

आयकर अपीलीय अधिकरण, विशाखापटणम पीठ, विशाखापटणम

**IN THE INCOME TAX APPELLATE TRIBUNAL
VISA KHAPATNAM "DIVISION" BENCH, VISA KHAPATNAM**

**श्री दुव्वूरु आर एल रेड्डी, उपाध्यक्ष, एवं श्री एस बालाकृष्णन, लेखा सदस्य के समक्ष
BEFORE SHRI DUVVURU RL REDDY, HON'BLE VICE PRESIDENT
&**

SHRI S BALAKRISHNAN, HON'BLE ACCOUNTANT MEMBER

**आईटीए. नं. / ITA Nos. 228, 229, 230 & 231/VIZ/2025
(A.Ys.2019-20, 2020-21, 2021-22 & 2022-23)**

DCIT – CENTRAL CIRCLE – 1 K.V. THOTA Guntur – 522002 Andhra Pradesh	v.	Venkatrama Poultries Pvt Ltd., 5-87-39/1, Sakku House Main Road, Lakshmipuram Guntur – 522007 Andhra Pradesh [PAN:AAACV7767L]
(अपीलार्थी/ Appellant)		(प्रत्यर्थी/ Respondent)

**सी.ओ सं. / C.O. Nos. 19, 20, 21 & 22/VIZ/2025
[आयकर अपीलसं.से उत्पन्न/ ITA Nos. 228, 229, 230 & 231/VIZ/2025
(निर्धारण वर्ष/ A.Ys. 2019-20, 2020-21, 2021-22 & 2022-23)]**

Venkatrama Poultries Pvt Ltd., 5-87-39/1, Sakku House Main Road, Lakshmipuram Guntur – 522007 Andhra Pradesh [PAN:AAACV7767L]	v.	DCIT – CENTRAL CIRCLE – 1 Income Tax Office Central Revenue Buildings Near Collector Office Mahathma Gandhi Road Vijayawada – 522002 Andhra Pradesh
(अपीलार्थी/ Appellant)		(प्रत्यर्थी/ Respondent)

करदाता का प्रतिनिधित्व/ Assessee Represented by	:	Shri GVN Hari, Advocate
राजस्व का प्रतिनिधित्व/ Department Represented by	:	Shri Badicala Yadagiri, CIT(DR)
सुनवाई समाप्त होने की तिथि/ Date of Conclusion of Hearing	:	14.08.2025
घोषणा की तारीख/Date of Pronouncement	:	15.09.2025

आदेश / O R D E R

PER SHRI S BALAKRISHNAN, ACCOUNTANT MEMBER:

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

ITA No. (A.Y.)	DIN & Order No.	Dated
ITA No. 228/VIZ/2025 (A.Y. 2019-20)	ITBA/APL/S/250/2024-25/1073581407(1)	21.02.2025
C.O No. 19/VIZ/2025		
ITA No. 229/VIZ/2025 (A.Y. 2020-21)	ITBA/APL/S/250/2024-25/1073581344(1)	21.02.2025
C.O No. 20/VIZ/2025		
ITA No. 230/VIZ/2025 (A.Y. 2021-22)	ITBA/APL/S/250/2024-25/1073581291(1)	21.02.2025
C.O No. 21/VIZ/2025		
ITA No. 231/VIZ/2025 (A.Y. 2022-23)	ITBA/APL/S/250/2024-25/1073581445(1)	21.02.2025
C.O No. 22/VIZ/2025		

2. Since the appeals are belonging to same assessee and grounds raised by the revenue in these appeals are common and identical, therefore, all these appeals are clubbed and heard together and a consolidated order being passed. Cross objections are filed by the assessee. Firstly, we take up the appeal in ITA No. 228/VIZ/2025 (A.Y. 2019-20) as lead appeal and brief facts are culled out therefrom.

ITA No. 228/VIZ/2025 (A.Y. 2019-20) – Revenue Appeal

3. This appeal is filed by the revenue against the order of Ld. CIT(A) vide DIN & Order No. ITBA/APL/S/250/2024-25/1073581407(1) dated 21.02.2025 for the A.Y. 2019-20 arising out of order passed under section 147 of the Income Tax Act, 1961 (in short ‘Act’) dated 05.07.2023.

4. Brief facts of the case are that, assessee Company filed its return of income on 27.10.2019 for the A.Y. 2019-20 admitting a total income of Rs.51,30,41,130/-. A Search and Seizure operation was conducted under section 132 of the Act on 07.12.2021 in the group cases of Guntur based “Sakku” Group of concerns. The case was then centralized after taking the approval from the appropriate authorities. The Assessee-Company is engaged in the business of trading in eggs and birds and also maintains and operates wind mills at Tamilnadu. The company procures feed raw material, manufactures feed and uses it for consumption and sale of feed among its group concerns. In response to notice under section 148 of the Act, assessee filed its return of income on 08.03.2023 admitting an additional income of Rs.5,56,52,166/- under the head “income from business and profession”. The search and seizure operations had covered under section 132 of the Act for nine premises and under section 133A of the Act for the 15 premises. During the course of search proceedings, the search team noticed that assessee generated unaccounted income by way of production suppression of eggs and the

same are sold outside the books of accounts. In this regard, several incriminating materials found and seized during the search and survey operations. The incriminating material found and seized were, year wise suppression of eggs has been printed out from the ERP Software. It was found that the details of unaccounted cash receipts through unaccounted sales of suppressed eggs, are being recorded in hand written cash books physically maintained at branches and are being regularly reported to the Head Office of the Company. Further, additional evidences were gathered during the course of search operation at the residential premises of Smt. Chirala Padmaja. All the above seized materials were confronted with the relevant employees and management of the Company and sworn statement under section 132(1) of the Act and 132(4) of the Act were recorded.

