,75,000/- whereas the Revenue is in appeal against the relief provided by the AO based on additional evidence in ground No. (v) in ITA No. 2130/Bang/2024.

102. The learned AR before us argued that during the assessment, the credits raised by the appellant were genuine, made through banking channels, and properly recorded in the regular books of accounts. The AO added the total receipts of ₹12,00,55,326/- to the income without making proper inquiries or giving the appellant a chance to explain the sources, which goes against principles of natural justice. The learned AR also argued that no incriminating material was found during the search, and no adverse evidence was seized. The Id. AR pointed out that after the unfortunate demise of late Sri V.G. Siddhartha, the legal heirs discussed repayment with creditors, and in most cases resulted in settlement agreements or repayments through banks. The appellate authority learned (CIT(A)) accepted confirmations up to ₹1,77,75,000/- but ignored the rest, even though the names, PAN, addresses, and repayment proofs and settlement agreement were provided. The Id. AR stressed that the learned CIT(A)'s decision to confirm the balance addition was unjustified. Therefore, the learned AR requested the Tribunal to consider all the evidence and delete the remaining additions.

103. On the contrary, the learned DR reiterated the findings contained in the assessment order. The learned DR vehemently supported the order of the AO.

104. We have heard the rival contentions of both the parties and perused the materials available on record. From the preceding discussion, we note that the assessee during the year under consideration has accepted unsecured loan from 67 individuals for a sum of Rs. 12,00,55,326/-. The AO treated the entire unsecured loan from these 67 individuals as unexplained cash credit under section 68 of the Act in the absence of confirmations. Subsequently, the assessee during appellate proceedings filed certain additional evidence to substantiate the genuineness of the impugned loan credit. The learned CIT(A) based on the same accepted the genuineness of part of loan credit from 16 individual, however confirmed the addition for the sum of Rs. 10,22,80,326/- received from 51 individuals by holding that the assessee still not furnished confirmation. The detail of those loan creditors in respect of whom the additions were confirmed are detailed at page 108 of the paper book.

104.1 As far as the revenue's ground of appeal is concerned, we find the learned CIT(A) before accepting the additional evidence provided sufficient opportunity to the AO. However, the AO, besides opposing the admittance of additional evidence, has not pointed out any infirmity in such evidence. Therefore, in our considered opinion, the learned CIT(A) rightly admitted such evidence and provided the appropriate relief to the assessee.

104.2 Regarding the confirmation of the remaining loan credits from 51 parties, we note there were 13 parties to whom a sum of Rs. 6,46,50,000/- was repaid in full through banking channels. The

supporting documents being ledger accounts in the books of assessee, ledger confirmation and bank statement showing payment made were available at different pages of the paper books. Therefore, we are of the considered opinion that once it is established the unsecured loan was received through banking channel and subsequently repaid through the banking channel, the genuineness of such loan transaction cannot be questioned. In holding so, we draw support and guidance from the judgment of Hon'ble Gujarat High Court in the case of PCIT vs. Ojas Tarmake Pvt Ltd reported in 156 taxmann.com 75 where it was held as under:

3. What is evident is that the Tribunal found on facts that the amount of loan received by the assessee was returned to the loan party during the year itself and all transactions were carried out through banking channel. The ITAT on the decision of CIT v. Rohini Builders [2003] 127 Taxman 523/[2002] 256 ITR 360 (Guj.), held in favour of the assessee.

104.3 In view of the above, we hold that addition in respect of loan credit from these 13 parties to whom the loan amount was repaid in full, cannot be sustained in the given facts and circumstances.

104.4 Now coming to the remaining loan amount of Rs. 3,76,30,326/- received from 38 individual parties, in this regard, we note that the legal heir of late Shri VG Siddhartha has reached a settlement agreement with those parties where they have settled the loan amount for part payment. Some of the loan parties are detailed here under on sample basis for ready reference.

- A sum of Rs. 40 lakhs received as on 17th January 2017 through banking channel from the party namely Shri Kamalakshama MK. The assessee (legal heir Smt. Malvika Hegde) entered into settlement agreement with said party as on 20th April 2020 as the said party agreed for payment of Rs. 20 Lakh for full and final

payment. The said amount was paid by Smt. Malvika Hegde. In this respect the copy of ledger account, ledger confirmation, settlement agreement, receipt acknowledgment of Rs. 20 lakhs are available at pages 121 to 126 of the paper book.

