

आयकर अपील न्यायाधिकरण में, हैदराबाद 'ए' बेंच, हैदराबाद
IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad 'A' Bench, Hyderabad

श्री रवीश सूद, माननीय न्यायिक सदस्य एवं श्री मधुसूदन सावडिया, माननीय लेखा सदस्य

SHRI RAVISH SOOD, HON'BLE JUDICIAL MEMBER
AND
SHRI MADHUSUDAN SAWDIA, HON'BLE ACCOUNTANT MEMBER

आयकर अपील सं./I.T.A.Nos.452 & 453/Hyd/2025
(निर्धारण वर्ष/ **Assessment Year(s): 2016-17 & 2017-18**)

DCIT Central Circle-3(1) Hyderabad	Vs.	United Developer Hyderabad [PAN : AADFU4034H]
(अपीलार्थी/ Appellant)		(प्रत्यर्थी/ Respondent)
Cross Objection Nos.14/Hyd/2025 & 15/Hyd/2025 आयकर अपील सं./I.T.A.Nos.452 & 453/Hyd/2025 (निर्धारण वर्ष/ Assessment Year(s): 2016-17 & 2017-18)		
United Developer Hyderabad [PAN: AADFU4034H]	Vs.	DCIT Central Circle-3(1) Hyderabad
करदाता का प्रतिनिधित्व/ Assessee Represented by	:	Shri A.V.Raghuram, Advocate, AR
राजस्व का प्रतिनिधित्व/ Department Represented by	:	Shri Balakrishna, CIT-DR
सुनवाई समाप्त होने की तिथि/ Date of Conclusion of Hearing	:	09.07.2025
घोषणा की तारीख/Date of Pronouncement	:	24.09.2025

**ITA No.452 & 453/Hyd/2025 and
CO No.14 & 15/Hyd/2025
United Developer**

ORDER

प्रति रवीश सूद, जे.एम./PER RAVISH SOOD, J.M.

The present appeals filed by the revenue are directed against the respective orders passed by the Commissioner of Income Tax (Appeals) [CIT(A)], Hyderabad-11 dated 13.01.2025, which in turn arises from the respective orders passed by the Assessing Officer (“the AO”) u/s 153C of the Income Tax Act, 1961 (for short “Act”) dated 17.02.2022 for the A.Y.2016-17 and A.Y. 2017-18. Also, the assessee company is before us as a cross-objector. Since common issues are involved in the captioned appeals and cross-objections, therefore, the same have been taken up and disposed of by a consolidated order. We shall first take up the appeal filed by the revenue and the cross-objection of the assessee firm for A.Y.2016-17, and the order therein passed shall apply *mutatis mutandis* for the purpose of disposing of the other appeal and cross-objection.

2. The Revenue has assailed the impugned order passed by the CIT(A) on the following grounds of appeal before us:

**ITA No.452 & 453/Hyd/2025 and
CO No.14 & 15/Hyd/2025
United Developer**

“1. The Ld. CIT(Appeals) erred both in law and on facts of the case in granting relief to the assessee.

2. Whether in the facts and circumstances of the case and in law, the Ld.CIT(A) is correct in holding that income is to be estimated @12% of the undisclosed cash receipts as against the addition made towards unaccounted cash receipts by the assessing officer?

3. Whether in facts and circumstances of the case and in law, the Ld.CIT(A) erred on facts in estimating income @ 12% of undisclosed cash receipts ignoring the fact that no evidence was adduced by the assessee about incurring of any expenditure against such undisclosed cash receipts?

4. The appellant craves leave to amend or alter any ground or add any other grounds which may be necessary.”

3. Also, the assessee firm is before us as a cross objector, raising the following objections.

1. On the facts and in the circumstances of the case, the Id. CIT(A)-11, Hyderabad, erred in allowing the appeal only in part. The Id. CIT(A) ought to have allowed the appeal in entirety, and as prayed for by the Assessee.
2. The Id. CIT(A) erred in sustaining the action of the AO in assuming jurisdiction under section 153C of the Act without satisfying the essential jurisdictional requirements under the said section.
3. The Id. CIT(A) erred in sustaining the action of the AO in making addition of Rs.9,45,37,047 as alleged on-money received in cash.
4. Without prejudice to the above grounds, the Id. CIT(A) erred in estimating the alleged undeclared turnover at 12 percent which is on the higher side. The Id.CIT(A) failed to appreciate that in similar line of construction business, the normal rate of profit estimated by the Revenue is 8 percent, which is also supported by various decisions of Hon'ble ITAT.

**ITA No.452 & 453/Hyd/2025 and
CO No.14 & 15/Hyd/2025
United Developer**

4. Succinctly stated, the assessee firm, which is engaged in the real estate business, had filed its return of income for the A.Y. 2016-17 on 29.09.2016, declaring an income of Rs. 91,51,090/-.

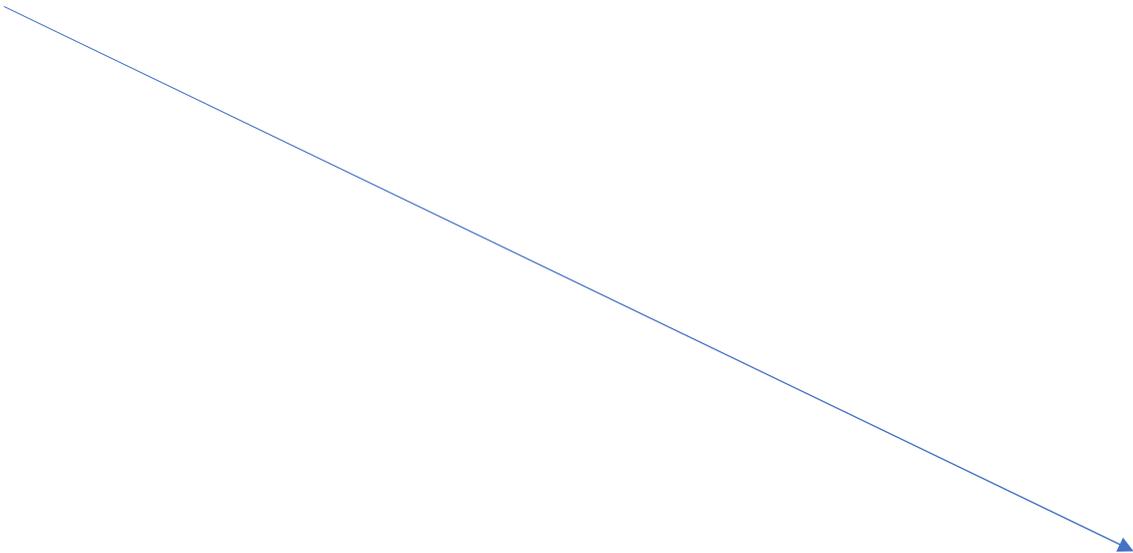
5. Search and seizure proceedings u/s 132 of the Act were conducted on “Clarion Group” on 02.5.2018. M/s Jitender Roller Flour Mills, i.e., a partnership firm, in which some of the partners of the assessee firm have substantial interest was also covered in the aforesaid search proceedings.

6. During the course of the search proceedings conducted at the premises of M/s Jitender Roller Flour Mills, certain incriminating material was recovered from a laptop belonging to Shri Surender Jindal, i.e., a part-time accountant, who, inter alia, was managing the accounts of the searched party and also the assessee firm.

7. On a perusal of the record, we find that an incriminating document seized as Page 38 of Annexure A/JRFM/05 was found and seized. The seized document i.e. Annexure A/JRFM/05, Page 38 comprised of three parts with the heading “COMMERCIAL COMPLEX”

**ITA No.452 & 453/Hyd/2025 and
CO No.14 & 15/Hyd/2025
United Developer**

total sale 275 shops”, wherein, the first part mentioned the total number of shops available for sale floor wise, amount, and the cheque amount (separate), with the total of the above two amounts aggregating to Rs.33,96,50,000/-; second part mentioned the floor-wise shops sold till 22.07.2016 (207 shops) again with details of amount and cheque amount (separate) aggregating to Rs.26,90,00,000/-; and the third part mentioned the advances received on 28.04.2016 with floor-wise details of shops, amount and the cheque amount (separate) aggregating to Rs.1,52,12,000/-. At the end of the aforesaid three parts, there appeared an amount of Rs. 5,54,38,000/-. For the sake of clarity, the aforesaid seized Page 38 of Annexure A/JRFM/05 is culled out, as under:



**ITA No.452 & 453/Hyd/2025 and
CO No.14 & 15/Hyd/2025
United Developer**

COMMERCIAL COMPLEX total sale 275 shops

S.NO	FLOOR	SHOPS	AMOUNT	cheqe amount	TOTAL AMOUNT
1	GROUND FLOOR	54	1300000	500000	97200000
2	GROUND FLOOR 1 SMALL SHOP 34	1	1050000	400000	1450000
3	FIRST FLOOR	54	900000	400000	70200000
4	FIRST FLOOR 1 SMALL SHOP no34	1	680000	320000	1000000
5	SECOND FLOOR	54	700000	400000	59400000
6	SECOND FLOOR 1 SMALL SHOP	1	450000	350000	800000
7	THIRD FLOOR	54	600000	400000	54000000
8	THIRD FLOOR 1 SMALL SHOP	1	500000	300000	800000
9	FOURTH FLOOR	54	600000	400000	54000000
10	FOURTH FLOOR 1 SMALL SHOP	1	500000	300000	800000
TOTAL AMOUNT		275 shops			338640000

COMMERCIAL COMPLEX sold shops on 22.7.2016 207 shops

S.NO	FLOOR	sold	AMOUNT	cheqe amount	TOTAL AMOUNT
1	GROUND FLOOR	54	70200000	27000000	97200000
2	GROUND FLOOR 1 SMALL SHOP	1	1050000	400000	1450000
3	FIRST FLOOR	54	48600000	21600000	70200000
4	FIRST FLOOR 1 SMALL SHOP	1	680000	320000	1000000
5	SECOND FLOOR	32	22400000	12800000	35200000
6	SECOND FLOOR 1 SMALL SHOP no 34	1	450000	350000	800000
7	THIRD FLOOR	51	30600000	20400000	51000000
8	THIRD FLOOR 1 SMALL SHOP	1	500000	300000	800000
9	FOURTH FLOOR	12	7200000	4800000	12000000
10	FOURTH FLOOR 1 SMALL SHOP	0	0	0	0
TOTAL AMOUNT		207	181680000	87970000	269000000

Adevence received on 28.4.2016 of shops

S.NO	FLOOR	SHOPS	AMOUNT	cheqe amount	TOTAL AMOUNT
1	SECOND FLOOR	22	9900000	750000	10650000
2	THIRD FLOOR	3	1687000	675000	2362000
3	FOURTH FLOOR(50sHOP)	4	1200000	1000000	2200000
TOTAL AMOUNT		29	12787000	2425000	15212000

Rs-55438000/-

8. Apart from that, the AO observed that the search officials had also seized documents viz., Annexure A/JRFM/05, Pages 39 to 44, which too were recovered from the laptop of Mr. Surender Jindal (supra). On a perusal of the aforesaid seized documents viz., Page 39 to 44 (supra), it stood revealed that the same referred to the financial year-wise expenses up to 31.03.2016 in the name of the assessee firm, which were found to be accounted for and disclosed in its returns of income for the various assessment years. For the sake of clarity, the details of few of the aforesaid expenses appearing in the seized

**ITA No.452 & 453/Hyd/2025 and
CO No.14 & 15/Hyd/2025
United Developer**

document, viz., Page 39 to 44, reads as under (as culled out from the assessment order):

S.No	Financial year	Head of expenditure	Expenditure as appearing in page 44/45 of the seized material	Expenditure claimed in the RoI
1	2015-16	Amego Paints	340094	340094
2	2015-16	Diwan Engineering Works	600978	600978
3	2015-16	Four Stone Trading Company (Steel)	1312850	1312850
4	2015-16	Income Tax	2600000	2600000
5	2015-16	SM Construction (Labour contract)	6441580	6441580

9. Although Page 38 of the seized Annexure-A/JRFM/05 did not make any mention of the name of the assessee firm, but the AO

**ITA No.452 & 453/Hyd/2025 and
CO No.14 & 15/Hyd/2025
United Developer**

observed that the other seized documents viz., Pages 39 to 44 of Annexure A/JRFM/05 not only referred to the name of the assessee firm, but also the expenses therein mentioned were found to be duly accounted for and disclosed in its returns of income filed for the various years. Thus, the A.O. based on the aforesaid facts held a conviction that the seized document viz., Page 38 of Annexure A/JRFM/05, also related to the assessee firm.

10. Also, we find that the AO, while framing the assessment observed that the contents of the seized document viz., Page 38 of Annexure A/JRFM/05 referred to shop-wise and floor wise sale details, which exactly tallied with the details of commercial shops sold, number of shops and the reference of a shop No.34 (small shop) in each of the ground floor and balance four floors of the commercial complex, i.e. "United Arcade" that was disclosed by the assessee firm to have been sold in its returns of income filed for the A.Y.2016-17 and A.Y.2017-18. Also, it was observed by the AO that the cheque component of the sale of shops as mentioned in the seized document, viz., Page 38 of Annexure A/JRFM/05 tallied with those accounted for by the assessee

***ITA No.452 & 453/Hyd/2025 and
CO No.14 & 15/Hyd/2025
United Developer***

firm in its sale register and books of accounts, but the cash component mentioned in the said incriminating document was not accounted for and disclosed as a part of the sale consideration of the said shops by the assessee firm. Further, the AO observed that Shri Jitender Kumar Gupta, the common partner of the assessee firm and the searched concern, on being queried about the aforesaid document that was recovered from the laptop of his part-time accountant, had expressed his unawareness about the contents of the same for the reason that he was not conversant about the financial dealings of the assessee firm. Thereafter, Shri Jitender Kumar Gupta vide his statement dated 29.05.2018, had disowned the contents of the seized material, and had, inter alia, submitted that he is a sleeping partner in the assessee firm, but as informed by Shri Mohammed Rouf, managing partner of the assessee firm the sale consideration of the shops was duly recorded in the books of accounts and no such unaccounted sale consideration of Rs.18.10 crores was received. Further, the AO observed that Shri Mohammed Rouf, managing partner of the assessee firm, on being queried, had also submitted that the sale

**ITA No.452 & 453/Hyd/2025 and
CO No.14 & 15/Hyd/2025
United Developer**

consideration of the shops sold by the assessee firm was duly accounted for in its books of accounts.