5. The Modus operandi of generating unaccounted income by the assessee is unearthed during the search findings in the form of suppression of production of eggs which is sold unaccountably for cash and the said sale entries are not recorded in the books of accounts in the ERP. The cash so generated by the branches handed over to the management personnel. It was noticed that the Inventory Manager Smt. Sabitha records all transaction in excel sheets named “LESS EGGS” and maintains a separate statement for each Director and records all inflow and outflow. She further calculates the actual profit of the Company considering the unaccounted cash and apportion the same to the Directors

according to their share ratio. Further it was also noticed that ERP software was manipulated by using nomenclature of “Cool Room” and “Local Cool Room”. “Cool Room” is the accounting nomenclature used in the ERP Software for denoting the egg store / godowns at various production units. It was alleged that the “Local Cool Room” is a suspense account head in ERP. The Ld. AO in the assessment order discussed branch wise unaccounted suppressed sales of eggs. While observing that the assessee has followed a proper procedure and kept record for accounted transactions, he also noticed that the transaction pertain to unaccounted sales records were scrapped periodically in the branches. He also found that the search team unearthed total unaccounted sales from the ERP software.

6. Based on the various reports from the ERP and confrontation same with the data entry operator and cashier where they had confirmed there are discrepancies in the physical cash book maintained by them and confirmed the difference of Rs.1,48,97,221/- for the period 11.01.2021 to 31.03.2021 and Rs.2,27,59,489/- for the period of 01.04.2021 to 06.12.2021 reflecting the sales from unaccounted suppressing eggs from Unit-1, Chinnakondrupadu (V), Prathipadu (M), Guntur. Similarly, the unaccounted sales were quantified by the Ld. AO for various branches.

7. Ld. AO during the course of assessment proceedings also found that the assessee has purchased immovable property in Telangana during the F.Y.2018-19 admeasuring Ac. 23-25 Guntas at Rs. 2,00,000/- per acre. Ld. AO based on the incriminating material in the form of sale agreement has observed that the on-money of Rs.12,90,000/- per acre in cash over and above the document value has paid by the assessee-company out of the cash generated from unaccounted sale of eggs as unaccounted investment amounting to Rs.3,04,76,250/-. Ld. AO also observed various investments made by the Directors of the Company arising out of unaccounted cash generation. Further, it was also noticed by the Ld. AO, the assessee in response to notice under section 142(1) dated 27.04.2023 has claimed 15% of discount on sale of suppressed eggs referred in incriminating material in the form of printed excel sheet named “LESS EGGS”. The assessee attributed the 15% discount in the sale of suppressed eggs stating that the above is spoiled eggs and it cannot be sold for human consumption so that it maintains for poultry feed for birds’ consumption. Ld. AO based on the incriminating material and sworn statement depositions recorded at the time of search proceedings found that the assessee involved in the practice of production suppression regularly and manipulates the suppression production of eggs on daily basis.

8. Further, Ld. AO also noticed that assessee has made a claim of unaccounted feed material purchase, expenditure being alleged to be incurred

through promoters. Ld. AO found that the assessee could not substantiate why there is a difference between total sales as found in ERP data base and the books of accounts and therefore treated the same as unaccounted sales. Ld. AO therefore arrived at the production suppression and unaccounted sale of eggs for A.Y.2019-20 at Rs.27,17,39,094/- and by giving credit to the admission made while filing the return of income under section 148 of the Act amounting to Rs.5,56,52,166/- made addition of Rs.21,60,86,928/-.

9. Further, Ld. AO also made addition on unaccounted excess sales found in ERP data in comparing with return of income amounting to Rs.93,943/-. Ld. AO also did not accept the contention of the assessee regarding the bogus purchases in comparing to the ERP data base and thereby disallowed a sum of Rs.20,49,768/-.

10. On being aggrieved by the additions made by the Ld. AO, assessee preferred an appeal before Ld. CIT(A). Before Ld. CIT(A), assessee made various submissions and contended that “Local Cool Room” maintained in the ERP software was not for suppression of production details of eggs but only for having maintaining control over the grading of eggs. The assessee also submitted before Ld. CIT(A) and argued that the entire unaccounted sales computed by the Assessing Officer cannot be taxed as there is unaccounted expenditure pertaining to repairs and materials and vaccines etc., Considering the above submissions

and by relying on the jurisdictional ITAT decision in the case of M/s. Yugandhar Housing Pvt. Ltd. v. ACIT in ITA Nos.83 to 88/VIZ/2022 dated 30.08.2022 directed the Ld. AO to estimate net profit @30% on the revised unaccounted sales as business income. Further, Ld. CIT(A) found that assessee could not reconcile and explain the discrepancies with regard to difference amount of Rs.93,943/- and noticed that Ld. AO has already considered the difference between ERP and production data for estimating the unaccounted sales and thereby directed to delete the addition of Rs.93,943/- made on account of discrepancy of sales data found between ERP and regular books of accounts. Further, with respect to bogus purchases, the Ld. CIT(A) by relying on various judicial judgments disallowed 10% of total bogus purchases thereby confirmed the deletion of balance of Rs.18,44,787/-. The Ld. CIT(A), thus partly allowed the appeal of the assessee.

11. On being aggrieved by the order of the Ld. CIT(A), revenue is in appeal before us by raising following grounds of appeal: -

“1. The order of the Ld.CIT(A) is erroneous both on the facts and in law.

2. The L.d. CIT(A) ought to have upheld the working of average price per egg at Rs 3.83, as done by the AO in the assessment order. The CIT(A) erred in directing the AO to recompute the average price per egg, by first deducting 5% on account of breakage loss from the average price per egg and from such price further 10% on account of poor quality eggs.

3. The Ld. CIT(A) ought to have appreciated the fact that the assessee Company itself had claimed the average rate per egg at Rs.3.83 at the time of assessment and claimed 15% reduction due of breakage and poor quality and, however, the same was rejected by the AO after analyzing the seized material and established that the assessee company had sold these eggs out of books and gained unaccounted cash.