- A sum of Rs. 25 lakhs received as on 1st March 2017 through banking channel from the party namely Shri Pavan CS. The account was settled for Rs. 12.5 lakh which was paid from the bank account of Smt. Malvika Hegde as on 24th March 2020.

104.5 A similar settlement agreement was reached with all the remaining parties and the account settled in the subsequent years. Therefore, considering the facts that the amount was received through banking channel and the assessee has furnished name, address details, PAN and settlement agreement and evidence of repayment as per settlement agreement through banking channel, we hold that the assessee has discharged the onus with respect identity, genuineness and creditworthiness of the loan creditors. Hence, considering the overall material facts, we set aside the finding of the learned CIT(A) to the extent of confirmation of the addition and direct the AO to delete the entire addition. Thus, the ground of appeal filed by the assessee is allowed whereas the ground of appeal of the revenue is hereby dismissed.

Coming to the issue raised in the additional ground of appeal:

105. At the outset, we note that the issues raised by the assessee in its additional grounds of appeal for the AY 2017-18 is identical to the additional ground raised by the assessee in ITA No. 1442/Bang/2024 for

the assessment year 2013-14. Therefore, the findings given in ITA No. 1442/Bang/2024 shall also be applicable for the assessment year 2017-18. The additional ground of appeal of the assessee for the A.Y. 2013-14 has been decided by us vide paragraph No.12 to 17 of this order against the assessee. The learned AR and the DR also agreed that whatever will be the findings for the assessment year 2013-14 shall also be applied for the assessment year 2017-18. Hence, the issue raised by the assessee in additional ground of appeal is hereby dismissed.

106. In the result, the appeal of the assessee is partly allowed.

Coming to ITA No. 2131/Bang/2024 an appeal by the Revenue for A.Y. 2017-18 in case of legal heir of late Shri VG Sidhartha represented by Smt. Malvika Hegde.

107. The first issue raised by the Revenue is that the learned CIT(A) erred in deleting the addition on account of cash loan from Shri Chiman Lal.

108. At the outset, we note that during the search it was found that the unsecured loan of Rs. 3 crores were received from the party namely Shri Chiman Lal. Late Shri VG Siddhartha in the absence of detail to prove the source admitted the said amount as unexplained income. Finally, when return was filed by the assessee in the A.Y. 2015-16, he offered only an amount of Rs. 1 crore on account of loan from shri chiman Lal on the premises that the amount of Rs. 2 crores were received through banking channel and duly recorded in the books,

therefore only part of cash loan of Rs. 1 crore which is not recorded in the books is offered to tax as unexplained.

108.1 The AO added the remaining amount of Rs. 2 crores in the A.Y. 2015-16 on substantive basis and entire sum of Rs. 3 crores on protective basis in the year under consideration.

108.2 However, the learned CIT(A) deleted the addition made by the AO both on substantive basis and protective basis.

108.3 Against the deletion of substantive addition in A.Y. 2015-16, the revenue filed an appeal in ITA No. 2129/Bang/2024 which we have decided vide paragraph No. 62 of this order where we have dismissed the ground of appeal of the revenue. Hence, considering the fact that substantive addition already deleted, the protective addition in the year under consideration also is hereby deleted. Thus, the ground of appeal of the Revenue is hereby dismissed.

109. The next issue raised by the Revenue is that the learned CIT(A) erred in deleting the addition on account of payment of interest by allowing the benefit of telescoping of income offered on account of receipt of cash loan.

109.1 At the outset, we note that the issue raised by the Revenue in its grounds of appeal for the AY 2017-18 is identical to the issue raised by the Revenue in ITA No. 2129/Bang/2024 for the assessment year 2015-16. Therefore, the findings given in ITA No. 2129/Bang/2024 shall also be applicable for the assessment years 2017-18. The appeal of the Revenue for the A.Y. 2015-16 has been decided by us vide paragraph

No.68 of this order against the Revenue. The learned AR and the DR also agreed that whatever will be the findings for the assessment year 2015-16 shall also be applied for the assessment year 2017-18. Hence, the ground of appeal filed by the Revenue is hereby dismissed.