11. As is discernible from the assessment order, it transpires that the AO did not find favour with the explanation of the partners of the assessee firm, and concluded that the contents of the seized material i.e. Page 38 of Annexure A/JRFM/05 referred to the actual sale consideration (including on-money) that was received by the assessee firm on the sale of the shops in the Commercial Complex i.e. "United Arcade" both during the year under consideration and the immediately succeeding year for the reasons viz., (i) that the seized document i.e. Page 38 of Annexure A/JRFM/05 was recovered from the computer of the part-time accountant of the assessee firm that was lying in the business premises of M/s Jitender Flour Mills, Hyderabad, i.e, the searched concern in which, partners of the assessee firm had substantial interest; (ii) that the number of shops that were sold by the assessee firm (floor-wise) during the subject year i.e. A.Y.2016-17 and A.Y.2017-18 totaling to 275 (Nos.) tallied with the details of the shops sold (floor-wise) as was mentioned in the seized document Page 38 of

**ITA No.452 & 453/Hyd/2025 and
CO No.14 & 15/Hyd/2025
United Developer**

Annexure A/JRFM/05; (iii) that the cheque component of the sale consideration that was received by the assessee firm and was accounted for in its books of accounts tallied with the amount of the sale consideration received through cheques as was mentioned in the seized document Page 38 of Annexure A/JRFM/05; and (iv) that though the seized document i.e. Page 38 of Annexure A/JRFM/05 did not mention the name of the assessee firm, but as the other seized documents i.e. Page Nos. 39 to 44 of Annexure A/JRFM/05 recovered from the same laptop of the part-time accountant not only mentioned the name of the assessee firm, but also referred to the details of the expenses that were accounted for by the assessee firm in its books of accounts for the year under consideration, therefore, it could safely be concluded that the seized document viz., Page No.38 of Annexure A/JRFM/05 (supra) was also relating to the affairs of the assessee firm; and (v). that as per the information available in the public domain the market value of the commercial property in the same commercial complex constructed by the assessee firm, i.e., “United Arcade” was Rs.17,500/- per sq. ft in respect of furnished shops located in the

**ITA No.452 & 453/Hyd/2025 and
CO No.14 & 15/Hyd/2025
United Developer**

ground floor and Rs. 9,000/- per sq. ft. in respect of semi furnished shops located on the second floor, therefore, the substantial variance between the said market value and the value for which the assessee firm had claimed to have sold the shops in its commercial complex, i.e., “United Arcade”, clearly revealed the suppression of the sale proceeds. Accordingly, the AO based on his aforesaid observations, concluded that the Page 38 of Annexure A/JRFM/05 referred to the actual sale consideration for which the assessee firm had sold 275 shops in its commercial complex, i.e. “United Arcade” for a total consideration of Rs.33,96,50,000/-, but had only admitted the cheque portion of Rs.11,52,00,000/- in its return of income for the A.Y. 2016-17 and A.Y. 2017-18, leaving behind the apparent cash component of sale consideration of Rs. 22,45,80,000/-. Accordingly, the AO observed that the contents of the seized document, viz. Page 38 of Annexure A/JRFM/05 revealed the actual sale consideration of 275 shops that were sold by the assessee firm in its commercial complex, i.e., “United Arcade”. Thus, the A.O., based on his aforesaid conviction, concluded that the assessee firm had not accounted for the cash component of

**ITA No.452 & 453/Hyd/2025 and
CO No.14 & 15/Hyd/2025
United Developer**

Rs. 22,45,80,000/- that it had received as on-money on the sale of shops of its aforesaid commercial complex. Thereafter, the A.O., taking cognizance of the fact that the assessee firm had already offered an additional income of Rs. 1,25,00,000/-, thus held the balance amount of Rs. 21,20,80,000/- [Rs. 22,45,80,000 – Rs. 1,25,00,000) as its unaccounted income for the A.Y.2016-17 and A.Y. 2017-18. Thereafter, the AO, based on the aggregate of the cheque receipts that were admitted by the assessee firm in both the aforementioned years bifurcated the alleged on-money receipts, i.e., the cash component of the alleged unaccounted sale proceeds on a proportionate basis in the hands of the assessee firm for both the aforementioned years viz., (i). undisclosed cash received on sale of shops during the A.Y.2016-17: Rs. 9,45,37,047; and (ii). undisclosed cash received on sale of shops for A.Y.2017-18: Rs. 11,75,42,953/-. Accordingly, the AO vide his order passed u/s 153C of the Act, dated 17.02.2022, determined the income of the assessee firm for A.Y. 2016-17 at Rs 10,98,53,139/-.

12. Aggrieved, the assessee firm carried the matter in appeal before the CIT(A).

**ITA No.452 & 453/Hyd/2025 and
CO No.14 & 15/Hyd/2025
United Developer**

13. Ostensibly, the assessee firm in the course of the proceedings before the CIT(A) had assailed the order passed by the AO under Section 153C of the Act, dated 17.02.2022 for A.Y 2016-17, primarily on the ground that the AO had grossly erred in making the impugned addition of Rs. 9,45,37,047/- on account of the alleged on-money received from sale of shops. Elaborating on his contention, it was claimed by the assessee firm that now when its name was neither mentioned in the seized document i.e. Page 38 of Annexure A/JRFM/05, nor was it signed by any person, much less any of its partners, or indicated the details or names of the parties from whom the on-money was allegedly received, therefore, there was no justification for the A.O. to have made the impugned addition based on the said dumb document which was not seized from the premises of the assessee firm but from the premises of a third party. Also, it was emphasized by the assessee firm that in the course of the search proceedings conducted on M/s Jitender Roller Flour Mills (supra), as neither its partner, i.e. Mr. Jitender Kumar Gupta (supra) nor Mr. Surender Jindal, i.e., the part-time accountant from whose laptop the

***ITA No.452 & 453/Hyd/2025 and
CO No.14 & 15/Hyd/2025
United Developer***

said incriminating document was claimed to have been recovered, had ever stated that the contents of the said document pertained to the assessee firm, therefore, the same could not have been used as an evidence for drawing adverse inferences in the hands of the assessee firm. It was claimed by the assessee firm that, now when the identity of the author of the incriminating document and his motive for preparing the same were absolutely unverifiable, therefore, merely based on a suspicion, how so ever strong, no addition based on the unsubstantiated contents of the said dumb document whose authenticity itself was in serious doubt could have been made on presumptions. The assessee firm further submitted that as its claim that the entire amount of sale consideration received on the sale of the shops was duly accounted in its "books of accounts", and no material was ever unearthed either in the course of search proceedings (conducted on the third party) or in the survey proceedings conducted on the assessee firm u/s 133A of the Act on 04.05.2018, which would reveal that any on-money was received by the assessee firm on the sale of the shops, therefore, the AO merely based on surmises and

***ITA No.452 & 453/Hyd/2025 and
CO No.14 & 15/Hyd/2025
United Developer***

conjectures had made the impugned addition, which cannot be sustained and is liable to be vacated. Also, the assessee firm submitted before the CIT(A) that the impugned incriminating document, i.e., Page 38 of Annexure A/JRFM/05 seized from the premises of the third party, viz. M/s Jitender Flour Mills (supra) did not even make any mention of its name. Elaborating further, it was the claim of the assessee firm that now when it was alleged by the AO that the assessee firm had received money over and about that was accounted for in its books of accounts, therefore, a very heavy onus was cast upon him to disprove the veracity of the sale consideration that was disclosed by the assessee firm in its duly audited “books of accounts” and prove to the contrary. Further, the assessee firm submitted that it could not be called upon to prove the negative, i.e, substantiate its claim that it had not received any on-money. The assessee firm to support its aforesaid claim had pressed into service the provisions of section 292C of the Act, which contemplates that in the course of the search proceedings conducted on a person, the presumption regarding the contents of the document seized during the course of the said proceedings is to be drawn only in

**ITA No.452 & 453/Hyd/2025 and
CO No.14 & 15/Hyd/2025
United Developer**

context of the person searched and the same cannot be extended to a third party. Also, the assessee firm had drawn support from the fact that neither of its partners viz., Mr. Jitender Kumar Gupta (supra) or Mr. Mohammad Rouf (supra), nor its part-time accountant, i.e., Mr. Surendar Jindal, from whose laptop the incriminating material was recovered, had ever stated that the document pertained to the assessee firm. Also, the assessee firm had drawn support from the fact that during the course of survey proceedings conducted on it under Section 133A of the Act on 04.05.2018, various documents, including sale deeds and sale agreements, were impounded, but no evidence whatsoever, substantiating the receipt of any on-money on sale of the shops was found. The assessee firm had further stated that the AO had blindly relied upon the contents of the aforesaid seized document, viz., Page 38 of Annexure A/JRFM/05 that was seized from the premises of a third party and not that of the assessee firm, and had without carrying out any independent verification about the correctness of the contents of the same summarily concluded that the assessee firm had received on-money on sale of the shops of its commercial

***ITA No.452 & 453/Hyd/2025 and
CO No.14 & 15/Hyd/2025
United Developer***

complex i.e “United Arcade”. Elaborating further on his contention, the assessee firm had submitted that though the AO, while framing the assessment had before him the complete details of all the purchasers of the shops along with their addresses, phone numbers etc., but he had dispensed with the basic requirement of examining the said parties and most arbitrarily drawn adverse inferences in its case. It was further stated that though the AO had 45 months available with him., i.e, the period falling between the date on which the search proceedings were conducted and the date on which the assessment was framed in the case of the assessee firm to make necessary enquiries and gather the requisite evidence to corroborate his allegation that the assessee firm had received sale consideration over and above that accounted for in its books of accounts, but he had summarily dispensed with the same and had made the impugned addition of on-money receipts solely based on the uncorroborated noting/scribbling in the loose sheet, that was prepared by some unidentified person and was seized from the premises of a third party. To sum up, it was the claim of the assessee firm, that the vague and dumb loose sheets found in the course of the

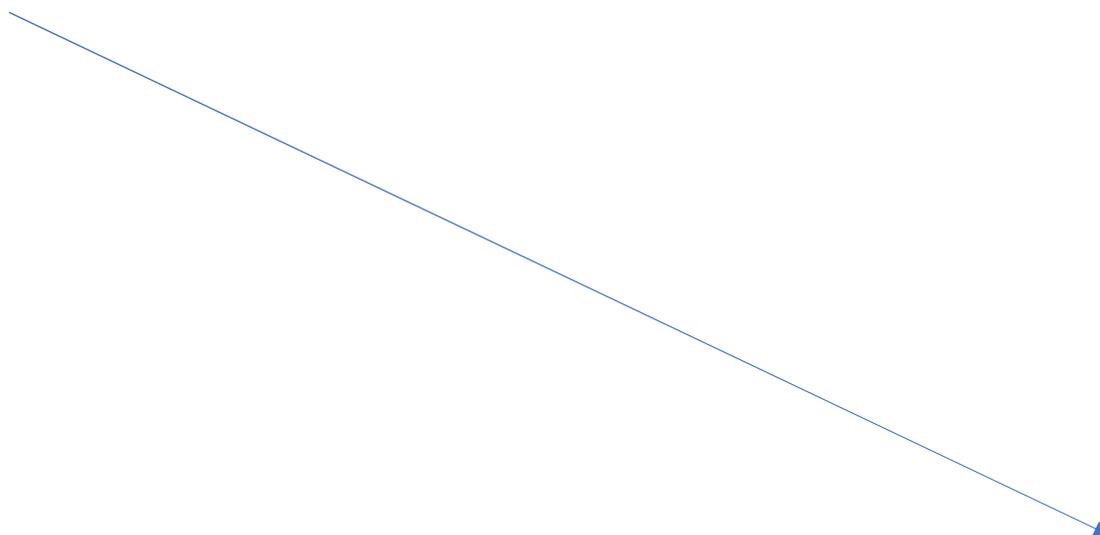
***ITA No.452 & 453/Hyd/2025 and
CO No.14 & 15/Hyd/2025
United Developer***

search proceedings conducted on a third party, though could lead to a suspicion, but, the same howsoever strong, on such standalone basis and in absence of any corroborative material cannot justify the drawing of adverse inference and making of an exorbitant addition in its hands.

14. Also, we find that the assessee firm had, raised an alternative contention before the CIT(A), wherein, it was stated by him that in case the view taken by the AO about the alleged receipt of unaccounted sale consideration by the assessee firm was to be accepted (though not admitted), then the addition could have been only restricted to the extent of the profit element embedded in the said gross receipts and the addition of the entire amount could not have been made. The assessee firm to support its aforesaid contention had submitted before the CIT(A) that in case, the entire addition of the alleged on-money was made in its case, then, that would result to a net profit of around 60%, which was not only abnormal, but unheard of in its line of business of construction, wherein it had during the subject year disclosed a gross profit rate of 6.9% on the sale of the constructed shops.