4. *The Ld. CIT(A) ought to have appreciated the fact that the assessee Company had already considered such discounted price for breakages/poor quality eggs, while arriving at the unaccounted income. The CIT(A) ought to have considered the fact that the unaccounted income arrived at by the AO is after considering such poultry business related contingencies.*

5. *The Ld. CIT(A) erred in estimating the unaccounted income only @30% of the total suppressed egg sales of Rs 21,60,86,928/-. The CIT(A) ought to have upheld the entire addition of Rs 21,60,86,928/-, as the same amounts to realisation of unaccounted income to the assessee company.*

6. *The Ld. CIT(A) ought to have consider the fact that the assessee company had not proved any corresponding expenditure to the unaccounted sales of Rs 21,60,86,928/-.*

7. *The Ld.CIT(A) has erred in not appreciating the fact that the assessee company had claimed entire expenditure in its books of accounts and they were audited also. The Ld. CIT(A) ought to have considered the fact that allowance of any further expenditure other than recorded in the regular books of accounts, should be supported by documentary evidence conclusively, but in the present case, it is not so.*

8. *The Ld. CIT(A) has erred in deriving his Own conclusion to estimate the unaccounted income @ 30% of the unaccounted Sale Of eggs, without any basis or without passing any speaking order in this regard.*

9. *The Ld. CIT(A) is erred in not appreciating the fact that the receipts of Rs 21,60,86,928/- were unearthed during the Course of Search operation u/s. 132 and evidenced by seized material Ld CIT(A) ought to have appreciated the fact that the same seized material has no indication of any Corresponding that was not recorded in the regular books of accounts.*

10. *Ld CIT(A) ought to have appreciated the fact that evidence was unearthed at the lime of Search operation in relation to unadmitted/unaccounted receipts. but there was no running book containing both the unaccounted receipts and unaccounted expenditure. CIT(A) ought to have appreciated the fact that once the expenditure remains constant. the suppression or sales amounts to generation of without having benefit of any further expenditure*

11. *The Ld. CIT(A) had not appreciated the facts that Sworn statements 132(4) and u/s 131 were recorded from Chairman & MD of the assessee company, Sri P Venkata Rao and key Employees Of the assessee company and they have categorically admitted the tact of generation of unaccounted money through unaccounted sale of eggs for the benefit of the Directors of the assessee company as per their sharing ratio. The Ld. CIT(A) ought to have appreciated the fact that the Target for generation of unaccounted cash was fixed in advance as the requirement of the Directors of the assessee company and accordingly. the quota for unaccounted sale of eggs*

at each branch/unit was fixed. in turn. I-d. CIT(A) ought to have appreciated the fact that the key Employee Smt C Padmaja manages all these unaccounted cash collections from various branches/units of the assessee company and in turn handed Over the same to the Directors of the assessee company as their sharing ratio.

12. *Ld.CIT(A) ought to have appreciated the fact that the modus operandi Of the assessee company in generating unaccounted income by way Of suppression Of sale of eggs was well established during the course of search operations and the same was not by Ld. CIT(A). The Ld. CIT(A) ought to have passed a speaking order. depriving the assumptions para wise.*

13. *The Ld. CIT(A) has erred in not distinguishing as to how the findings of the seized material and Sworn statements are not correct and had not given any new findings. while allowing relief to the assessee company. Ld. CIT(A) ought to have passed a order for not trusting the findings of the Search action.*

14. *The Ld. CIT(A) ought to have appreciated the fact the evidence unearthed at the time of Search proceedings in the form Of Seized material corroborated with Sworn statements. gives clear distribution Of unaccounted money to the Directors of the assessee company by the key Employee. Smt C Padmaja and there Was no element Of any corresponding expenditure to the unaccounted sale of eggs at Rs 21,60,86,928/-. The Ld.CIT(A) erred in allowing Corresponding expenditure @ 70% on an estimate basis. when the all the evidences are against to the assessee company.*

15. *Ld.CIT(A) ought to have appreciated the fact that the unaccounted money generated by the assessee company towards unaccounted sale of eggs was distributed among the Directors Of the assessee Company as per the seized material evidence marked as Annexure-A/VRPPIJCP together with the Sworn statement recorded from the key employee Smt C Padmaja 132(4). wherein she stated that 70% of the actual profit is set aside/earmarked for Management.*

16. *The Ld. CIT(A) the fact that unaccounted money generated by the assessee company applied/deployed/utilised to acquire immovable properties. i.e. Land of Ae 23.25 at Nizamabad District, Telangana State and 16 Acres of Land at Ranga Reddy District, Telangana State and the same was evident from the impounded material marked as Annexure - A/VRPL/PP/1 and seized material marked as Annexure-A/PMK/HYD/02, The Ld. CIT(A) ought not to have allowed any relief to wards corresponding expenditure @ 70% of the unaccounted sale of eggs, as the AO had established link between generation Of unaccounted income visà-vis its application/deployment, in the assessment order.*

17. *The CIT(A) ought to have appreciated the fact that suppressed sale had an application and it confirming the sources of undisclosed investment made by the assessee company and its Directors. The Ld.CIT(A) ought to have considered the fact of generation of unaccounted money through suppressed sale Of eggs is a all Or none phenomena and estimating only a certain percentage, without passing a speaking order, is not in Order.*

18. *The Ld. CIT(A) ought to have considered the fact that the AO had categorically gave a finding that there was no difference between accounted sale of eggs and unaccounted sale of eggs and thus held that claim Of lesser egg price in the unaccounted market has no merit. The Ld. CIT(A) ought not to have allowed a further rebate of 10% towards for quality of eggs, from the average rate per egg admitted by the assessee company itself @ Rs.3.83/-.*