110. The next issue raised by the Revenue is that the learned CIT(A) erred in deleting the addition on account of payment of interest on cash loan from Smt. Mamta Ajila.

110.1 At the outset, we note that the issue raised by the Revenue in its grounds of appeal for the AY 2017-18 is identical to the issue raised by the Revenue in ITA No. 2129/Bang/2024 for the assessment year 2015-16. Therefore, the findings given in ITA No. 2129/Bang/2024 shall also be applicable for the assessment years 2017-18. The appeal of the Revenue for the A.Y. 2015-16 has been decided by us vide paragraph No. 72 of this order against the Revenue. The learned AR and the DR also agreed that whatever will be the findings for the assessment year 2015-16 shall also be applied for the assessment year 2017-18. Hence, the ground of appeal filed by the Revenue is hereby dismissed.

111. The next issue raised by the Revenue is that the learned CIT(A) erred in deleting the addition on the payment of interest to Shri Ankith, Shri Rachet and the investor of M/s Kummergodu.

111.1 At the outset, we note that the issue raised by the Revenue in its grounds of appeal for the AY 2017-18 is identical to the issue raised by the Revenue in ITA No. 2129/Bang/2024 for the assessment year 2015-16. Therefore, the findings given in ITA No. 2129/Bang/2024 shall also

be applicable for the assessment year 2017-18. The appeal of the Revenue for the A.Y. 2015-16 has been decided by us vide paragraph No. 74 & 79 of this order against the Revenue. The learned AR and the DR also agreed that whatever will be the findings for the assessment year 2015-16 shall also be applied for the assessment year 2017-18. Hence, the ground of appeal filed by the Revenue is hereby dismissed.

112. The last issue raised by the Revenue is that the learned CIT(A) erred in providing the relief on account of addition made under section 68 of the Act on the unexplained loan credit based on additional evidence.

112.1 At the outset, we note that the issue raised by the revenue in its captioned ground of appeal has been adjudicated along with assessee ground of appeal in ITA No. 1446/Bang/2024. The detailed finding in this regard is given in paragraph No. 104 of this order where we have allowed the issue in favour of the assessee and against the Revenue. Hence the ground of appeal filed by the revenue is hereby dismissed.

113. In the result the appeal filed by the revenue is hereby dismissed.

Coming to ITA No. 1447/Bang/2024, an appeal by the assessee namely Smt. Malavika Hegde being the legal heir of Late Shri VG Siddhartha for A.Y. 2018-19.

114. The issue raised by the assessee through ground Nos. 1 to 3 of the appeal pertain to addition of Rs. 50 Lakh under section 69 of the Act on account of alleged unexplained investment in Athigere Estate.

115. The relevant facts are that during the search proceeding at the residence of Shri Javeed Parveez certain loose sheets were found and seized and marked as folder A/S/JP/5. Page No. 171 & 172 of the impugned folder contain the detail of cash payments. Question was asked to Shri Javeed Parveez while recording his statement regarding the impugned page to which he admitted that the cash amounting to Rs. 50 Lakh was paid as on 6th April 2017 to Shri M.M. Parthasarathy as advance against the purchase of Athigiri Estate by Late Shri V G Sidhartha. He further explained that partners of M/s Premier Plantation namely Shri M.M. Anandaram, Shri M.M. Sampath, Shri M Lachaiiah Shetty and Shri M.M. Parthasarathy entered into agreement with late Shri V G Sidhartha as on 6th April 2017 to sale 147 acres of cultivated area with coffee at Rs. 9 lakh per acre and 300 acres of uncultivated area at Rs. 4.25 Lakh per acre of Athigiri Estate. In pursuance to the agreement, Rs. 2.75 crores were paid as advance out of which Rs. 50 Lakh was paid in cash as noted in the impugned seized material.