**ITA No.452 & 453/Hyd/2025 and
CO No.14 & 15/Hyd/2025
United Developer**

15. We find on a perusal of the CIT(A) order that, though he did not concur with the claim of the assessee firm that the contents of the seized document viz., Page 38 of Annexure A/JRFM/05 could not be acted upon for making the impugned addition on account of on-money receipt on the sale of shops of the commercial complex, i.e., “United Arcade”, but at the same time, he concurred with the alternative contention of the assessee firm that the addition of the entire amount of gross receipts was not justified. Accordingly, the CIT(A) restricted the addition in the hands of the assessee firm to the extent of 12% of the cash portion of sales, as against the addition of the entire amount of cash component that was made by the AO. For the sake of clarity, the observations of the CIT(A) are culled out as under:



**ITA No.452 & 453/Hyd/2025 and
CO No.14 & 15/Hyd/2025
United Developer**

6. Decision:

6.1. Appellant firm is engaged in real estate business. It filed returns of income for the A.Y. 2016-17 on 29.09.2016 and for A.Y. 2017-18 on 26.06.2017 admitting income of Rs. 91,51,090/- and Rs. 1,25,60,316/- respectively. A search & seizure operation u/s. 132 of the I. T. Act was conducted in Clarion Group of cases on 02.05.2018. M/s Jitender Roller Flour Mills was also covered u/s. 132 as part of search on Clarion Group of cases. The partners of the appellant firm have substantial interest in M/s Jitender Roller Flour Mills, certain incriminating material was found in the business premises of M/s Jitender Roller Flour Mills which was found to be relating to the appellant firm and had bearing on determination of income of the appellant. Accordingly, proceedings u/s. 153C of the Act were initiated in the appellant's case and notices u/s. 153C of the Act were issued for A.Ys. 2016-17 and 2017-18 (hereinafter called 'both A.Ys') on 05.03.2021. In response appellant filed returns of income for A.Y. 2016-17 on 16.03.2021 admitting income of Rs. 1,53,16,000/- and for A.Y. 2017-18 on 18.03.2021 admitting income of Rs. 1,88,95,316/-. Basing upon the incriminating material found and after considering the response of the appellant AO concluded the assessments by making following additions:

- (i) For A.Y. 2016-17 Rs. 9,45,37,047/- on account of undisclosed cash received from sale of commercial shops.
- (ii) For A.Y. 2017-18 Rs. 11,75,42,953/- on account of undisclosed cash received from sale of commercial shops.

Aggrieved by the additions made for both the A.Ys, appellant filed the present appeals.

6.2. **Brief facts of the case:** During the course of search in the premises of M/s Jitender Roller Flour Mills in which the partners of the appellant firm have substantial interest certain incriminating material was found and seized vide page 38 of Annexure A/JRFM/05. For sake of better understanding of facts of the case the seized material in the form of page 38 is extracted below:

**ITA No.452 & 453/Hyd/2025 and
CO No.14 & 15/Hyd/2025
United Developer**

COMMERCIAL COMPLEX total sale 275 shops					
S.NO	FLOOR	SHOPS	AMOUNT	Cheque amount	TOTAL AMOUNT
1	GROUND FLOOR	54	2300000	2300000	4600000
2	GROUND FLOOR 1 SMALL SHOP 34	34	1050000	400000	1450000
3	FIRST FLOOR	54	800000	700000	1500000
4	FIRST FLOOR 1 SMALL SHOP nos4	4	600000	320000	920000
5	SECOND FLOOR	34	700000	400000	1100000
6	SECOND FLOOR 1 SMALL SHOP	1	450000	300000	750000
7	THIRD FLOOR	54	600000	600000	1200000
8	THIRD FLOOR 1 SMALL SHOP	2	300000	300000	600000
9	FOURTH FLOOR	34	650000	650000	1300000
10	FOURTH FLOOR 1 SMALL SHOP	1	500000	500000	1000000
TOTAL AMOUNT		275 shops			23800000

COMMERCIAL COMPLEX sold shops on 22.7.2016 207 shops					
S.NO	FLOOR	SHOPS	AMOUNT	Cheque amount	TOTAL AMOUNT
1	GROUND FLOOR	54	2020000	2300000	4320000
2	GROUND FLOOR 1 SMALL SHOP	1	1050000	400000	1450000
3	FIRST FLOOR	54	800000	7100000	7900000
4	FIRST FLOOR 1 SMALL SHOP	3	600000	320000	920000
5	SECOND FLOOR	32	2240000	1180000	3420000
6	SECOND FLOOR 1 SMALL SHOP no 34	1	450000	300000	750000
7	THIRD FLOOR	54	600000	2040000	2640000
8	THIRD FLOOR 1 SMALL SHOP	1	300000	300000	600000
9	FOURTH FLOOR	32	720000	680000	1400000
10	FOURTH FLOOR 1 SMALL SHOP	1	0	0	0
TOTAL AMOUNT		207	18140000	8770000	26910000

Advance received on 28.4.2016 of shops					
S.NO	FLOOR	SHOPS	AMOUNT	Cheque amount	TOTAL AMOUNT
1	SECOND FLOOR	22	990000	750000	1740000
2	THIRD FLOOR	3	1687000	672000	2359000
3	FOURTH FLOOR (SOLD)	4	120000	100000	220000
TOTAL AMOUNT		29	12787000	2422000	15209000

Rs-5438000/-

6.2.1. The contents of the page 38 have been logically analyzed by the AO in para 2 of the assessment order which is as given below.

"As could be seen, the seized page No.38 has three statements with heading 'COMMERCIAL COMPLEX total sale 275 shops': first statement showing total number of shops available for sale floor-wise, amount and (separate) cheque amount, total of the above two amounts (aggregating to Rs.33,96,50,000/-); second statement with floor-wise shops sold till 22.07.2016 (207 shops) again with details of amount and (separate) cheque amount (aggregating to Rs.26,90,00,000/-); the third statement showing advances received on 28.04.2016 with floor-wise details of shops, amount and (separate) cheque amount (aggregating to Rs.1,52,12,000/-). At the end of these three statements, there appears an amount of Rs.5,54,38,000/- (which is obviously the balance amount receivable after reducing the sales, advances received on balance shops to be sold)."

6.2.2. The page depicts the details of sale of 275 shops in a commercial complex. The total amount of sale as per first statement is Rs. 33,96,50,000/-. The total amount of sale sold as on 22.07.2016 for 207 shops was noted as Rs. 26,90,00,000/- in the second statement. In the third statement the total amount of advance received as on 28.04.2016 was shown at Rs. 1,52,12,000/-. There is a single line entry in the bottom of the page Rs. 5,38,00,000/-. During assessment proceeding, AO required the appellant to explain the contents of the above statements vis-à-vis the amount of sales admitted for both A.Ys. Sri Jitender Gupta partner of the appellant firm sought some time to verify the statements and for

**ITA No.452 & 453/Hyd/2025 and
CO No.14 & 15/Hyd/2025
United Developer**

submitting the details. Later, he disowned the contents of the seized material. The reply of the partner is reproduced as below: .

"8. As regards question No. 15, 16 & 47 & 48, I hereby state that the transactions of M/s United Developers have been duly recorded in books of accounts and no unaccounted sale consideration of Rs.18.10 crores was received by the firm. Our Managing Partner Shri Mohd Mohammed Rouf has deposed before you and explained the relevant facts. Mr. Surender Jindal is a part time employee and works on own persons computer which has been seized. He works for others also. He has informed me that the said calculation sheet as per Page No.38 of Annexure A/JRFM/05 does not belong to M/s United Developers. As I am only the sleeping partner, I have requested the Managing Partner to take necessary explanation and details to the Deputy Director".

6.2.3. The AO further analyzed the contents of page 38 and made the following remarks in para 4 of the assessment order which is reproduced as below:

"4. Before dwelling upon the issue to whom the seized material contents (page 38 of A/JRFM/05) pertain to and their tax implications, it is pertinent to first analyse the contents appearing therein. As per the heading appearing at the top of the three statements, a commercial complex with 275 shops is ready for sale. The first statement therein shows the total number of shops available for sale and the total of the amount mentioned in Col.4 of the statement (which is apparently cash component) comes to Rs.22,45,80,000/- and adding the total of cheque amount of Rs.11,50,70,000/- mentioned in Col.5, takes us to Rs.33,96,50,000/-, appearing in Col.6 of the statement. After reducing the amount of 207 shops sold at Rs.26,90,00,000/- till 22.07.2016 appearing in Col.6 of the second portion of the statement and the advances received at Rs.1,52,12,000/- till 28.04.2016 appearing in col.6 of the third portion of the statement, there remains an amount of Rs.5,54,38,000/- which is also appearing at the end of the page."

6.2.4. From the first statement, AO noticed that the total amount of sale from sale of 275 shops as Rs. 33,96,50,000/-, which was appearing in column 6 of the statement. The heading of column 5 is mentioned as 'cheque amount' which totaled to Rs. 11,50,70,000/- after considering the number of shops recorded in each row which appears in column 3 of the statement. Column 4 with heading as 'AMOUNT' was totaling to Rs. 22,45,80,000/-. For better understanding the contents of the second row in which details of ground floor containing 54 shops are given and amounts recorded therein are considered.

S.No	FLOOR	SHOPS	AMOUNT	Cheque amount	TOTAL AMOUNT
1	GROUND FLOOR	54	1300000	500000	9720000

[emphasis supplied]

6.2.5. The details recorded are as above, in page no. 38. In column no. 4 with

**ITA No.452 & 453/Hyd/2025 and
CO No.14 & 15/Hyd/2025
United Developer**

heading 'AMOUNT' certain amounts are recorded. In column no.. 5 under heading 'Cheque Amount' certain portion of the amount against the sale value of the shop are recorded. From the above row it can be seen that the total of column 4 and column 5 is Rs. 18,00,000/-. The number of shops on ground floor as shown in this row are 54. The sale amount for 54 shops would be Rs. 9,72,00,000/- i.e. 54 * 18,00,000/-. The total amount recorded in column 6 is also Rs. 9,72,00,000/-. From such analysis, AO noticed that the sale amount of the shops were recorded in two portions one under the heading 'AMOUNT' and another under the heading 'cheque amount'. Further, AO noticed from the second statement that 207 shops were sold as on 22.07.2016 out of which 'cheque amount' was recorded as Rs. 8,79,70,000/- and under the heading in 'AMOUNT' in column 4 Rs. 18,16,80,000/- was recorded. In the third statement advances received as on 28.04.2016 were recorded at Rs. 1,52,12,000/- and at the bottom of the table a single line entry reflecting Rs. 5,54,38,000/- was recorded. AO deduced that the total sale consideration shown at Rs. 33,96,50,000/- in first statement was matching exactly with the total amounts in second and third statements and final entry at the bottom of the page which is given below for clarity.

1.	<i>Consideration received till 22.07.2017 on sale of 207 shops (second statement)</i>	Rs. 26,90,00,000
2.	<i>Advance received on 28.04.2016 (third statement)</i>	Rs. 1,52,12,000
3.	<i>Balance (as appearing at the end)</i>	Rs. 5,54,38,000
<i>Total</i>		Rs. 33,96,50,000

Total amount as per first statement is **Rs. 33,96,50,000/-**.

6.2.6. Subsequently, AO verified the returns of income filed by the appellant and noticed that the appellant had undertaken construction of a commercial complex namely 'United Arcade', it was noticed that assessee sold a total number of 120 shops during the A.Y. 2016-17 and admitted sales at Rs. 5,16,20,000/- and balance 155 shops were sold in A.Y. 2017-18. Accordingly, AO inferred that total number of commercial shops appearing at 275 tallied exactly with the number of shop sales admitted by the appellant over the period of the impugned A.Ys 2016-17 and 2017-18. Significantly, AO noticed that the total of cheque amount appearing in the column 5 of the first statement at Rs. 11,51,70,000/- matched with the admitted sales amount viz Rs. 5,16,20,000/- for A.Y. 2016-17 and Rs. 6,35,00,000/- for A.Y. 2017-18 (there was only a marginal difference of Rs. 50,000/-). On noticing that only the cheque portion was admitted by the appellant, AO required the appellant to explain the contents in the seized material i.e page 38 and submit reasons as why Rs.

**ITA No.452 & 453/Hyd/2025 and
CO No.14 & 15/Hyd/2025
United Developer**

21,20,80,000/- should not be considered as undisclosed receipts from the sale of shops. The relevant portion of the questionnaire is reproduced as below:

"As per this material, the firm is in receipt of cash component from construction and sale of commercial shops named United Arcade. The total of the amount mentioned in Col.4 of the statement (which is apparently cash component) comes to Rs.22,45,80,000/- and adding the total of cheque amount of Rs.11,50,70,000/- mentioned in Col.5, takes us to Rs.33,96,50,000/-, appearing in Col.6 of the statement. After reducing the amount of 207 shops sold at Rs.26,90,00,000/- till 22.07.2016 appearing in Col.6 of the second portion of the statement and the advances received at Rs. 1,52,12,000/- till 28.04.2016 appearing in col.6 of the third portion of the statement, there remains an amount of Rs.5,54,38,000/-, which is also appearing at the end of the page.

The cheque portion of the amount appearing as above in the table is tallying with the overall receipts admitted by you on sale of shops at Rs. 11,51,20,000/- for the two assessment years 2016-17 (Rs.5,16,20,000/-) and 2017-18 (Rs.6,35,00,000/-), save a marginal difference of Rs. 50,000/-. Going by the above seized material and the totals mentioned therein, particularly the balance amount of Rs.5,54,38,000/-, which is a resultant figure arising out of adding the amount (cash component) appearing in col.4 of first portion of the table. It is dear that you have received a total amount of Rs.22,45,80,000/- in cash and not admitted the same in the returns filed, barring Rs.61,65,000/- for A.Y. 2016-17 and Rs.63,35,000/- for A.Y. 2017-18. Therefore, the balance cash component of Rs.21,20,80,000/- (Rs.22,45,80,000 - Rs.1,25,00,000) is proposed to be added as undisclosed receipts from sale of shops at Rs.9,45,37,047/- for the A.Y. 2016-17 and Rs.11,75,42,953/- for A.Y.2017-18, in proportion to the cheque component of amount admitted by you in the returns of income filed respectively. Please file your objections, if any, with cogent evidences."