19. *The Ld.CIT(A) ought to have considered the fact that AO had categorically gave a finding that realisation of unaccounted sale of eggs were categorised as "jumbo", "normal", "damaged" etc, as per the seized material evidence available at the time of search proceedings. The Ld.CIT(A) ought not to have allowed a further rebate of 5% towards breakages from the average rate per egg admitted by the assessee company itself @ Rs 3.83/-.*

20. *The Led. CIT(A) is not correct in allowing 15% towards breakages and poor quality of eggs, without appreciating the fact that Ministry of Food Processing Industries had quantified the losses during Egg farming (including transportation losses) at 4.88 % only (Source: press Information Bureau, press release dt.*

21. *The Ld.CIT(A) ought to have considered the analysis made by the AO in the assessment order that concept of quantifying any gross profit, 'net profit on unaccounted sale of eggs is not applicable to the facts Of the Case as the assessee company had manipulated the production figures by suppressing/hiding the actual production/yield.*

22. *The Ld. CIT(A) ought to have considered the findings of the AO in the assessment order that the assessee company could not furnish any documentary evidence for claiming unaccounted purchases and it had failed to furnish even the details of alleged unaccounted purchases like name Of parties. quantity purchased. amount paid etc.*

23. *The Ld. CIT(A) ought to have considered the sworn Statements recorded u/s 131 during the course Of assessment proceedings from the employees of the assessee company who are connected to purchase of raw material and its data entry, namely Sri Sri G Akkaiah. Sri T Suresh. Sri G Brahmaiah. Sri Y Subba Rao, Sri E Gangaiah, Sri K Masthan Rao and Sri Nagaraju. which are made part of the assessment order. The Lad. CIT(A) ought to have appreciated the fact that the claim made by the assessee company. With regard to corresponding unaccounted purchases Was not*

accepted/stated/admitted by any of its employees. The Ld. CIT(A) ought to have considered the fact that the statements recorded at the time of assessment proceedings has a locus standi and the burden lies on the assessee company to establish that the facts stated by its employees were wrong and that there were corresponding unaccounted purchases. The Ld.CIT(A) ought to have passed a speaking order as to how the AO is wrong, when the data entry operators also did not accept the theory of unaccounted purchases.

24. *The Ld. CIT(A) Ought to have appreciated the fact that if the assessee company had really purchased unaccounted feed in cash, the same should have been consumed either at the Feed mill or at the Bird shed, but the employees of the assessee company, who were actually involved in the relevant operations, categorically stated that raw material was not received Without being entered into books of account.*

25. *Ld. CIT(A) ought to have appreciated the fact that if the assessee company had really purchased any unaccounted raw material in cash, at least some evidence of such unaccounted purchase would have been found in the seized material. The Ld. CIT(A) ought not to have accepted the claim of the assessee Company that all vouchers relating to unaccounted purchases are destroyed and allowed relief to the assessee company.*

26. *The Ld. CIT(A) ought to have passed a speaking order as to how the analysis of the AO is not correct, which was derived from the seized material of incriminating nature and statements recorded during the Course of search proceedings and scrutiny proceedings.*

27. *The Ld. CIT(A) ought to have considered the fact that had the Department not conducted Search action 132' the fact of non-admission of sale proceeds of Eggs would not have come to light and the modus operandi of the assessee company would not have unearthed.*

28. *The Ld.CIT(A) ought to have considered the fact that the assessee company had not voluntarily made any true and full disclosure of its income. The Ld. CIT(A) ought to have appreciated the fact that it was Only after detection by the Department. the unaccounted money of the assessee company was brought to tax.*

29. *The Ld. CIT(A) ought to have considered the decision Of Hon'ble Supreme Court in the case of sri B Kishore Kumar vs DCIT (2015) 62 215/234 Taxmann 771 , where in it was held that even a sworn statement shall also constitute incriminating material to dislodge any earlier finding for the purpose of making an assessment u./s 153A.*

30. *The Ld. CIT(A) ought to have considered the decision of Hon'ble Supreme Court in the case Of Bannalal Jat Constructions P Ltd Vs ACIT (2019) 106 Taxmann.com 128(SC)/264 Taxmann .S(SC), wherein it was held that "where High Court upheld the addition made by authorities below*

relying upon statement made in course of search proceedings by Director assessee company since assessee failed to discharge its burden that admission made by Director in his statement was' wrong and said statement was recorded under duress and coercion' SLP filed against decision of High Court was to be dismissed.

31. *The Ld.CIT(A) ought to have considered the decision of Hon'ble High Court of Karnataka in the case of PCIT Vs Rajesh Exports Ltd (2023) 150 taxmann.com 18 (Karnataka wherein it was held that "the assessee failed to substantiate loss with no credible evidences before lower authorities thereby failing to discharge primary onus lies on him to do so in respect of expenditure claimed by him in the return of income, order of Tribunal deserved to be set aside.*

32. *The Ld. CIT(A) ought to have appreciate the fact that admissions are relevant and may be proved as against the person who makes them, as per the section 21 of the Indian Evidence Act 1872. In the instant case, the statements given by the Key Employees of the assessee company firm during the Search proceedings and also during the course of scrutiny proceedings have an evidentiary value. The CIT(A) has erred in not considering these statements recorded, while allowing relief to the assessee company.*

33. *The Ld.CIT(A) is not justified in allowing relief to the assessee without applying the decision Of Hon'ble Apex Court in the case of Sumati Dayal v CIT (1995) 214 ITR 801 (SC), wherein it was held that Surrounding circumstances and test Of applying human probabilities "Though an apparent must be considered real until it was Shown that there were reasons to believe that the apparent Was not real in the case where a party relied on self-serving recitals in document, it was for that party to establish the truth of those recitals. Taxing authorities were entitled to look into the surrounding circumstances to find out the reality of the recitals "*