115.1 The seized material and the statement of Shri Javeed Parveez was confronted to the late Shri VG Siddhartha while recording his statement under section 132(4) of the Act to which he voluntarily agreed to offer the amount of cash payment of Rs. 50 lakh as unaccounted income. However, the same was not offered in the return filed subsequent to search proceeding. Therefore, show cause notice issued in this regard. In response to notice, the legal heir of the assessee submitted that there were sufficient cash balance in the books of various estates owned by late Shri VG Sidhartha. As the cash payment of Rs. 50 Lakhs was made out of available cash balance in the books, the amount was not offered

to tax. It was further submitted that during search, cash amounting to Rs. 5,84,215 was seized from the possession of late Shri VG Sidhartha. Hence, considering the substantial cash balance available in the books and seizure of only small amount of physical cash, it is very much evidencing that the cash of Rs. 50 Lakh was paid towards purchase of Atigere Estate was out of available cash in the books.

115.2 The submission of the assessee was not accepted by the AO for the reason that the assessee's claim is based on preponderance of probability and not based on material facts. Hence, the AO made addition of Rs. 50 Lakh to the total income of the assessee under the provisions of section 69 of the Act.

116. The aggrieved assessee preferred an appeal before the learned CIT(A). The assessee during the appellate proceedings reiterated the submission made before the AO. However, the learned CIT(A) dismissed the assessee's ground and concurred with the finding of the AO.

117. Being aggrieved by the order of the learned CIT(A), the assessee is in appeal before us.

118. The learned AR before us submitted that the alleged cash investment of Rs. 50,00,000/- in the purchase of Athigere Estate was wrongly added as unexplained income under section 69 of the Act. He explained that although a statement was made under section 132(4) of the Act admitting the cash payment, this was later retracted after verifying the books of accounts, which showed that there was sufficient cash balance to cover the payment. The learned AR argued that the only

issue was the lack of a proper accounting entry, not the source of funds. He emphasized that both the AO and the learned CIT(A) wrongly ignored the available records and solely relied on the admission made during the search without considering corroborative evidence. Therefore, the learned AR requested us to delete the addition, as the sources of funds were clearly explained and no actual undisclosed income existed.

119. On the other hand, the learned DR vehemently supported the findings of the lower authorities.

120. We have heard the rival contentions of both the parties and perused the materials available on record. The primary issue under consideration pertains to the addition of Rs. 50 lakhs under section 69 of the Act on account of alleged unexplained investment in the Athigere Estate. It is not in dispute that during the search proceedings, at the residence of Shri Javeed Parveez, a loose sheet indicating cash payment of Rs. 50 lakh was seized. Shri Javeed Parveez, during his statement, admitted that the said cash was paid as advance to Shri M.M. Parthasarathy for the purchase of Athigere Estate on behalf of late Shri V.G. Siddhartha.

120.1 The basis of the addition made by the Assessing Officer was the voluntary admission made by late Shri V.G. Siddhartha under section 132(4) of the Act, wherein he offered the said amount as unaccounted income. However, it is the consistent submission of the legal heir of the assessee that there existed sufficient cash balance in the books of the various estates owned by late Shri V.G. Siddhartha, and that the cash payment of Rs. 50 lakh was duly sourced from the said available cash

balance. It was emphasized that during the course of search, only a meagre amount of Rs. 5,84,215 was physically seized, which corroborates the stand that substantial cash was maintained and utilized by the estates in the normal course of business.

120.2 Importantly, there is no material brought on record by the AO demonstrating that the available cash balance reflected in the books of the assessee was utilized elsewhere or was not available on the date of payment. In absence of any adverse material evidencing diversion of funds or sourcing of the cash from an alternative undisclosed source, the presumption drawn by the AO is merely based on conjecture and surmise. The existence of substantial cash balance in the books stands uncontroverted.

120.3 The addition was made solely on the basis of an admission recorded during search, without corroborating it with independent material disproving the assessee's explanation regarding the source, cannot be sustained in the eyes of law. The Hon'ble Courts have repeatedly held that while an admission is a relevant piece of evidence, it is not conclusive, and where an assessee is able to satisfactorily demonstrate with cogent material that the amount in question is duly explained, no addition ought to be made.

120.4 In the present case, the assessee has successfully demonstrated that the cash payment of Rs. 50 lakh was made out of available recorded cash balance and there is no evidence to show otherwise. Therefore, in our considered opinion, the addition of Rs. 50 lakhs under section 69 of the Act is not justified. Consequently, the addition made by

the AO and sustained by the learned CIT(A) is directed to be deleted. Hence the ground of appeal of the assessee is allowed.