6.2.7. Appellant responded stating that the material is only a computer-generated data sheet without any signature and such data sheet cannot be relied upon for making any addition. AO denied the explanation of the appellant on the basis that during the course of search apart from page 38 certain material was also seized vide pages 39 to 44 vide Annexure A/JRFM/05 which contained the details of expenditure which were tallying with the expenses claimed by the firm in the returns of income filed for various A.Ys. Further, AO noticed from the sale registers found and impounded during the course of survey action in appellant's premises conducted on 04.05.2018, that the floor wise cheque portion of the sale consideration appearing in the seized material i.e page 38 was similar to that recorded in the impounded sale registers. Accordingly, AO inferred that the cash portion recorded under the heading 'AMOUNT' in column 4 of the first statement on account of sale of 275 shops was not offered to tax by the appellant. Such cash portion was at Rs. 22,45,80,000/- appellant had admitted additional income at Rs. 1,25,00,000/- for both the A.Ys. i.e. Rs.

**ITA No.452 & 453/Hyd/2025 and
CO No.14 & 15/Hyd/2025
United Developer**

61,35,000/- for A.Y 2016-17 and Rs. 63,35,000/- for A.Y 2017-18. After reducing the admitted income of Rs. 1,25,00,000/- from the cash portion of Rs. 22,45,80,000/- AO arrived at the undisclosed cash received from sale of commercial shops at Rs. 21,20,80,000/- which was bifurcated for A.Y. 2016-17 at Rs. 9,45,37,047/- and for A.Y. 2017-18 at Rs. 11,75,42,953/-. The undisclosed cash received for each of A.Y was derived in proportion to the cheque component of sale amount admitted by the appellant.

6.3. Aggrieved by the additions made by the AO, appellant filed 9 grounds of appeal for each of the A.Y which are similar except for the quantum mentioned therein. The grounds of appeal no. 1 and 9 are general in nature and therefore need no separate adjudication. In grounds of appeal no. 2 and 3, appellant contended that, AO erred by initiating proceedings u/s. 153C solely basing on presumptions and seized material not containing the essential prerequisites for invocation of section 153C. These grounds are dealt as below:

6.3.1. During the course of search and seizure action in the premises of M/s Jitender Roller Flour Mills certain incriminating material was found and seized. The material was marked as page no. 38 to 44 of Annexure A/GRFM/05. Page no. 38 contained the details of sale of 275 shops in a commercial complex. Page no. 39 to 44 were containing details of expenses incurred for the construction of commercial shops. **At this juncture, it is relevant to mention that the partners of the appellant firm have substantial interest in the searched party i.e M/s Jitender Roller Flour Mills.** At the very first instance, it is general and valid presumption to hold that the material belonging to appellant firm may be kept at the premises of M/s Jitender Roller Flour Mills. From the seized material i.e. page no 38 AO noticed that the details of 275 shops sold, to be sold were recorded. From the returns of income of the appellant firm for impugned A.Ys it was noticed that income from sale of 275 shops in commercial complex namely United Arcade was admitted by the appellant. But, however, there was clear discrepancy between the amounts reflected in page no. 38 and the income admitted. On finding this, AO noticed that the seized material has bearing on the determination of income of the appellant firm. Further, AO also found that the material belongs to the appellant firm, from the recordings in the seized material interalia details of sale of **275 shops**. The inference drawn by the AO is valid and well within the jurisdiction as prescribed u/s. 153C of the Act. The essential ingredients to initiate the proceedings u/s. 153C namely are satisfied in the present case-

- (i) Search in the case of a person other than the assessee was conducted and documents pertaining to the appellant were found and seized and the information contained therein related to the appellant was found.

**ITA No.452 & 453/Hyd/2025 and
CO No.14 & 15/Hyd/2025
United Developer**

- (ii) The jurisdictional AO of the non-searched person(other person) receives books, accounts, documents or assets.
- (iii) AO records satisfaction that the contents of the seized material related to the appellant, since it was noticed that the seized material had a bearing on determination of income of the appellant.
- (iv) Notice u/s. 153C was issued accordingly.

In view of the discussion, the argument of the appellant that AO had initiated proceeding u/s. 153C based on presumption is invalid. AO had grounded his action in the incriminating material found and seized which clearly indicated that the information therein impacts the determination of total income of the appellant. Grounds of appeal no. 2 and 3 are dismissed.

6.4. In grounds of appeal no. 4, 5, 6 and 7, appellant contended that the AO had made addition on account of on money received solely on the basis of uncorroborated entries in loose paper and in absence of cogent material evidence to prove that appellant had actually received any consideration and further AO erred in making the addition on the ground that appellant failed to discharge its onus to prove that the data contained in the seized material was not relating to it. These grounds of appeal are dealt as below:

6.4.1. Before proceeding further for sake of brevity and convenience page 38 of the seized material is reproduced again as below:

ITA No.452 & 453/Hyd/2025 and
CO No.14 & 15/Hyd/2025
United Developer

COMMERCIAL COMPLEX total sale 275 shops

S.NO	FLOOR	SHOPS	AMOUNT	cheque amount	TOTAL AMOUNT
1	GROUND FLOOR	54	1300000	800000	97200000
2	GROUND FLOOR 1 SMALL SHOP-34	1	1000000	400000	1450000
3	FIRST FLOOR	54	900000	400000	70000000
4	FIRST FLOOR 1 SMALL SHOP no34	1	600000	120000	1000000
5	SECOND FLOOR	54	700000	400000	50000000
6	SECOND FLOOR 1 SMALL SHOP	1	450000	100000	800000
7	THIRD FLOOR	54	600000	300000	54000000
8	THIRD FLOOR 1 SMALL SHOP	1	500000	200000	800000
9	FOURTH FLOOR	54	650000	400000	84000000
10	FOURTH FLOOR 1 SMALL SHOP	1	100000	200000	800000
		275 shops			2496340000

COMMERCIAL COMPLEX sold shops on 22.7.2016 ,207 shops

S.NO	FLOOR	SHOPS	AMOUNT	cheque amount	TOTAL AMOUNT
1	GROUND FLOOR	54	70700000	2700000	67200000
2	GROUND FLOOR 2 SMALL SHOP	1	1500000	400000	1450000
3	FIRST FLOOR	54	6940000	2160000	7000000
4	FIRST FLOOR 1 SMALL SHOP	1	800000	120000	1000000
5	SECOND FLOOR	54	2240000	1200000	35200000
6	SECOND FLOOR 1 SMALL SHOP no 34	1	450000	100000	450000
7	THIRD FLOOR	54	3060000	2000000	53000000
8	THIRD FLOOR 1 SMALL SHOP	1	500000	300000	500000
9	FOURTH FLOOR	54	7200000	4800000	12000000
10	FOURTH FLOOR 1 SMALL SHOP	0	0	0	0
		207	181680000	87970000	269000000

Advance received on 28.4.2016 of shops

S.NO	FLOOR	SHOPS	AMOUNT	cheque amount	TOTAL AMOUNT
1	SECOND FLOOR	23	9600000	750000	10650000
2	THIRD FLOOR	3	1480000	670000	2360000
3	FOURTH FLOOR (20-RDP)	4	1290000	1000000	2200000
		30	11770000	2420000	18210000

No-454/2000/-

The above said page contains three statements, out of which first statement is a consolidated statement reflecting details of sale amount of 275 shops in a commercial complex. The total amount is recorded as Rs. 33,96,50,000/-. The first statements contain details of shops in each of the floor. For instance, on ground floor there are total 55 shops out of which 1 shop is small i.e. Shop no. 34 and the value against this at row 3 is also shown lesser than that of the value of the other shops which are bigger in size. Likewise, it can be seen that on each floor i.e. first, second, third and fourth floors there is one small shop the value of which varies with other shops which are bigger in the same floor. The sum of amounts in column no. 4 with heading as 'AMOUNT' and column no. 5 with heading as "cheque amount" exactly matches with the amount recorded under the heading 'total amount'. This has been explained in para 6.2.5. of this order. This proves that the entries are made in the statement systematically, methodically and with a purpose. In the second statement which is again recorded systematically the details of shops sold as on 22.07.2016 totaling to 207 shops were given. The detail of sale consideration of the shops sold on each floor are recorded carefully. For instance, the value of the small shop on ground floor i.e. shop no. 34 is recorded and also matches with the value shown in first statement. This evidences that the statements are recorded coherently and consciously. It can be noticed that the total amount under the heading 'AMOUNT' is shown as Rs. 18,16,80,000/- and 'cheque amount' in column no. 5 is show at Rs. 8,79,70,000/-. The total of which shown as Rs. 26,90,00,000/- in column no. 6. The

**ITA No.452 & 453/Hyd/2025 and
CO No.14 & 15/Hyd/2025
United Developer**

second statement is headed with a date i.e. 22.07.2016, this shows that the statement was prepared taking into consideration the amounts received on sale of shops upto a particular date. The number of shops sold are shown as 207 in the heading which also tallied with the total number of shops sold in column no. 3 of the second statement. It can be inferred that the statements are prepared basing upon data available which is in the knowledge of the appellant. In the third statement, advance received on 28.04.2016 was recorded. It is relevant to note that all the three statements were coherently recorded after meticulously taking into consideration number of shops sold on each floor and the amount received therein. For instance, in first statement the total number of shops on **first floor** (54 + 1) out of 275 shops were recorded, in the second statement it can be noticed that all the shops available on **first floor** were sold as on 22.07.2016 and therefore, the details of the first-floor shops do not appear in the third statement wherein the details of advance received on 28.04.2016 were recorded. Further, out of **total 55 shops** on second floor 33 were sold as on 22.07.2016 as recorded in second statement and for the **remaining 22 shops** the advance was received on 28.04.2016 as could be seen in third statement. The amount shown in the last entry as Rs. 5,54,38,000/- is only a balancing figure as explained in para 6.2.5 of this order. The contents in page 38 are self-evident that the information therein belongs to 275 shops which are belonging to the appellant's commercial complex namely United Arcade. AO had in detail shown that the cheque amount of Rs. 11,50,70,000/- was only admitted in the impugned A.Ys 2016-17 and 2017-18. Further, AO had also examined pages 39 to 44 of the seized material and noticed that the expenses belonging to the appellant firm were recorded therein. The argument of the appellant that the information in page no. 38 does not belong to it is devoid of merit. AO had drawn inferences basing upon sound reasoning and scientific analysis of the seized material. The undisputed facts of the case are that

- (i) The appellant had sold 275 shops in a commercial complex named United Arcade and admitted sales of Rs. 11,51,20,000/-.
- (ii) The seized material contains the details of 275 shops in a commercial complex in which the cheque amount portion is similar to that admitted by the appellant.

6.4.2. The appellant had not brought anything on record in support of its contention that the said document and the information therein does not relate to it except denying the veracity of the seized material. **The seized material vide page 38 is a self-contained and speaking document reflecting the complete transactions of 275 shops.** There is no ambiguity that the said document belongs to the appellant and the information relates to the appellant. The **cheque amount**

**ITA No.452 & 453/Hyd/2025 and
CO No.14 & 15/Hyd/2025
United Developer**

received which is recorded in detail, floor wise, exactly matched with the income admitted in returns of income for A.Ys 2016-17 and 2017-18. Further, AO contended that the material seized was purportedly taken from laptop of one Sri Surender Kumar Jindal in the course of search proceedings in the business premises of M/s Jitender Roller Flour Mills, appellant extended its argument saying that the material seized did not contain name of the appellant nor it was signed by any of its partners. In connection to this, even at the cost of repetition it has to be highlighted that the partners of the appellant firm are having substantial interest in the searched party i.e M/s Jitender Roller Flour Mills. Further, the seized material in the form of page 38 contained information in which each and every entry indicated about the commercial complex having 275 shops which is same to that sold by the appellant firm. When every entry in the document indicates that the transactions were carried out by the appellant with specific dates, amounts, number of shops on each floor etc, there is no specific relevance of the appearance of name of the appellant on the document. A clear and definite correlation is drawn by the AO between the seized material and the conduct of the business of the appellant firm. There is no scope for any doubt in this regard. In such a scenario and in view of the above discussion it can be said that the AO rightly inferred that the seized material forms substantial basis to conclude that the appellant had received on money against the sale of 275 shops. The decision of the AO to consider the apparent cash portion of Rs. 22,45,80,000/- as appearing in the seized material as on money is upheld. The grounds of appeal no. 4 to 7 are dismissed.