34. *The Ld. CIT(A) is not justified in allowing relief without applying the decision of Hon'ble Apex Court in the case Of CIT v. Durga Prasad More (1971) 82 [TR 540 (SC) (546,547), wherein it was held that "Science has not yet invented any instrument to lest the reliability of the evidence placed before a Court or a Tribunal. Therefore, the Courts and the Tribunals have to judge the evidence before them by applying the test of Human probabilities Human minds may differ as to reliability of a piece of evidence, but that sphere decision Of the final fact-finding authority is made conclusive by law.*

35. *The Ld. CIT(A) ought not to have allowed relief towards difference between the Sales as figured in ERP software and Sales as admitted in the Income Tax Return (ITR) amounting to Rs 93.9431% by holding that unaccounted sales were worked out by considering the ERP data as a base Ld. CIT(A) ought to have appreciated the fact that the assessee Company while admitting the sales figure in its ITR had suppressed an amount of*

Rs.93,943/-, which is no way connected to the unaccounted sales quantified separately.

36. The Ld. CIT(A) ought not to have allowed relief of Rs 93,943/- as the assessee company could not satisfactorily explain its claim or sales return. The CIT(A) ought to have appreciated the fact that the ERP admin Sri G Trinath and Chairman of the assessee company Sri p Venkata Rao could not explain the difference during the course of Search proceedings and no further satisfactory explanation Was submitted in the assessment proceedings also.

37. The Ld. CIT(A) has erred in not upholding the entire addition towards bogus purchases amounting to by citing the judicial pronouncement i.e. M/S. Accra Pac (India) Pvt. Ltd vs DCIT, Circle-I, Ahmedabad in ITANo.514/Ahd/2018 of Hon'ble ITAT, Ahmadabad Bench and directed the AO to restrict the disallowance @10% on the bogus purchases. though the facts are different from the facts of the present case. The Ld. CIT(A) ought to have appreciated the fact that the assessee company, while admitting the purchase figure in its ITR had inflated an amount of Rs 20,499768/- and thus estimating the disallowance @10% is not in order.

38. Ld. CIT(A) Ought not to have restricted the disallowance @ 10% of the total purchases of Rs.20,49,768/- the assessee company could not satisfactorily explain the inflation of purchases. The CIT(A) ought to have appreciated the fact that the ERP admin Sri G Trinath and Chairman of the assessee company Sri p Venkata Rao could not explain the difference during the course of search proceedings and no further satisfactory explanation was submitted in the assessment proceedings also.

39. The Ld. CIT(A) ought to have considered the decision of the Hon'ble Gujarat High Court in the case of N.K. Industries ltd Vs Dy.CIT (2016) 72 Taxmann 289(Gujarat) and the same was consequently affirmed by the Hon'ble Supreme Court reported in 84 Taxmann 195 (SC) N.K.Proteins Ltd (earlier N.K.Industries Ltd) Vs Dy.CIT vide SLP (C) No. 769 of 2017. The Hon'ble High Court held that 'The Tribunal in the case Of Vijay Proteins Ltd (Supra) has observed that it would be just and proper to direct the AO to restrict the addition in respect of the undisclosed income relating to the purchases in 25% of the total purchases. The said decision was confirmed by this Court as well on consideration of the matter, we find that the facts o of the present case are identical to those of M/S. Indian Woollen Carper Factory (Supra) at Vijay Proteins Ltd. ((Supra)) In the present case the Tribunal has categorically observed that the assessee had shown bogus purchases amounting to Rs, 2, 92, 93,288/- and taring only 25% of these bogus claim goes against the principles of Section 68 and 69C of the Income Tax Act. The entire purchases shown on the basis of fictitious invoices have been debited in the trading account Since the transaction of Rs.2,92,93,288/ represented alleged purchases -from bogus suppliers it was not incumbent on it to restrict the disallowance to only Rs.73,23,322/-" The CIT(A) ought

to have considered that once the purchases are conclusively proved to be non-genuine. partial disallowance of such expenditure goes against the principles.

40. *The Ld. CIT(A) ought to have considered the decisions Of Hon'ble Bombay High Court in the case of PCIT Ganesh Developers in ITA No.719 of 2018 and PCIT Vs. Kanak Impex (India) Ltd. in ITA NO.791 Of 2021 and the decision of Hon'ble Calcutta High Court in the case of Vs Mrs. Premlata Tekriwal [20221 143 taxmann.com 173(Cal), wherein it was held that when bogus purchases found by the Department, the entire purchases are to be disallowed but not a percentage of such purchases.*

41. *Any Other ground that may be urged at the time of hearing.”*

12. Ground Nos. 1 & 41 are general in nature and needs no adjudication.

13. Ground nos. 2, 3 & 4 is directed against the upholding of the average prices by the Ld. CIT(A) @Rs.3.83 per Egg by allowing further deduction of 5% on account of breakage eggs and 10% on account of poor-quality eggs.

14. On this issue, Ld. Departmental Representative [hereinafter in short “Ld.DR”] submitted that Ld. AO has arrived at the average price of Rs.3.83/- after factoring the “cracked eggs”, “low quality eggs” and “spoiled / broken eggs”. He further submitted that the Ld. CIT(A) has once again deducted 5% on account of breakage loss and further 10% on account of poor-quality eggs in the average price of Rs.3.83 per egg. He therefore pleaded that allowance of additional deduction on account of breakage and low-quality eggs amounts to double deduction and therefore prayed for its deletion.

15. Per contra, Ld. Authorised Representative [hereinafter “Ld.AR”] submitted that these eggs being a perishable commodity and the shell being

fragile, the loss on these items needs to be factored in with the prices. He also further submitted that the eggs routed through “Local Cool Room” cannot be assumed to be sold intact without any breakage. He further submitted that the breakage is of two types, one type is at the time of hatching by the birds and the other is at the time of kept it in storage. These eggs do not fetch any market value. Further during the grading of eggs there will always be a certain percentage of eggs with inferior quality with small cracks which do not yield regular market price. Therefore the Ld. CIT(A) has considered deduction of 5% on account of breakage loss and 10% on poor quality eggs cannot be considered as abnormal and hence prayed for sustaining the same.