121. The next issue raised by the assessee through ground Nos. 4 to 9 of the appeal pertains to the addition of Rs. 1 crore on account of loan from Shri Rachith and Shri Ankith.

121.1 At the outset, we note that the issues raised by the assessee in its grounds of appeal for the AY 2018-19 is identical to the issue raised by the assessee in ITA No. 1444/Bang/2024 for the assessment year 2015-16. Therefore, the findings given in ITA No. 1444/Bang/2024 shall also be applicable for the assessment years 2018-19. The ground of appeal of the assessee for the A.Y. 2015-16 has been decided by us vide paragraph No. 36 of this order against the revenue and in favour of the assessee. The learned AR and the DR also agreed that whatever will be the findings for the assessment year 2015-16 shall also be applied for the assessment year 2018-19. Hence, the ground of appeal filed by the assessee is hereby allowed.

122. The next issue raised by the assessee through ground No. 10 pertains to the addition of Rs. 1.2 crores under section 69A of the Act on account of cash found from the residence of one Shri Rajneesh Gopinath.

123. The relevant facts are that during the search proceedings in connection with Shri D K Shivakumar on 2nd August 2017 at the residence of Shri Rajneesh Gopinath cash amounting to Rs. 1.2 crore was found. On question, Shri Rajneesh Gopinath stated the cash belongs to

Coffee Day Group which he received from the key employee of coffee day group namely Shri K M Deekshith.

123.1 During the search in connection with assessee group (coffee day group) at the residence of Shri K M Deekshith, the statement of Shri Rajneesh Gopinath confronted to him to which he admitted that he had delivered the cash to Shri Rajneesh Gopinath residence at the instruction of Late Shri VG Siddhartha. He further stated that cash was delivered for exchange of foreign currency with the help of Shri Rajneesh Gopinath and a Singapore based operator namely Shri Rafi.

123.2 The statement of Shri Rajneesh Gopinath and Shri K M Deekshith was confronted to Late Shri VG Siddhartha to which he replied cash was kept with Shri Rajneesh Gopinath for the purpose of traveling outside Bangalore. He further stated that the cash does not belong to any of the group company but belong to his personal account of coffee plantation. He claimed that to meet day to day requirement at coffee plantation, he keeps cash balance around 1 crore. The impugned cash of Rs. 1.2 crore found from Shri Rajneesh Gopinath was kept there just 2 days before the search for safety purpose and the same was withdrawn from the bank which was duly recorded in books of account.

123.3 However, the AO during the assessment proceeding found that the assessee has not provided any documentary evidence to support his claim the cash found was out accounted cash of coffee plantation. The assessee also not provided the cash book. Hence, the AO in the absence

of supporting documentary evidence treated the cash of Rs. 1.2 crores found from the residence of Shri Rajneesh Gopinath as unexplained money under section 69A of the Act and added to the total income.

124. On appeal by the assessee, the learned CIT(A) confirmed the finding of the AO.

125. Being aggrieved by the order of the learned CIT(A), the assessee is in appeal before us.

126. The learned AR before us argued that the cash of Rs. 1.2 crores found at the residence of Mr. Rajaneesh Gopinath actually belonged to the Coffee Day group and not personally to the appellant. He explained that this cash was kept with Mr. Pranesh Gopinath for safekeeping and was part of the usual cash maintained for plantation operations, where daily labour payments are made in cash. The Id. AR emphasized that the sources of the cash were fully explained and supported by the cash balances recorded in the books of Chandrapore Estate and Bynekhan Estate, which had sufficient funds. Despite these explanations and the confirmation by late Mr. V.G. Siddhartha, the AO and the learned CIT(A) ignored the evidence and wrongly added the amount under section 69A of the Act as unexplained income. The Id. AR firmly submitted that there was no valid basis for this addition since the revenue authorities did not rebut the explanations or the evidence provided. Therefore, the learned AR requested us to delete the addition, as the cash sources were clearly established and explained.