6.5. In the ground of appeal no.8, appellant contended that the AO failed in appreciating the settled legal position that what is chargeable in respect of on money or unaccounted turnover is only the profit embedded therein and accordingly such profit should have been estimated. Further, in the written submissions it was contended that the expenses booked by the appellant are with regard to expenses incurred in line with bank account and in the line of business as that of the appellant several payments such as wages to construction labour, purchases of sand, brick etc. are generally incurred in cash. Further, it contended that if the entire on money received on sale of commercial tax area brought to tax, then the net profit of the appellant would be around 60% which is abnormal in the appellant's line of business i.e construction of commercial shops. It was submitted that it had shown gross profit from business of construction at the rate of 6.95% for A.Y 2016-17 and 3% for A.Y. 2017-18. Appellant relied on decisions of various Hon'ble Courts which are as given below:

"3.3 Reliance is placed on the decisions in the cases of CIT Vs President Industries Ltd 258 ITR 654 (Guj) and CIT Vs Gurubachan Singh Juneja 302 ITR 63 (Guj). The principle so laid down has been followed by the Hyderabad Bench of ITAT in the cases

**ITA No.452 & 453/Hyd/2025 and
CO No.14 & 15/Hyd/2025
United Developer**

*of Sri Sri Gruha Nirman India P Ltd Vs ACIT 67 ITR (Trib) 178, Samprada Homes Vs ACIT in ITA 95 to 97/Hyd/2018 & 236 to 238/Hyd/2018, ACIT Vs Sri Sri Estates in ITA No.2242 to 2245/Hyd/2017 & 228 to 230/Hyd/2018 & ACIT v. Conor Granito (P.) Ltd (Rajkot Trib.) and Damodar Reddy Kaiti ACIT ITA Nos.1630 & 1631/Hyd/2018 wherein, the Hon'ble Courts have held that **what is chargeable to tax in respect of on-money or unaccounted turnover is only the profit embedded therein and not entire alleged receipts. In the instant case, the Ld.Assessing Officer has treated the entire alleged receipt as income, which is totally incorrect and needs to be deleted. Copies of Orders are enclosed.***

3.4 Further reliance is placed in the cases of, ACIT Vs Adarsh Constructions in ITA No.164/Hyd/2013 and DCIT Vs R K Townships P Ltd in ITA No.1221/Hyd/2016, wherein the Hon'ble Income Tax Appellate Tribunal, Hyderabad upheld the decision of Ld. Commissioner of Income Tax (A) estimating 8% profit margin on house construction business by relying on Arihant Builders (supra). Copies of Orders are enclosed. "

6.5.1. Accordingly, appellant submitted that various Courts have held that 8% profit margin is common in construction business. I had carefully examined the assessment order, grounds of appeal and written submissions made in this regard. It is an undisputed fact that the appellant is in construction business it had recorded profits ranging between 3% to 7%. The AO had brought to tax the entire cash portion of the sale amount as undisclosed income. In light of these facts, various judicial pronouncements submitted by the appellant have been examined. On the issue of taxing the unaccounted portion of sales Hon'ble Courts have held as follows:

a. In the case of CIT Vs. Williamson Financial Services [2007] 165 taxman 638, Hon'ble Supreme Court made an observation as below:

"It is important to bear in mind that u/s 44, 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 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 not on gross receipts."

In the case of CIT Vs. Williamson Financial Services, Hon'ble Apex Court had laid down a fundamental principle. The principle is that, income is arrived at after allowing admissible expenditure such as the cost of the purchases and incidental expenses against receipts.

b. The Hon'ble High Court of Gujarat in the case of CIT Vs. Gurubachhan Singh J. Juneja [2008] 171 taxman 406 (Gujarat) while dealing with addition on unaccounted sales, held that in the absence of any material on record to show that there was any unexplained investment made by the assessee there could be a presumption of such expenditure. In such event, only gross profit on suppressed sales could be brought to tax.

**ITA No.452 & 453/Hyd/2025 and
CO No.14 & 15/Hyd/2025
United Developer**

c. In the case of CIT Vs. President Industries [2002] 124 taxman 654 (Gujarat) Hon'ble High Court of Gujarat has held as below:

"The amount of sales by itself cannot represent the income of the assessee who has not disclosed the sales. The sales only represent the price received by the seller of the goods for the acquisition of which it has already incurred the cost. It is the realization of excess over the cost incurred that only forms part of the profit included in the consideration of sales. Therefore, unless there is a finding to the effect that the investment by way of incurring cost in acquiring goods which has been sold has been made by the assessee and that has also not been disclosed, the question whether entire sum of undisclosed sales proceeds can be treated as income, answers by itself in the negative.

As a result, no question of law arose out of the Tribunal Appellate order."

The Hon'ble Gujarat High Court in the case of CIT Vs. President Industries held that the entire undisclosed sales cannot constitute income. The sales only represent price received by the seller of the goods for which it has already incurred the cost. Therefore, it is a realization of excess consideration over the cost incurred which should be assessed as profit or income. In this case net profit rate was applied to undisclosed income.

d. The ratio of the decision by Hon'ble High Court of Gujarat in the case of CIT Vs President Industries was followed by Hon'ble High Court of Madhya Pradesh in the case of CIT Vs. Balchand Ajit Kumar [2004] 135 taxman 180 wherein it was held that the net profit should be adopted as income. It was also observed that the rate of profit, high or low, would depend on the facts of the case. In Balchand Ajit Kumar case Hon'ble High Court of Madhya Pradesh held as follows:

"The total sale cannot be regarded as the profit of the assessee. The net profit rate has to be adopted and once a net profit rate is adopted it cannot be said that there is perversity of approach. Whether the rate is low or high it would depend upon the facts of each case. In the instant case net profit rate of 5% applied by the Tribunal was not required to be enhanced. It was also not high. In any case, there was no perversity of approach.

In view of the aforesaid there was no merit in the appeal and the same should be dismissed."

e. In the case of Sampada Homes, Hyderabad Vs. ACIT Central Circle-2(3), Hyderabad in ITA No.s 95 to 97/Hyd/2018, the **Hon'ble Jurisdictional ITAT, Hyderabad** had held that the entire turnover cannot be brought to tax as such and there can be reasonable profit estimation on the turnover amount.

f. In the case of ACIT Central Circle-2(3), Hyderabad Vs. Sri Sri Estates Hyderabad in ITA Nos. 228 to 230/Hyd/18 **Hon'ble Jurisdictional ITAT** held that:-

"13. Revenue is contesting that the entire suppressed turnover should have been treated as income by the Ld.CIT(A). This argument of the Revenue cannot be accepted. Hon'ble

**ITA No.452 & 453/Hyd/2025 and
CO No.14 & 15/Hyd/2025
United Developer**

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 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. Sharda 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 Co-ordinate 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 also taken in the case of ACIT Vs. M/s. Archana Trading Co., in ITA Nos. 351 & 352/Coch/2011, dt. 28-02-2013 and also ACIT Vs. Pahal Food [IT (SS) A No. 42/Hyd/2005, dt. 30-09-2009] by ITAT, Hyderabad.

13.1. Respectfully following the decision, we are of the opinion that the entire turnover cannot be brought to tax as such and there can only be an estimation of reasonable profit on the so called suppressed turnover. Therefore, there is no merit in Revenue grounds, accordingly, they are dismissed."

In this case of Sri Sri Estates Hon'ble ITAT held 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 the sale.

6.5.2 From the decisions of the Hon'ble Courts mentioned *supra* a definite ratio emerges that the entire unaccounted turnover/sales cannot be brought to tax and as such there can only be a reasonable estimation of net profit on the unaccounted turnover. In respect of unrecorded sales, it is imperative that expenses would have been incurred though not recorded. Therefore computation of profit after inclusion of unaccounted sales in the turnover would necessarily require deduction of unrecorded expenses. Problem arises in cases where the expenditure cannot be identified in clear terms, in such cases Hon'ble Courts have taken the view that there is a presumption of expenditure having been incurred in respect of unrecorded sales. In other words, only profit component embedded in the sales could be treated as income. In the present case, appellant is in construction business wherein as a business contingency certain expenditure such as wages to labour, purchases of sand, bricks etc. are carried out in cash. The appellant had sale of constructed shops and residential plots, during both A.Ys the cost of goods sold for constructed shops and residential plots were separately disclosed in audited financial statements as reflected in Schedule-4 appended to the P & L account of the respective A.Y. Appellant had admitted additional income of Rs. 61,65,000/- for A.Y. 2016-17 and Rs. 63,35,000/- for A.Y. 2017-18 in the returns filed in response to notice u/s. 153C of the I.T. Act. Appellant contends that the profit margin would be around 60% if the entire cash portion of sales is treated as income without considering the element of expenditure therein. What is chargeable under Income Tax Act is not the gross

**ITA No.452 & 453/Hyd/2025 and
CO No.14 & 15/Hyd/2025
United Developer**

receipt but the income arising out of such gross receipt/revenue. The real income has to be brought to tax. The assessee cannot be fastened with a tax liability arising out of abnormal profits. In view of this, there is merit in the argument of the appellant that the entire cash portion of the sales cannot be brought to tax but, only the profit element therein. The appellant also argued that the net profit in construction would be around 8% but, however the determination of percentage of profit defers from case to case. The incidence of certain expenses being common /administrative in nature against the sales amount received in both cheque and cash might have been already recorded in the books of accounts. In view of the above discussion and considering the totality of the facts and circumstances of the case, and to meet both the ends of justice, twelve percent of the cash portion of sales computed at Rs. 1,13,44,446/- and Rs. 1,41,05,154/- is estimated as income for A.Y. 2016-17 & A.Y. 2017-18 respectively. Accordingly, AO is directed to add twelve percent of the cash portion of sales and not entire cash portion of sales. Hence, ground no. 8 is partly allowed.

6.6. In the result, the appeals are **partly allowed.**

16. The revenue aggrieved with the order of the CIT(A) has carried the matter in appeal before us. Also, the assessee firm is before us as a cross objector.

17. Shri A.V. Raghuram, Advocate, Ld. Authorized Representative ("A.R", for short) for the assessee firm, at the threshold of hearing, submitted that the cross-objection filed by the assessee firm involves a delay of 47 days. Elaborating on the reason leading to the delay, the Ld. AR submitted that the same had crept in because the assessee firm had remained unaware of the appeal filed by the revenue before

**ITA No.452 & 453/Hyd/2025 and
CO No.14 & 15/Hyd/2025
United Developer**

the Tribunal. The Ld. AR submitted that it was only when a representative of the assessee firm had visited the office of the AO on 30.05.2025 to check the status of the consequential order passed by him pursuant to the order of the CIT(A), that he was informed that the Revenue had assailed the order passed by the CIT(A) before the Tribunal. On verification, it was gathered by the assessee firm that the notice issued by the registry of the Tribunal was dropped in the spam e-mail account of its representative, i.e., vikas-ag22@rediffmail.com, which had gone unchecked on the latter's part. The Ld. AR submitted that the assessee firm, on gathering about the filing of the appeal by the revenue, had thereafter, without any further loss of time, filed the cross objection, which by the time involved delay of 44 days. The Ld. AR submitted that as the delay in filing of the cross objection had crept in because of a *bonafide* reason and not on account of any lackadaisical approach or *malafide* conduct of the assessee respondent/cross objector, therefore, the same in all fairness be condoned.

**ITA No.452 & 453/Hyd/2025 and
CO No.14 & 15/Hyd/2025
United Developer**

18. Per contra, the Ld. DR objected to the seeking of the condonation of the delay involved in the filing of the cross objection by the assessee firm.

19. We have given thoughtful consideration to the facts leading to the delay in filing of the cross-objection by the assessee firm in the backdrop of the facts narrated in its petition, which is supported by an “affidavit” dated 06.06.2025. We are of the firm conviction that in the totality of the facts as had been deposed by the assessee firm, the delay in filing of the cross-objection had crept in because of *bonafide* reasons and not on account of any lackadaisical approach on its part. We, thus, are of the view that the delay in filing the present cross-objection merits condonation. Our aforesaid view is supported by the recent decision of the **Hon'ble Supreme Court** in the case of **Vidya Shankar Jaiswal vs. The Income Tax Officer, Ward-2, Ambikapur** in **Special Leave Petition (Civil) Nos. 26310-26311/2024, dated 31st January, 2025**. The Hon'ble Apex Court while setting aside the order of the Hon'ble High Court of Chhattisgarh, which had approved the declining of the condonation of delay of 166 days by the Income-Tax

**ITA No.452 & 453/Hyd/2025 and
CO No.14 & 15/Hyd/2025
United Developer**

Appellate Tribunal, Raipur Bench, had observed, that a justice-oriented and liberal approach should be adopted while considering the application filed by an appellant seeking condonation of the delay involved in filing the appeal.

20. As the assessee firm vide its cross objection has assailed the validity of the addition of Rs. 9.45 crores (supra) made by the AO on account of the alleged unaccounted sale consideration received by the assessee firm in cash, therefore, we deem it apposite to first deal with the said material aspect.