16. We have heard both the sides and perused the material available on record. It is an admitted fact that in this type of industry the shell being fragile and the eggs being a perishable commodity, it is a common phenomenon certain percentage of eggs do not fetch any market value. The losses have to be factored while arriving at the average price. Further there is also merit in the argument of the Ld.AR that certain percentage of eggs are of inferior quality with small cracks which do not yield any regular market price. Further, it was also established by the Ld.AR that all the eggs routed through “Local Cool Room” are sold without any breakage or cracks. Ld. CIT(A) after considering all the above factors, observed as follows:

“6.5.1 I have considered the above submissions of the appellant and the relevant findings from the assessment order. It is a fact that the breakage percentage of unaccounted eggs specified in the “Local Cool Room” is not specified anywhere in the available records. The AO had added all the eggs that have been transferred to Local cool room as unaccounted sales. At the same time, it cannot be assumed all the eggs that were routed this “Local Cool Room” ledger entries were sold intact without any breakage. In this kind of industry, breakage loss is a common phenomenon and such loss is also claimed in the regular books of accounts which were allowed. The cash ledgers seized from Smt. Ch. Padmaja is also not complete in the sense it is available only for a part period. Even in the excel sheets seized from Smt.Ch. Padmaja (which is reflected as table-1 in this order) certain eggs were mentioned as “crack eggs” and the prices were mentioned too low against such eggs. Further in the same excel sheet the low quality eggs which had fetched comparatively less prices. The Ld.AR had requested discounts on 2 accounts: A. Deduction @15% on broken or spoilt egg which carry nil value. b. Deduction @ 15% on low quality eggs which would fetch less value.

6.5.2 In this industry, the eggs being a perishable commodity and shell being fragile, the losses on these items needs to be factored in with the prices. I am of the considered opinion that such breakage loss / storage loss/ poor quality eggs need to be estimated and same to be factored in the cost price of the egg. Such loss needs to be factored in to the average price of Rs. 3.83 per egg determined by the AO. Under the facts and circumstances, first, it would be appropriate to factor in 5% to the price of an egg on account of breakage loss and after deducting the breakage loss, a further 10% to the price of an egg for the price differences on account of poor quality eggs needs to be given. The AO is hereby directed to deduct first 5% on account of breakage loss and from such price further 10% on account of poor quality eggs from the average price of Rs. 3.83 per egg and recompute the average price per egg accordingly.”

17. We are in agreement with the findings of the Ld. CIT(A) and hence we do not find any interference is required in the decision of the Ld. CIT(A). Thus, Ground Nos. 2, 3 & 4 raised by the revenue are dismissed.

18. With regard to estimating the unaccounted income @30% on the total suppressed egg sales of Rs.21,60,86,928/-. Revenue has raised Ground Nos. 5 to 17 challenging the estimation.

19. On this issue, Ld. DR submitted that the assessee suppressed sales to the extent of 70% and distributes it in the ratio of 30:70 to the Directors. Ld. DR also submitted that the assessee has also accepted this fact and admitted additional income of Rs.5,56,52,166/- while filing the return of income in response to notice under section 148 of the Act. Ld. AO after verifying the submissions made by the assessee and the seized incriminating material, arrived at the unaccounted income of Rs.27,17,39,094/- by computing that the assessee has sold 7,09,04,200 eggs outside the books of accounts @3.83 per egg. He further submitted that these entries are made under the “Local Cool Room” in the ERP and available in the excel sheet prepared for the purposes of suppression of production of eggs by Smt.Ch. Padmaja. Ld. DR submitted that assessee has created a suspense account under the “Local Cool Room” wherein the details of unaccounted sales were mentioned. The assessee also had one more account “Cool Room” denoting the storage in the godowns at various branches and accounted in the regular books of accounts. Ld. AO has rightly considered the transfer of eggs from “Cool Room” to “Local Cool Room” which is entered in the ERP to denote the suppression of sales figures, Ld. DR argues. He also further submitted from the computation of “Loss Eggs” found and seized in the certain excel sheets at the residential premises of Smt. Padmaja for the month of November, 2021 is quantified at Rs.40,00,043/- which exactly matches with the computation made by Ld.AO. He therefore pleaded that the assessee is regularly indulging in the modus operandi

of treating the eggs transfer to “Local Cool Room” as unaccounted and therefore the additions made by the Ld. AO be sustained.

20. Per contra, Ld.AR submitted that as per financial statements submitted in the paper book, assessee’s turnover stood at Rs.670 crores out of which Rs.600 crores pertaining to sale of eggs. The contention of the Ld. DR is that the assessee is suppressing 70% of the sales amounting to Rs. 21 crores are not factually correct and hence there is no suppression of 70% of sales by the assessee. Further he also submitted that the Ld. AO has extracted parallel cash books for the period of 87 days during the F.Y. 2020-21 which was extrapolated to the remaining part of the year. He also submitted that huge generation of cash from unaccounted sales of eggs could not be substantiated by the revenue by discovering any unaccounted assets during the search and survey proceedings. He also further submitted that the assessee has voluntarily admitted Rs.5,56,52,166/- in response to return of income filed under section 148 of the Act. He argued that the Ld. AO while adding estimation of Rs.21,60,86,928/- as unaccounted income has not given any deduction in the expenses and therefore Ld. CIT(A) has estimated the profit @30% on the unaccounted sales. He further pleaded that there is no clear-cut finding that there is physically “Local Cool Room” available in the assessee’s premises. Ld. AO has merely relied on the ledger account created for the purposes of segregation of egg sales for estimating

the unaccounted sales. He therefore pleaded that the addition may by the Ld. AO be deleted.