127. On the contrary, the learned DR before us vehemently supported the finding of the lower authorities.

128. We have heard the rival contentions of both the parties and perused the materials placed on record. The issue relates to the addition of Rs. 1.2 crores under section 69A of the Act, on account of cash found at the residence of Shri Rajneesh Gopinath during search proceedings conducted on 2nd August 2017. It is an undisputed fact that the cash in question was attributed by Shri Rajneesh Gopinath himself to the Coffee Day Group and specifically mentioned to have been received from a key employee of Coffee Day Group namely Shri K.M. Deekshith.

128.1 Upon confrontation, Shri K.M. Deekshith categorically admitted that he had delivered the cash to Shri Rajneesh Gopinath at the instructions of Late Shri V.G. Siddhartha. Importantly, during the course of recording the statements, both Shri K.M. Deekshith and Late Shri V.G. Siddhartha consistently stated that the cash was sourced from bank withdrawal. In particular, Late Shri V.G. Siddhartha explained that the cash belonged to his personal account related to coffee plantation activities, maintained to meet day-to-day operational needs, and specifically affirmed that the said cash had been withdrawn from bank accounts and was duly recorded in the books of account. There is no statement on record from any of the persons involved that even remotely suggests that the cash originated from unaccounted or unexplained sources.

128.2 The AO, however, proceeded to make an addition under section 69A of the Act on the ground that documentary evidence like cash books

or bank withdrawal records were not furnished. Nevertheless, it is a settled position in law that when the assessee offers a plausible explanation, supported by consistent statements from all persons concerned, and there is no material evidence brought on record to disprove or contradict such explanation, the addition solely on the basis of alleged absence of documents cannot be sustained. In fact, the consistent oral evidence corroborated by the background of regular cash handling in plantation activities lends strong credibility to the assessee's explanation.

128.3 Furthermore, Late Shri V.G. Siddhartha's statement was clear in asserting that the impugned amount had been placed with Shri Rajneesh Gopinath just two days before the search for reasons of safety, and the cash had been withdrawn from bank accounts, not generated through any unaccounted means. The absence of a cash book by itself, without any contrary finding, cannot negate the uncontroverted explanation given contemporaneously during the search.

128.4 Thus, considering the entirety of facts, particularly the fact that no witness or individual has stated that the cash was from an unexplained or unaccounted source, and that there is clear and consistent explanation attributing the cash to bank withdrawals recorded in the books, we are of the view that the addition of Rs. 1.2 crore made under Section 69A is unjustified. Accordingly, the addition made by the AO and sustained by the CIT(A) is directed to be deleted. Hence the ground of appeal of the assessee is hereby allowed.

129. The next issue raised by the assessee through ground No. 11 to 18 pertains to the addition of Rs. 21,93,14,690/- under section 68 of the Act by treating the unsecured as unexplained cash credit.

129.1 At the outset, we note that the issue raised by the assessee in its grounds of appeal for the AY 2018-19 is identical to the issue raised by the assessee in ITA No. 1446/Bang/2024 for the assessment year 2017-18. Therefore, the findings given in ITA No. 1446/Bang/2024 shall also be applicable for the assessment year 2018-19. The ground of appeal of the assessee for the A.Y. 2017-18 has been decided by us vide paragraph No. 104 of this order in favour of the assessee and against the revenue. The learned AR and the DR also agreed that whatever will be the findings for the assessment year 2017-18 shall also be applied for the assessment year 2018-19. Hence, the ground of appeal filed by the assessee is hereby allowed whereas the ground of appeal of the revenue is hereby dismissed.

Coming to the issue raised in the additional ground of appeal:

130. At the outset, we note that the issues raised by the assessee in its additional grounds of appeal for the AY 2018-19 is identical to the additional ground raised by the assessee in ITA No. 1442/Bang/2024 for the assessment year 2013-14. Therefore, the findings given in ITA No. 1442/Bang/2024 shall also be applicable for the AY 2018-19. The additional ground of appeal of the assessee for the A.Y. 2013-14 has been decided by us vide paragraph No. 12 to 17 of this order against the assessee. The learned AR and the DR also agreed that whatever will be the findings for the assessment year 2013-14 shall also be applied for

the assessment year 2018-19. Hence, the issue raised by the assessee in additional ground of appeal is hereby dismissed.

131. In the result, the appeal of the assessee is partly allowed.

Coming to ITA No. 2132/Bang/2024 an appeal by the Revenue for A.Y. 2018-19 in case of legal heir of late Shri VG Sidhartha represented by Smt. Malvika Hegde.