21. Shri A.V. Raghuram, Ld. Authorized Representative (for short, "AR") for the assessee firm, at the threshold of hearing of the appeal, submitted that as the incriminating document, viz., Page 38 of Annexure A/JRFM/05 was seized from the laptop of Shri Surender Jindal, i.e. the part time accountant of the assessee firm, during the course of the search proceedings conducted at the premises of a third party, viz., M/s Jitender Roller Flour Mills and not from the premises of the assessee firm, therefore, a very heavy onus was cast upon the AO to prove, based on irrefutable corroborative material/evidence, that the

**ITA No.452 & 453/Hyd/2025 and
CO No.14 & 15/Hyd/2025
United Developer**

contents of the said seized document referred to the sale consideration received by the assessee firm on the sale of the shops of its commercial complex "United Arcade", i.e. over and above the sale consideration that was disclosed in the registered sale deeds and accounted for in its duly audited books of accounts. Elaborating further on his contention, the Ld. AR submitted, that as per Section 292C of the Act, where any document is found in the possession or control of any person in the course of search proceedings conducted under Section 132 of the Act, it may be presumed that the contents of such document are true, but the said presumption is applicable only in context of such person who is found to be in possession or control of the said document and cannot be summarily extended to a third party. The Ld. AR further submitted that it is incomprehensible that the AO simply based on the uncorroborated contents of the seized document viz., Page 38 of Annexure A/JRFM/05, despite having a period of about 45 months from the date of search till the framing of the assessment, had without examining any of the purchasers of the shops summarily concluded that the assessee firm had received on-money on sale of

***ITA No.452 & 453/Hyd/2025 and
CO No.14 & 15/Hyd/2025
United Developer***

the shops. The Ld. AR vehemently submitted that as the seized document viz., Page 38 of Annexure A/JRFM/05 was recovered from the laptop found lying in the premises of a third party, therefore, the AO ought to have considered that both the contents of the said document and motive of the author were not free from doubts, and in all fairness, the same were indispensably required to be corroborated based on irrefutable documentary evidence. The Ld. AR submitted that Shri Jitender Kumar Gupta, partner of the assessee firm, who was not actively involved in the business of the assessee firm, on being confronted with the aforesaid seized document, i.e. Page 38 of Annexure A/JRFM/05 was oblivion of the contents of the same and had sought for some time for obtaining the requisite details from the managing partner. Thereafter, Shri Jitender Kumar Gupta (supra), vide his submission dated 29.05.2018, had clearly disowned the contents of the said seized material based on the information that was made available to him by the managing partner, and had stated that the sale consideration of the shops was duly recorded in the “books of accounts” of the assessee firm. Apart from that, Shri Mohammad Rouf,

***ITA No.452 & 453/Hyd/2025 and
CO No.14 & 15/Hyd/2025
United Developer***

i.e., the managing partner of the assessee firm, on being queried about the contents of the seized document, had also clearly denied the allegation and had stated that the sale consideration of the shops was duly recorded in the books of accounts of the assessee firm. The Ld. AR submitted that Shri Surender Jindal, i.e. the part-time accountant of the assessee firm from whose laptop the aforesaid incriminating document is stated to have been recovered, had also in his statement stated that the said seized document did not relate to the assessee firm.

22. The Ld. A.R. submitted that the AO, based on the dumb contents of the seized document, had, without carrying out the bare minimum verification, examination of the purchasers, and placing on record any corroborative material, made the impugned addition of the alleged on-money receipts on sale of shops in the hands of the assessee firm based on conjectures and surmises. The Ld.AR submitted that even the principle of preponderance of human probability clearly militated against the impugned addition made by the AO. Elaborating on his contention, the Ld. AR submitted that even if it

***ITA No.452 & 453/Hyd/2025 and
CO No.14 & 15/Hyd/2025
United Developer***

was to be presumed that the assessee firm had received unaccounted sale consideration on the sale of the shops, then, it is incomprehensible that it would have shared such sensitive and confidential information with its part-time accountant much the less allowed him to retain the said details in his laptop, knowing well that he was also providing his services to number of other parties. The Ld. AR submitted that though the seized document viz., Page 38, Annexure A/JRFM/05 referred to the same number of shops (floor-wise), and also the sale consideration that was received by the assessee firm through cheques and disclosed in its books of accounts tallied, but merely for the said reason the AO could not have inferred that the amount mentioned in the said seized document was the unaccounted sale consideration received by the assessee firm on sale of the shops of its commercial complex “United Arcade”. The Ld. AR to buttress his claim had relied upon the judgment of Hon’ble High Court of Andhra Pradesh in the case of Commissioner of Income Tax (Central) Vs. A. Mahesh Reddy, I.T.T.A.No.162 of 2014 dated 12.03.2014, Page No.84 to 86 of APB. The Ld. AR submitted that, involving identical facts, the Hon’ble High Court, while approving

***ITA No.452 & 453/Hyd/2025 and
CO No.14 & 15/Hyd/2025
United Developer***

the view taken by the Tribunal, had held that an addition based on surmises and conjectures by relying upon the contents of certain loose papers, without having any legal proof, cannot be sustained.

23. Further, the Ld. AR had relied upon the judgment of the Hon'ble High Court of Andhra Pradesh in the case of CIT Vs. Smt. K.V. Lakshmi Savitri Devi, I.T.T.A.563/2011 dated 10.12.2012. The Ld. AR submitted that involving identical facts as in the case of the present assessee firm, the department, in the course of the search proceedings conducted on a third party, had come across a diary, which revealed that certain cash was received from the assessee/respondent. Thereafter, the AO, based on the aforesaid contents of the diary, had made an addition in the hands of the assessee. On appeal, the Tribunal observed that there was no search action in the case of the assessee, and the seized material was not found from his premises but from the premises of a third party. It was observed that, merely based on the fact that the name of the assessee was mentioned in the loose sheet/incriminating document that was found in the course of the search proceedings conducted on the third party, there was no

***ITA No.452 & 453/Hyd/2025 and
CO No.14 & 15/Hyd/2025
United Developer***

justification for the Revenue to presume that the assessee had made the cash payment to the said third party. On appeal, the Hon'ble High Court had approved the view taken by the Tribunal, and concluded that the Revenue had failed to establish the nexus of the seized material with the assessee/respondent and had drawn inferences based on suspicion, conjectures, and surmises which cannot take the place of proof. Also, the Hon'ble High Court had concurred with the Tribunal that as the AO had not conducted any independent enquiry relating to the subject property that was purchased by the assessee, therefore, it had failed to discharge the onus that was cast upon it for proving that the incriminating document seized in the course of the search proceedings conducted on the third party revealed actual consideration paid by the assessee for the purchase of the said property.

24. The Ld. AR submitted that as the AO while framing the assessment in the case of the present assessee firm had failed to place on record any corroborative material, which would support the veracity of the contents of the seized document, i.e., Page 38 of Annexure A/JRFM/05, based on which, the addition of the alleged cash receipts

***ITA No.452 & 453/Hyd/2025 and
CO No.14 & 15/Hyd/2025
United Developer***

of unaccounted sale consideration was made in the hands of the assessee firm, therefore, the addition made by him cannot be sustained and is liable to be vacated. Also, the Ld. AR submitted that insofar reliance placed by the AO on the seized documents, i.e., Pages 39 to 44 of Annexure A/JRFM/05 was concerned, the same revealed the expenditure that was incurred by the assessee firm during the subject year and was recorded in its books of accounts.

25. The Ld. AR submitted that the controversy involved in the present appeal boils down to the solitary aspect, i.e., whether or not the exorbitant addition made by the AO on the basis of the contents of the seized document, i.e. Page 38 of Annexure A/JRFM/05 recovered from the laptop of Shri Surender Jindal, i.e, the part-time accountant of the assessee firm that was found lying in the business premises of M/s Jitender Roller Flour Mills, i.e., a third party, in the absence of any independent corroborative material proving the authenticity of the said contents and the motive of the author can be sustained?

***ITA No.452 & 453/Hyd/2025 and
CO No.14 & 15/Hyd/2025
United Developer***

26. Alternatively, the Ld. AR submitted that though the assessee firm is aggrieved with the very basis for making the impugned addition by the AO in the absence of any corroborative material, but, without prejudice, he is supporting the order of the CIT(A) to the extent he had scaled down the addition made by the AO.

27. Per contra, the Ld. CIT-DR submitted that though the incriminating document seized in the course of the search proceedings did not make any mention of the name of the assessee firm, but as it referred about the sale of the same number of shops (floor-wise) that were sold by the assessee firm in its commercial complex “United Arcade”, and also the cheque component of the sale consideration therein mentioned tallied with that as was disclosed in the registered sale deeds and the “books of accounts” of the assessee firm, therefore, it could safely be concluded that the amount mentioned in the seized document was the on-money/unaccounted sale consideration of the shops that was not disclosed by the assessee firm. Elaborating on his contention, the Ld. DR had taken us to the aforesaid seized document, i.e., Page 38 of Annexure A/JRFM/05. The Ld. DR submitted that the

**ITA No.452 & 453/Hyd/2025 and
CO No.14 & 15/Hyd/2025
United Developer**

first part of the seized document referred to the total number of shops that were available with the assessee firm for sale floor-wise, amount and cheque amount (separate), wherein, the total of the above two amounts aggregated to Rs. 33,96,56,000/-. Further, the second part of the seized document provided floor-wise details of the shops sold till 22.07.2016 (207 shops) along with amounts and cheque amount (separate), wherein the total of the said amounts aggregated to Rs. 26,90,00,000/-. Lastly, the third part of the seized document referred to the advances received on 28.04.2016 with floor-wise details of shops, amount and the cheque amount (separate), wherein the total of the said amounts aggregated to Rs. 1,52,12,000/-. The Ld. DR submitted that at the end of the aforesaid three parts, there was a mention of an amount of Rs. 5,54,38,000/-, which was apparently the balance amount that was receivable by the assessee firm after reducing the sales/advances received on the balance shops to be sold. The Ld. DR submitted that though the seized document was recovered from a laptop lying in the premises of M/s Jitender Roller Flour Mills, a third party, but some of the partners of the assessee firm had a

**ITA No.452 & 453/Hyd/2025 and
CO No.14 & 15/Hyd/2025
United Developer**

substantial interest in the said concern. Apart from that, the Ld. D.R. submitted that the seized document was recovered from the laptop of the common part-time accountant of the assessee firm and the searched concern. The Ld. D.R submitted that in the backdrop of the aforesaid facts it can safely be concluded that the “amount” mentioned in the seized document was the on-money/unaccounted sale consideration that was received by the assessee firm along with the cheque component on the sale of 275 shops in its commercial complex, i.e. “United Arcade”, both during the year under consideration and the immediately succeeding year.

28. We have thoughtfully considered the contentions advanced by the learned authorized representatives of both parties in the backdrop of the orders of the lower authorities, and the material available on record.

29. Admittedly, it is a matter of fact that the aforesaid incriminating document, i.e. Page 38 of Annexure A/JRFM/05 was seized in the course of the search proceedings conducted on “Clarion Group” on 02.05.2018, wherein the business premises of M/s Jitender Roller

**ITA No.452 & 453/Hyd/2025 and
CO No.14 & 15/Hyd/2025
United Developer**

Flour Mills, i.e. a concern in which, some of the partners of the assessee firm had substantial interest was also covered. The incriminating document, i.e., Page 38 of Annexure A/JRFM/05, was recovered from the laptop of Shri Surender Jindal, i.e., the part-time accountant of the assessee firm, who was also maintaining the accounts of the searched concern and other parties.

30. As stated by the Ld. AR and rightly so, as the incriminating document, i.e Page 38 of Annexure A/JRFM/05 was recovered in the course of search proceedings conducted u/s 132 of the Act on M/s Jitender Roller Flour Mills (supra), from a laptop belonging to Shri Surender Jindal, i.e a part-time accountant that was found lying in the premises of the said searched concern, therefore, as per Section 292C of the Act, the presumption would be that the said document belonged to the person from whose possession the same was seized, i.e., either Shri. Surender Jindal (supra) to whom the laptop belonged or M/s Jitender Roller Flour Mills, the searched concern in whose premises the laptop was found. Section 132(4A)(i) of the Act clearly stipulates that when any document is found in the possession or control of any

***ITA No.452 & 453/Hyd/2025 and
CO No.14 & 15/Hyd/2025
United Developer***

person in the course of a search, it may be presumed that such document belongs to such person. It is similarly so provided in Section 292C(1)(i) of the Act. In other words, whenever a document is found from a person who is being searched, the normal presumption is that the said document belongs to that person and the contents of the same is presumed to be true qua the said person. It is for the Assessing Officer to rebut that presumption and come to a conclusion or satisfaction that the document pertains to somebody else. There must be some cogent material available with the Assessing Officer before he arrives at a conclusion that the contents of such seized material relate to someone else, and surmises and conjectures cannot take the place of independent corroborative evidence. Reason being, in case the AO wants to take reliance for making addition on the documents found during the course of a search proceedings conducted on a third party, then the presumption u/s 132(4A) will not be available against the third party. Also, as per Section 292C of the Act, the presumption is that the contents of the said seized document were to be taken as true applied only to the person from whose possession the said

**ITA No.452 & 453/Hyd/2025 and
CO No.14 & 15/Hyd/2025
United Developer**

incriminating document was found and cannot be summarily extended to a third party. We, thus, are of a firm conviction that the AO had grossly erred in law and facts of the case by losing sight of the scope of the presumptions contemplated under Section 132(4A) and Section 292C of the Act, as per which the seized document, viz., Page 38 of Annexure A/JRFM/05 was to be presumed to be belonging to either Shri. Surender Jindal (supra) i.e. the owner of the laptop or M/s Jitender Roller Flour Mills, i.e. the searched concern in whose premises the laptop was found lying in the course of the search proceedings. Also, the contents of the seized document were to be taken as true only in the context of the said persons. To sum up, the A.O could not have in the absence of any corroborative material summarily drawn adverse inferences in the hands of the assessee firm based on the contents of the incriminating document i.e. Page 38 of Annexure A/JRFM/05 that was not seized from its premises, but was found to be in possession of and seized in the course of the search proceedings from the above mentioned third parties.

**ITA No.452 & 453/Hyd/2025 and
CO No.14 & 15/Hyd/2025
United Developer**

31. Although, we find on perusal of the seized document, i.e., Page 38 of Annexure A/JRFM/05, that the same refers to the same number of shops that were sold by the assessee firm i.e. 275 shops (floor-wise), and the cheque amounts therein mentioned aggregated to Rs.11,51,70,000/- viz., (i) A.Y. 2016-17: Rs.5,16,20,000/-; and (ii) A.Y. 2017-18: Rs.6,35,00,000/-, which except for a marginal difference of Rs. 50,000/- tallied with the sale consideration of shops that was disclosed by the assessee firm in its “books of accounts” at Rs.11,51,20,000/-, but are of a firm conviction, that the A.O on the said standalone basis was not justified to have summarily concluded without carrying out any verifications, examination of purchasers, and placing on record any corroborative material that the amounts mentioned in the said seized document was the unaccounted sale consideration that was received by the assessee firm on the sale of the shops of its commercial complex i.e. “United Arcade” that was not disclosed in its books of accounts. As the aforesaid seized document i.e., Page 38 of Annexure A/JRFM/05 was seized from the laptop of a part-time accountant, who was rendering his services to several

**ITA No.452 & 453/Hyd/2025 and
CO No.14 & 15/Hyd/2025
United Developer**

concerns, and the said laptop was recovered from the premises of a third party, i.e. M/s Jitender Roller Flour Mills (supra), therefore, there could have been no justification for the AO to have summarily acted upon the contents of the same for drawing adverse inferences and making exorbitant addition in the hands of the assessee firm, without placing on record any corroborative material supporting his said conviction.