21. We have heard both the sides and perused the material available on record. It is the contention of the Ld. AO that the assessee is maintaining parallel cash books arising out of the sales of eggs transferred to “Local Cool Room” which is fully unaccounted and the Ld. AO also found instances of expenses towards vaccines, repairs and maintenances in the unaccounted cash book. However, the Ld. AO concluded all such expenses are claimed in the regular books of accounts and hence no credit needs to be given for deduction of such expenditure from the unaccounted sales made by the assessee. However, the Ld. AO could not bring on any material that the unaccounted expenditure was recorded in the books of accounts. Further, as contended by the Ld.AR the Ld. AO has not traced out any unaccounted assets that was found during the search proceedings. In these circumstances, Ld. CIT(A) has estimated the profit @30% considering the deduction for unaccounted expenditure, and this view was fortified by the decision of the Hon’ble Supreme Court in the case of CIT v. Williamson financial Services [2007] 165 taxman 638, wherein the Hon’ble Supreme Court held as follows: -

“It is important to bear in mind that Under Section 4, the levy is on total income of the Assessee computed in accordance with an subject to the provisions of the Income Tax Act. What is chargeable to Tax under the Income Tax act is not the gross receipt but the income under the Income Tax Act. The tax is on income but on Gross receipt.”

22. It is a trite law that the entire sales turnover cannot be taxed and only the income arising out of the sales shall be subject to tax. The jurisdictional bench at Visakhapatnam in the case of M/s. Yugandhar Housing Pvt. Ltd. v. ACIT (supra) has also taken a similar view, the Ld. CIT(A) extracted the relevant ratio as appended below: -

“10. In the instant case, there is no dispute on the unaccounted turnover. The grievance of the assessee is that the income/net profit embedded in unaccounted turnover must have been taxed and not the entire turnover. We find merit in the argument of the Ld. AR that the assessee has consistently declaring net profit on the accounted turnover ranging from 3% to 10%. It is also noted that the unaccounted turnover of the assessee works out to 33% of the total turnover both disclosed and undisclosed and hence the assessee has disclosed nearly 67% of the turnover in the books of accounts. The net profits declared for the various assessment years as per the above table was assessed and not disputed by the AO. Similarly, it is also admitted that the seized material contains unaccounted expenditure also. We find that the AO has merely relied on the sworn-in statement recorded by the Managing Director of the assessee-company admitting the total income of Rs. 27,45,12,189/- for various assessment years but has failed to give deduction for the unaccounted expenditure by the assessee for earning unaccounted income. Hon'ble Gujarat High Court in the case of CIT vs. President Industries [258 ITR 654] (Gujarat HC) has held that it cannot be the matter of an argument that the amount of sales by itself cannot represent the income of the assessee. It is the realization of excess over the cost incurred that only forms part of the profit included in the configuration of sale. Similar view was taken in the case of CIT vs. Gurubachhan Singh J. Juneja [215 CTR 509] (Gujarat HC) and CIT vs. Sharada Real Estate (P) Ltd., [99 DTR 100] (MP-HC) and in the case of Jyotibhaichand Bhaichand Saraf & Sons (P) Ltd., vs. DCIT [139 ITD 10] the Coordinate Bench at Pune has confirmed the addition could only be made only to an extent of gross profit earned on an unaccounted/suppressed sales and not on the entire sales itself. Similar view was taken in the case of ACIT vs. M/s. Archana Trading Co., in ITA Nos. 351 & 352/Coch/2011, dated 28/02/2013 and also ACIT vs. Pahal Food [IT(SS)A No. 42/Hyd/2005, dated 30/09/2009] by ITAT, Hyderabad. In the case of CIT vs. Williamson Financial Services reported in [2007] 165 Taxman 638 (SC) the Hon'ble Supreme Court has observed as follows in Para 29:

“.....Under the income tax Act the tax is on the income and not on gross receipts. It is also important to bear in mind that U/s. 4 the levy is on „total income“ of the assessee computed in accordance

with and subject to the provisions of the Income Tax Act. What is to chargeable to tax under the Income Tax Act is the profit and gains of a year. What is chargeable to tax under the Income Tax Act is not gross receipts but income.....”

Respectfully following the ratio laid in the above decisions, we are of the opinion that the entire unaccounted turnover cannot be brought to tax or the turnover admitted at the time of search operations cannot be brought to tax and as such there can only be a reasonable estimation of net profit on the unaccounted turnover. In the instant case, since the assessee has declared an average net profit of 8.18% for the AYS 2012-13 to 2018-19, we are of the considered view that the same net profit percentage shall be adopted on the unaccounted turnover of the assessee for the various assessment years.”

23. In the light of facts and circumstances as discussed aforesaid, we do not find any infirmity in the order of the Ld. CIT(A) by estimating the profit @30% on the unaccounted sales and we do not want to interfere in the order of the Ld.CIT(A). Thus, grounds on this issue raised by the revenue are dismissed.

24. Ground No. 35 & 36 is with respect to deletion of addition of Rs.93,943/- by the Ld. CIT(A).

25. On this issue, Ld. DR fully relied on the orders of the Ld. AO.

26. Per contra, Ld.AR relied on the order of the Ld. CIT(A).

27. We have heard both the sides and perused the material available on record. It is noticed that difference of Rs.93,943/- arising out of accounted income between sales as per ERP and sales as per the books of accounts. It is also observed that the unaccounted income has been already considered while making additions from the production data taken from the ERP software and estimating

the profit on the unaccounted sales. Since already the sales manipulation detected in the ERP software was already subject to tax, there is no merit in making an addition of Rs.93,943/- as difference between the sales as per ERP data and the books of accounts. Ld. CIT(A) has rightly held and directed the Ld. AO to delete the said deduction. We do not find any infirmity in the order of the Ld. CIT(A) and hence no interreference is required. Grounds raised by the revenue are dismissed.