132. The first issue raised by the Revenue is that the learned CIT(A) erred in deleting the addition on account of payment of interest by allowing the benefit of telescoping of income offered on account of receipt of cash loan.

132.1 At the outset, we note that the issue raised by the Revenue in its grounds of appeal for the AY 2018-19 is identical to the issue raised by the Revenue in ITA No. 2129/Bang/2024 for the assessment year 2015-16. Therefore, the findings given in ITA No. 2129/Bang/2024 shall also be applicable for the assessment year 2018-19. The appeal of the Revenue for the A.Y. 2015-16 has been decided by us vide paragraph No. 68 of this order against the Revenue. The learned AR and the DR also agreed that whatever will be the findings for the assessment year 2015-16 shall also be applied for the assessment year 2018-19. Hence, the ground of appeal filed by the Revenue is hereby dismissed.

133. The next issue raised by the Revenue is that the learned CIT(A) erred in deleting the addition on account of payment of interest on cash loan from Smt. Mamta Ajila.

133.1 At the outset, we note that the issue raised by the Revenue in its grounds of appeal for the AY 2018-19 is identical to the issue raised by the Revenue in ITA No. 2129/Bang/2024 for the assessment year 2015-16. Therefore, the findings given in ITA No. 2129/Bang/2024 shall also be applicable for the assessment year 2018-19. The appeal of the Revenue for the A.Y. 2015-16 has been decided by us vide paragraph No. 72 of this order against the Revenue. The learned AR and the DR also agreed that whatever will be the findings for the assessment year 2015-16 shall also be applied for the assessment year 2018-19. Hence, the ground of appeal filed by the Revenue is hereby dismissed.

134. The next issue raised by the Revenue is that the learned CIT(A) erred in deleting the addition for payment of interest to Shri Ankith, Shri Rachet and the investor of M/s Kummergodu.

134.1 At the outset, we note that the issue raised by the Revenue in its grounds of appeal for the AY 2018-19 is identical to the issue raised by the Revenue in ITA No. 2129/Bang/2024 for the assessment year 2015-16. Therefore, the findings given in ITA No. 2129/Bang/2024 shall also be applicable for the assessment year 2018-19. The appeal of the Revenue for the A.Y. 2015-16 has been decided by us vide paragraph No. 74 & 79 of this order against the Revenue. The learned AR and the DR also agreed that whatever will be the findings for the assessment year 2015-16 shall also be applied for the assessment year 2018-19. Hence, the ground of appeal filed by the Revenue is hereby dismissed.

135. The last issue raised by the Revenue is that the learned CIT(A) erred in providing the relief on account of addition made under section

68 of the Act on the unexplained loan credit based on additional evidence.

135.1 At the outset, we note that the issue raised by the revenue in its captioned ground of appeal has been adjudicated along with assessee's ground of appeal in ITA No. 1447/Bang/2024 for the AY 2018-19. The detailed finding in this regard is given in paragraph No. 129 of this order where we have allowed the issue in favour of the assessee and against the Revenue. Hence, the ground of appeal filed by the revenue is hereby dismissed.

135.2 In the result the appeal filed by the revenue is hereby dismissed.

136. Coming to the appeals filed by the other two legal heir of the late Shri VG Siddhartha viz., Shri Amartya and Shri Ishan for A.Y. 2013-14 to 2018-19 in ITA Nos. 1448 to 1453 and 1454 to 1459/Bang/2024 are hereby partly allowed.

137. In the combined result, all the appeal filed by the legal heir of the late Shri VG Siddhartha viz., Mrs. Malavika Hegde, Mr. Amarthya Siddhartha and Mr. Ishan Hegde are hereby partly allowed whereas appeals filed by the revenue are hereby dismissed.

Order pronounced in court on 16th day of July, 2025

Sd/-

(KESHAV DUBEY)

Judicial Member

Bangalore

Dated, 16th July, 2025

/ vms /

Sd/-

(WASEEM AHMED)

Accountant Member

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The CIT(A)
5. The DR, ITAT, Bangalore.
6. Guard file

By order

Asst. Registrar, ITAT, Bangalore