32. Ostensibly, the AO had observed in the assessment order that during the survey proceedings conducted on the assessee firm u/s 133A of the Act on 04.05.2018, the complete details of the parties who had purchased the shops along with their addresses and telephone numbers were gathered by the department from the sale registers. We are unable to understand what had stopped the AO from carrying out necessary verification and examination of the purchasers of the shops about the consideration for which they had purchased the respective shops in the commercial complex i.e. "United Arcade". We find substance in the Ld. AR's claim that though the search proceedings were conducted on 02.05.2018 and the assessment was framed in the

**ITA No.452 & 453/Hyd/2025 and
CO No.14 & 15/Hyd/2025
United Developer**

case of the assessee firm under Section 153C of the Act on 18.11.2021, there were 45 months (approx.) available with the AO to carry out necessary verifications to corroborate his claim that the assessee firm had received sale consideration over and above that accounted for in its books of accounts, but we are afraid that the bare minimum that was expected on his part had not been done. We find substance in the Ld. AR's claim that as the AO was relying upon the contents of a document retrieved from the laptop of a third party that was found lying at the premises of the searched concern viz., M/s Jitender Roller Flour Mills (supra), therefore, a very heavy onus was cast upon him to corroborate his allegation based on irrefutable material/evidence that the contents of the said seized document revealed receipt of on-money by the assessee firm on the sale of shops. We, say so, for the reason that now when it is throughout been the claim of the partners of the assessee firm that the sale consideration received on the sale of the shops of its commercial complex i.e. "United Arcade" was duly accounted for in the "books of accounts" of the assessee firm, therefore, the question of placing the

***ITA No.452 & 453/Hyd/2025 and
CO No.14 & 15/Hyd/2025
United Developer***

burden of proof to prove a negative fact could not have been cast upon it. Our aforesaid view is supported by the judgment of the **Hon'ble High Court of Andhra Pradesh** in the case of **CIT Vs. Lanco Industries Ltd. (2000) 242 ITR 357 (AP)**. In the case before the Hon'ble High Court, the assessee company had issued a cheque of Rs. 10 lac towards commission to a non-resident for facilitating raising of share capital from the non-resident investors. However, the said cheque was returned by the commission agent for the reason that his company did not have a bank account in India. Later on, the commission agent vide his letter requested the assessee company to make payment of Rs. 10 lac along with the balance outstanding amount. However, the assessee company did not accept the request of the commission agent and make any payment to him. In the meantime, the assessee company was subjected to search proceedings. The search officials came across the "agreement" based on which commission was to be paid to the commission agent. The commission agent denied having received any commission. However, the A.O. took a view to the contrary and concluded that the assessee

**ITA No.452 & 453/Hyd/2025 and
CO No.14 & 15/Hyd/2025
United Developer**

company had made the payment to the commission agent after he had returned the cheque to the assessee company. The Hon'ble High Court in the backdrop of the aforesaid facts, had observed that the question of placing the burden of proof to prove a negative fact does not arise. It was further observed that as the revenue wanted the assessee company to prove a negative fact that no payment was made after the cheque was returned, therefore, no infirmity did arise from the view taken by the tribunal, which was not inclined to take into account the said unfructified transaction.

33. We may herein observe that regarding the admissibility of notings found in loose sheets seized from a third party premises, it is relevant to take note of the following principles laid down by the **Hon'ble Supreme Court** in the case of **Common Cause (A Registered Society) v. UOI (2017) 394 ITR 220 (SC)**, which can safely be culled out as under:-

- (i) Entries in loose papers/sheets are irrelevant and not admissible under Section 34 of the Evidence Act. It is only where the

***ITA No.452 & 453/Hyd/2025 and
CO No.14 & 15/Hyd/2025
United Developer***

entries are in the books of account regularly kept, depending on the nature of occupation, that those are admissible;

(ii) As to the value of entries in the books of account, such statement shall not alone be sufficient evidence to charge any person with liability, even if they are relevant and admissible, and that they are only corroborative evidence. Even then, independent evidence is necessary as to the trustworthiness of those entries which is a requirement to fasten the liability;

(iii) The meaning of account book would be spiral note book/pad but not loose sheets;

(iv) Entries in books of account are not by themselves sufficient to charge any person with liability, the reason being that a man cannot be allowed to make evidence for himself by what he chooses to write in his own books behind the back of the parties. There must be independent evidence of the transaction to which the entries relate and in absence of such evidence no relief can be given to the party who relies upon such entries to support his claim against another;

(v) Even if books of account are regularly kept in the ordinary course of business, the entries therein shall not alone be sufficient evidence to charge any person with liability. It is not enough merely to prove that the books have been regularly kept in the course of business and the entries therein are correct. It is further incumbent upon the person relying upon those entries to prove that they were in accordance with facts;

(vi) The Court has to be on guard while ordering an investigation against a person in the absence of some cogent legally cognizable material. When the material on the basis of which the investigation is sought is itself irrelevant to constitute evidence, it is not admissible in evidence.

Accordingly, the Hon'ble Apex Court has held that the entries in loose papers/sheets alone are not admissible as conclusive proof against a third person. Even if such loose sheets are treated as books of account kept in the ordinary course of business, then also

entries therein shall not alone be sufficient evidence to charge a third person with liability.

34. It is, thus, incumbent upon the person relying upon those entries recorded in loose papers/sheets that are found in the course of search proceedings to prove that they are in accordance with facts. Reason being, if the presumption qua the notings found in the seized material is extended to a third party, i.e., the assessee, as in the present case before us, then any person for that matter can mention anyone's name in any loose paper/diary at his sweet will and that can be used to implicate such other person for no fault of his. Hence, these notings are required to be substantiated with some independent evidence or material which would show that they relate to or pertain to the assessee. In support of the foregoing proposition, we gainfully refer to the decision of the **Hon'ble High Court of Delhi** in the case of **CIT v. Sant Lal (2020) 423 ITR 1 (Delhi)**. In this case, the Department had relied upon the notings of hundi in the diary seized from the premises of a third party. The said noting's allegedly contained entries of hundi transactions on behalf of parties, including

***ITA No.452 & 453/Hyd/2025 and
CO No.14 & 15/Hyd/2025
United Developer***

the assessee, whose names were written in abbreviated/code words. The Hon'ble High Court relied on its earlier decision in the case of CIT v. Mahabir Prasad Gupta, ITA NO. 814/2015, dated 20.10.2015, and held that no addition can be made in the hands of an assessee on the basis of any diary seized during the course of search proceedings conducted on a third party, since such diary was neither found at the assessee's premise and that the department had failed to provide any cogent material or gather any corroborative evidence to substantiate that it pertained to the assessee. The Court observed that the searched person could have written anyone's name on his own sweet will in his diary, and therefore, such noting on a stand-alone basis, along with the biased statement of the searched person, cannot be used as reliable evidence against the assessee. We may also gainfully rely on the guiding principles laid down by the **Hon'ble High Court of Karnataka** in the case of **DCIT vs. Sunil Kumar Sharma, 159 taxmann.com 179**, which was also seized with the question that as to whether 'loose sheets' under the Indian Evidence Act, 1872 can be relied upon to make addition

**ITA No.452 & 453/Hyd/2025 and
CO No.14 & 15/Hyd/2025
United Developer**

in the hands of an assessee, in absence of any independent corroboration. The Hon'ble High Court held that the 'loose sheets' do not constitute material evidence in relation to a third person and therefore set aside the notices issued u/s 153C of the Act, holding it to be void. Also, we find that the **Hon'ble High Court of Bombay** in the case of **Addl. CIT v. Miss Lata Mangeshkar [1974] 97 ITR 696 (Bom)**, had come across an addition that was made in the hands of the assessee on the basis of the entries in the books of third persons. The Hon'ble High Court held that such an addition could not have been made only on the basis of the notings in the books of third persons.

35. Apart from that, we find substance in the Ld. AR's contention that it is beyond the principles of preponderance of human probability that, in case the assessee firm was involved in the nefarious activity of receiving unaccounted sale consideration on the sale of shops of its commercial complex, i.e., "United Arcade", then it would be so naïve to share such sensitive and confidential information with its part-time accountant. We not only find it

**ITA No.452 & 453/Hyd/2025 and
CO No.14 & 15/Hyd/2025
United Developer**

improbable and rather incomprehensible, that the assessee firm after sharing such confidential information with its part-time accountant, would have allowed him to retain the same in his personal laptop, knowing well that the same was being carried by him to the business premises of his different clients and could be misused either by him or by any other person who could easily have access to the said information. We find that the very basis of the impugned addition made in the hands of the assessee firm, i.e., the details of the alleged unaccounted sale consideration gathered by the search officials from the personal laptop of Shri. Surender Jindal, i.e., a part-time accountant, in the absence of any material corroborating such alleged receipts, militates against the principle of preponderance of human probability as had been emphasized by the **Hon'ble Supreme Court** in the case of **Sumati Dayal Vs. CIT (1995) 214 ITR 801 (SC)**.

36. Be that as it may, we find that the partners of the assessee firm had throughout disowned the contents of the seized document i.e., Page 38 of Annexure A/JRFM/05, based on which, it was alleged

**ITA No.452 & 453/Hyd/2025 and
CO No.14 & 15/Hyd/2025
United Developer**

that the assessee firm had received on-money/unaccounted sale consideration on the sale of the shops of its commercial complex, i.e., "United Arcade". We further find substance in the Ld. AR's claim that though the assessee firm was during the course of the search proceedings conducted on M/s Jitender Flour Mills (supra) subjected to survey proceedings u/s 133A of the Act on 04.05.2018, but no incriminating material that would support the observation of the AO that the assessee firm had sold the shops over and above the sale consideration recorded in its books of accounts was found or unearthed in the course of the said proceedings. Rather, we find that the department in the course of the survey proceedings had impounded from the premises of the assessee firm the sale registers along with the copies of the registered sale deeds/agreements to sell, but had not come across any such material that evidenced receipt of on-money on sale of any of the 275 shops by the assessee firm during the subject year and immediately succeeding year. We are of the firm conviction that though the contents of the seized document viz., Page 38 of Annexure A/JRFM/05 raised a suspicion

**ITA No.452 & 453/Hyd/2025 and
CO No.14 & 15/Hyd/2025
United Developer**

or doubt about the veracity of the sale consideration of the shops that was disclosed by the assessee firm in its books of accounts, but, cannot shut our eyes to the settled position of law that suspicion, however strong, cannot take the place of proof. We are of the view that if the AO wanted to act upon the unsubstantiated contents of the seized document, viz., Page 38 of Annexure A/JRFM/05, which did not even make a mention of the name of the assessee firm, then in the totality of the facts therein involved, he ought to have carried out necessary verifications, examined the purchasers of the shops (whose complete details were available with him), and brought on record corroborative material that would have irrefutably evidenced and proved to the hilt that the assessee firm had received on-money/unaccounted sale consideration on the sale of the subject shops. Also, we cannot remain oblivious of the fact that neither the survey officials nor the AO while framing the assessment had brought on record any material, which would reveal that in the course of the survey proceedings conducted on the assessee firm u/s 133A of the Act on 04.05.2018, trail of the alleged on-money/unaccounted

**ITA No.452 & 453/Hyd/2025 and
CO No.14 & 15/Hyd/2025
United Developer**

sale consideration in any form, i.e., unexplained investment or unexplained expenditure was found that would have to some extent supported his allegation that the assessee firm had received on-money of Rs. 22.45 crores (supra) on the sale of the shops in its commercial complex. Further, the fact that Shri Surender Jindal, i.e., the part-time accountant of the assessee firm, had in his statement recorded by the department categorically stated that the contents of the seized document did not pertain to the assessee firm, can also not be lost sight of and brushed aside. We are of the firm conviction that now when the author of the seized document, viz., Page 38 of Annexure A/JRFM/05, i.e. Shri Surender Jindal (supra) had never stated that the amount mentioned in the said seized document was the unaccounted sale consideration received by the assessee firm on the sale of the shops of its commercial complex, i.e. "United Arcade", therefore, the addition made by the AO by solely relying upon the unsubstantiated contents of the said seized document which have no legs to stand upon cannot be sustained.

37. We find that the **Hon'ble High Court of Andhra Pradesh** in the case of **CIT Vs. Smt. K.V. Lakshmi Savitri Devi, I.T.T.A.563/2011, dated 10.12.2012**, had come across facts identical to those involved in the present appeal before us. For the sake of clarity, we deem it apposite to cull out the observations of the Hon'ble High Court in the backdrop of the facts as were involved in the case before them, as under:

“15. We are of the view that the Tribunal has rightly held that the registered document dt. 21-08-2006 under which the respondent purchased the above property showed that only Rs. 65.00 lakhs was paid to the vendor by the respondent; that there was no evidence to show that the respondent had paid Rs. 1.00 crore in cash also to the vendor; **that no presumption of such payment of Rs. 1.00 crore in cash can be drawn on the basis of an entry found in a diary/loose sheet in the premises of C. Radha Krishna Kumar which is not in the respondent's handwriting and which did not contain the name of the respondent or any date of payment on the name of the person who made the payment.** It rightly held that the Revenue failed to establish the nexus of the seized material to the respondent and had drawn inferences based on suspicion, conjectures and surmises which cannot take the place of proof. We also agree with the Tribunal that the assessing officer did not conduct any independent enquiry relating to the value of the property purchased and the burden of proving the actual consideration in the purchase of the property is on the Revenue and it had failed to discharge the said burden.”