28. Ground Nos. 37 & 38 relates to estimation disallowances @10% on the bogus purchases of Rs.20,49,768/-.

29. On this issue, Ld. DR relied on the order of the Ld. AO.

30. Per contra, Ld.AR relied on the order of the Ld. AO.

31. We have heard both the sides and perused the material available on record. It is the contention of the Ld. AO that there are certain discrepancies in the ERP Software in the purchases giving rise to difference of Rs.20,49,768/-. The contention of the Ld. AO is that the assessee could not reconcile the above discrepancies and therefore an amount of Rs.20,49,768/- is treated as bogus purchases and treated as unaccounted income of the assessee during the impugned assessment year. However, the submission of the Ld.AR is that the books of accounts are duly audited and fully supported by the purchase bills / vouchers.

Ld. AO made disallowance of purchases because of mis-match found in the regular books of accounts and compared with the data in the ERP Data base. Ld.AR also demonstrated that in the seized material available in the paper book that there is unaccounted purchase of goods and other expenditure. Various judicial pronouncements have held that entire bogus purchases cannot be taxed and by relying on the same the Ld. CIT(A) has estimated disallowance at 10% on the alleged total bogus purchases made by the Ld. AO. We are in agreement with the Ld. CIT(A) and therefore we find no infirmity in the order of the Ld. CIT(A) and no interference is required. Hence, this ground raised by the revenue is dismissed.

32. The other grounds raised by the revenue are argumentative in nature and needs no adjudication.

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

ITA Nos. 229, 230 & 231/VIZ/2025
(A.Ys. 2020-21, 2021-2022 & 2022-23)

34. The grounds raised by the revenue in all these appeals are identical to grounds raised in ITA No. 228/VIZ/2025 for the A.Y. 2019-20, accordingly the decision in ITA No. 228/VIZ/2025 shall mutatis mutandis applies to ITA Nos.229, 230 & 231/VIZ/2025.

35. In the result, appeals filed by the revenue are dismissed.

Co.No. 19/VIZ/2025 (A.Y. 2019-20)

36. Assessee has raised following grounds of appeal in its Cross objection: -

“1 The learned Commissioner of Income Tax (Appeals) ought to have deleted the entire addition of Rs.21,60,86,928 made by the assessing officer towards income from alleged sale of eggs outside the books of account.

2. The learned Commissioner of Income Tax (Appeals) is justified in deleting the addition of Rs.93,943 made by the assessing officer towards excess sales found in ERP database when compared to sales in Income Tax Return filed by the appellant.

3. The learned Commissioner of Income Tax (Appeals) ought to have deleted the entire addition of Rs.20,49,768 made by the assessing officer towards bogus purchases being the difference between purchases as per Income Tax Return and the purchases in ERP database.

4. Any other grounds of Cross-Objection that may be raised at the time of hearing.”

37. In Ground No. 1, Assessee has challenged the addition made by the Ld.AO amounting to Rs.21,60,86,928/- ought to have been deleted by the Ld. CIT(A). On this issue, in the aforesaid paragraphs, we upheld the decision of the Ld.CIT(A) in estimating the total income @30% on the unaccounted sales of Rs.21,60,86,928/- . Accordingly, the ground raised by the assessee has no merits and legs to stand and hence dismissed.

38. Similarly, with respect to deletion of addition of Rs.93,943/-, this ground is supportive to the order of the Ld. CIT(A) and hence dismissed as infructuous. Since we have upheld the decision of the Ld. CIT(A) on this ground. Accordingly, the ground raised by the assessee is dismissed.

39. With respect to Ground No. 3 regarding the prayer of the assessee to direct the Ld. CIT(A) to deleted the entire addition of Rs. 20,49,768/-, we agreed with the view taken by the Ld. CIT(A) to disallow 10% of Rs. 20,49,768/-, by upholding the same in the aforesaid paragraphs and hence this ground raised by the assessee in the cross objection devoid of merits is dismissed.

40. In the result, cross objection filed by the assessee is dismissed.

C.O. Nos. 20, 21 & 22/VIZ/2025

(A.Ys. 2020-21, 2021-2022 & 2022-23)

41. The grounds raised by the assessee in all these cross objections are identical to grounds raised in C.O. No. 19/VIZ/2025 for the A.Y. 2019-20, accordingly the decision in C.O. No.19/VIZ/2025 shall mutatis mutandis applies to C.O. Nos. 20, 21 & 22/VIZ/2025

42. In the result, cross objections filed by the assessee are dismissed.

43. To sum-up, appeals filed by the revenue as well as cross objections filed by the assessee are dismissed.

Order pronounced in the open court on 15th September, 2025.

Sd/-
(दुव्वूरु आर एल रेड्डी)
(DUVVURU RL REDDY)
उपाध्यक्ष/ VICE PRESIDENT

Dated: 15.09.2025
Giridhar, Sr.PS

Sd/-
(एस बालाकृष्णन)
(S. BALAKRISHNAN)
लेखा सदस्य/ACCOUNTANT MEMBER

आदेश की प्रतिलिपि अग्रेषित/ Copy of the order forwarded to:-

1. निर्धारिती/ The Assessee : **Venkatrama Poultries Pvt Ltd.,**
5-87-39/1, Sakku House
Main Road, Lakshmipuram
Guntur – 522007
Andhra Pradesh
2. राजस्व/ The Revenue : **DCIT – CENTRAL CIRCLE – 1**
Income Tax Office
Central Revenue Buildings
Near Collector Office
Mahathma Gandhi Road
Vijayawada – 522002
Andhra Pradesh
3. The Principal Commissioner of Income Tax
4. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, विशाखापटणम /DR,ITAT, Visakhapatnam
5. The Commissioner of Income Tax
6. गार्डफ़ाईल / Guard file

आदेशानुसार / BY ORDER

Sr. Private Secretary
ITAT, Visakhapatnam