***ITA No.452 & 453/Hyd/2025 and
CO No.14 & 15/Hyd/2025
United Developer***

(emphasis supplied by us)

Also, a similar view had been taken by **Hon'ble High Court of Andhra Pradesh** in the case of **Commissioner of Income Tax (Central) Vs. A. Mahesh Reddy, I.T.T.A.No.162 of 2014 dated 12.03.2014**. The Hon'ble High Court, while approving the view taken by the Tribunal, which had vacated the addition made by the A.O. based on loose papers that were found and seized from the assessee's premises, had held that there was no justification for the AO to have made the impugned addition merely based on surmises and conjectures without having any legal proof of the same. The Hon'ble High Court had observed that the AO made the addition on the basis of the entries made in the loose sheets, which did not bear any signature or date. Compiling back to the case of the assessee firm before us, we find that as the incriminating document viz., Page 38 of Annexure A/JRFM/05 was not even found in the possession or from the premises of the assessee firm, but from the possession and premises of a third party, therefore, drawing support from the aforesaid judgement, it can safely be concluded that the AO was statutorily obligated to have placed on record corroborative

**ITA No.452 & 453/Hyd/2025 and
CO No.14 & 15/Hyd/2025
United Developer**

material to substantiate his allegation that the contents of the said seized document revealed the unaccounted sale consideration that was received by the assessee firm on the sale of shops of its commercial complex, i.e., "United Arcade", instead of drawing of adverse inferences on the basis of surmises and conjectures.

38. As is discernible from the assessment order, it is a matter of fact that the A.O had grossly failed to place on record any such independent corroborative material/evidence which would prove that the assessee firm had during the year under consideration and the immediately succeeding year received unaccounted sale consideration on the sale of shops in its commercial complex - "United Arcade", i.e., over and above the sale consideration recorded in its duly audited "books of accounts". In fact, we find that the A.O. had mainly harped on the unsubstantiated contents of the incriminating document, i.e., Page 38 of Annexure A/JRFM/05 that was seized from the laptop of a part-time accountant lying in the premises of a third party, i.e., M/s Jitender Roller Flour Mills (supra). We are unable to comprehend that now when the A.O, admittedly, had the complete details of the persons who had purchased

***ITA No.452 & 453/Hyd/2025 and
CO No.14 & 15/Hyd/2025
United Developer***

the shops in the commercial complex of the assessee firm, i.e., “United Arcade” and had with him their addresses, telephone numbers etc., then what stopped him from examining the said respective parties for verifying the claim of the assessee company that it had duly accounted the sale consideration of the shops in its audited “books of accounts”. We, thus, are of a strong conviction that the A.O. had grossly failed to carry out the necessary exercise which he was statutorily obligated to have carried out in case he intended to dislodge and disprove the claim of the assessee firm that it had not received any unaccounted sale consideration on the sale of the shops. We are of a firm conviction that, in case the A.O., based on the contents of the seized document, viz. Page 38 of Annexure A/JRFM/05 intended to discard the claim of the assessee firm that no amount over and above that accounted for in its “books of accounts” was received on the sale of shops, then he was obligated to have carried out a thorough probe, examination of the purchasers, and ought to have placed on record material proving to the contrary, which, we are afraid he had grossly failed to do.

**ITA No.452 & 453/Hyd/2025 and
CO No.14 & 15/Hyd/2025
United Developer**

39. Although the carrying out of a thorough probe, examination of the purchasers, and placing on record of irrefutable material/evidence that would have supported the A.O's claim that the assessee firm had received the amounts as mentioned in the seized document viz., Page 38 of Annexure A/JRFM/05 as unaccounted sale consideration on the sale of the shops of its commercial complex "United Arcade", viz. Page 38 of Annexure A/JRFM/05 was indispensably required as corroborative material/evidence to support the addition made while framing the assessment, but we are afraid that the said failure on the part of the A.O. to discharge the said statutory obligation that was cast upon him cannot be undone at this stage. Our aforesaid view is supported by the judgment of the **Hon'ble High Court of Delhi** in the case of **Commissioner of Income Tax Vs. Kamdhenu Steel and Alloys Ltd. (2014) 361 ITR 220 (Del)**, wherein the Hon'ble High Court had while circumscribing the scope of powers of the Tribunal had, inter alia, observed that as the Tribunal acts purely as an appellate authority, therefore, it has to see whether the assessment framed by the AO, for that matter,

**ITA No.452 & 453/Hyd/2025 and
CO No.14 & 15/Hyd/2025
United Developer**

orders of the CIT(A) were according to law and purportedly framed on facts and whether there was sufficient material to support it. The Hon'ble High Court has observed that it is not for the Tribunal to start investigations and it is only to see as to whether the additions are sustainable and there is adequate material to support the same, and, if not, the addition has to be deleted. It was further observed that the tribunal would not order further inquiry. The Hon'ble High Court, while concluding as hereinabove, had observed that it is to be kept in mind that the AO is prosecutor as well as adjudicator and it is for the AO to collect sufficient material to make the addition. Further, it was observed that there may be exceptional circumstances in which such an inquiry can be ordered, but normally this course is not resorted to. For the sake of clarity, the observations of the Hon'ble High Court are culled out as under:

“18. We may repeat what is often said, that a delicate balance has to be maintained while walking on the tight rope of Sections 68 and 69 of the Act. On the one hand, no doubt, such kind of dubious practices are rampant, on the other hand, merely because there is an acknowledgement of such practices would not mean that in any of such cases coming before the Court, the Court has to presume that the assessee in questions has indulged in that practice. To make the assessee responsible, there has to be

**ITA No.452 & 453/Hyd/2025 and
CO No.14 & 15/Hyd/2025
United Developer**

proper evidence. It is equally important that an innocent person cannot be fastened with liability without cogent evidence.....

XXX XX XXX

20. During the arguments, we had posed these queries Learned counsel appearing for the Revenue understood the limitation of their case. For this reason, a fervent plea was made that this case be remitted back to the AOs to enable him to make further investigation.

21. However, in the facts and circumstances of these cases, it would be difficult to give such an opportunity to the Revenue. There are number of reasons for denying this course of action which are mentioned below:

(i) It is not a case where some procedural defect or irregularity had crept in the order of the AO. Had that been the situation, and the additions made by the AO were deleted because of such infirmity, viz., violation of principle of natural justice, the Court could have given a chance to the AO to proceed afresh curing such procedural irregularity. One example of such a case would be when statement of a witness is relied upon, but opportunity to cross-examine is not afforded to the assessee.

(ii) On the contrary, it is a case where the AO(s) did not collect the required evidence which they were supposed to do. To put it otherwise, once the assessee had discharged their onus and the burden shifted on the AO(s), they could not come out with any cogent evidence to make the additions. No doubt, as indicate by us above, the AO(s) could have embark upon further inquiry. If that is not done and the AO(s) did not care to discharge the onus which was laid down, for this "negligence" on the part of the AO(s), he cannot be provided with "fresh innings".

(iii) The order of the AO(s) had merged in the order of the CIT(A) and in some of the cases before us and before the CIT(A), the assessees had succeeded.

(iv) This Court is acting as appellate Court and has to act within the limitations provided under [Section 26A](#) of the Act. The appeals

**ITA No.452 & 453/Hyd/2025 and
CO No.14 & 15/Hyd/2025
United Developer**

can be entertained only on substantial questions of law. In the process, this Court is to examine as to whether the order of the Tribunal is correct and any substantial question of law arises therefrom. The Tribunal has passed the impugned orders, sitting as appellate authority, on the basis of available record. When the matter is to be examined from this angle, there is no reason or scope to remit the case back to the AO(s) once it is found that on the basis of material on record, the order of the Tribunal is justified. Even the Tribunal acts purely as an appellate authority. In that capacity, the Tribunal has to see whether the assessment framed by the AO, all for that matter, orders of the CIT(A) were according to law and purportedly framed on facts and whether there was sufficient material to support it. It is not for the Tribunal to start investigation. The Tribunal is only to see as to whether the additions are sustainable and there is adequate material to support the same if not the addition has to be deleted. At that stage, the tribunal would not order further inquiry. It is to be kept in mind that the AO is prosecutor as well as adjudicator and it is for the AO to collect sufficient material to make addition. There may be exceptional circumstances in which such an inquiry can be ordered, but normally this course is not resorted to.”

40. We find that the A.O. in the present case before us had except for harping upon the unsubstantiated contents of the seized document viz, Page 38 of Annexure A/JRFM/05 that was recovered from the laptop of the part-time accountant found in the course of the search proceedings from the premises of a third party, i.e., M/s Jitender Roller Flour Mills (supra), had despite having at his disposal more than sufficient period of 45 months, i.e., the time period between the date on which search proceedings were conducted on

**ITA No.452 & 453/Hyd/2025 and
CO No.14 & 15/Hyd/2025
United Developer**

M/s Jitender Flour Mills (supra) and the date of framing of assessment in the case of the assessee firm, failed to place on record any material/evidence which would support his claim that the assessee firm had received unaccounted sale consideration on the sale of the shops of its commercial complex i.e. "United Arcade" as was alleged by him. Rather, it would also be pertinent to point out that not only the A.O. had failed to examine any of the purchasers of the shops despite having access to their complete details i.e. names, addresses, telephone numbers etc. (as available in the sale registers that were impounded in the course of the survey proceedings conducted on the assessee firm on 04.03.2018), but also, there is no whisper in his assessment order that he had ever examined the author of the said seized document, Shri. Surender Jindal, i.e., the part-time accountant from whose laptop the said document was recovered, and enquired from him about the background and source of the notings in the seized document viz., Page 38 of Annexure A/JRFM/05. On the contrary, we find that Shri. Surendra Jindal (supra) had, in his statement, denied that the said document related

**ITA No.452 & 453/Hyd/2025 and
CO No.14 & 15/Hyd/2025
United Developer**

to the assessee firm. We, thus, based on the aforesaid facts, are of the firm conviction that the A.O. had merely based on unsubstantiated notings in the aforesaid seized document, viz. Page 38 of Annexure A/JRFM/05, without placing on record any corroborative material or evidence to support his allegation, has drawn adverse inferences regarding the sale consideration accounted for by the assessee firm on sale of shops of its commercial complex, i.e., "United Arcade", and made the impugned additions in its case for both the subject year and the immediately succeeding year. As the A.O. had not cared to discharge the onus that was cast upon him, therefore, as observed by the Hon'ble High Court in the case Commissioner of Income Tax Vs. Kamdhenu Steel and Alloys Ltd. (supra), for this negligence on the part of the A.O., he cannot be provided with "fresh innings". We, thus, in terms of our aforesaid observations, are unable to sustain the unsubstantiated additions of Rs. 21,20,80,000/-, viz. (i). A.Y.2016-17: Rs. 9,45,37,047; and (ii). A.Y.2017-18: Rs. 11,75,42,953/- made by the A.O. in the hands of the assessee firm for both the aforementioned

**ITA No.452 & 453/Hyd/2025 and
CO No.14 & 15/Hyd/2025
United Developer**

years. Accordingly, in terms of our aforesaid observations, we set aside the order of the CIT(A) and direct the A.O. to vacate the additions made in the hands of the assessee firm for A.Y.2016-17 and A.Y. 2017-18 of Rs. 9,45,37,047 and Rs. 11,75,42,953/-, respectively.

41. As we have allowed the cross-objection filed by the assessee firm and vacated the additions made by the A.O in A.Y 2016-17 and A.Y. 2017-18, therefore, we refrain from adjudicating the respective appeals filed by the revenue for both the said years, which, thus, having been rendered as academic in nature, are left open.

42. In the result, the cross-objections filed by the assessee firm in A.Y 2016-17 and A.Y 2017-18 are allowed, while the appeals filed by the revenue for both the said respective years, having been rendered as academic in nature, are dismissed in terms of our aforesaid observations.

..... सितम्बर, 2025 को खुली अदालत में सुनाया गया आदेश।

**ITA No.452 & 453/Hyd/2025 and
CO No.14 & 15/Hyd/2025
United Developer**

Order pronounced in the Open Court on 24th September, 2025.

Sd/- (मधुसूदन सावडिया) (MADHUSUDAN SAWDIA) लेखा सदस्य/ACCOUNTANT MEMBER	Sd/- (रवीश सूद) (RAVISH SOOD) न्यायिक सदस्य/JUDICIAL MEMBER
--	--

Hyderabad,
Dated 24.09.2025.
#**L.Rama /SPS

आदेशकी प्रतिलिपि अग्रेषित/ Copy of the order forwarded to:-

1.	निर्धारिती/The Assessee	:	United Developer, 4-6-73/2 & 3, Pillar No. 143, Attapur X Road, Mahadipatnam, Hyderabad.
2.	राजस्व/ Revenue	The :	Deputy Commissioner of Income-tax, Central Circle-3(1), Aaykar Bhawan, Opp. LB Stadium, Bhasheerbagh.
3.	The Principal Commissioner of Income Tax, Hyderabad		
4.	विभागीयप्रतिनिधि, आयकर अपीलीय अधिकरण, हैदराबाद /CIT- DR, ITAT, Hyderabad		
5.	गार्डफ़ाईल / Guard file		

आदेशानुसार / BY ORDER

Sr. Private Secretary
ITAT, Hyderabad