

**आयकर अपीलीय अधिकरण, हैदराबाद पीठ**

IN THE INCOME TAX APPELLATE TRIBUNAL  
HYDERABAD "B" BENCH, HYDERABAD

BEFORE : SHRI VIJAY PAL RAO, VICE PRESIDENT  
AND  
SHRI MANJUNATHA G, ACCOUNTANT MEMBER

आ.अपी.सं /ITA No.939/Hyd./2025  
निर्धारण वर्ष /Assessment Year 2018-2019

The DCIT, Central Circle-1(2), Hyderabad. PIN -500 004. Telangana.	vs.	VPR Mining Infrastructure Private Limited, NELLORE. PIN - 524003 Andhra Pradesh PAN AACCV6733A
(Appellant)		(Respondent)

निर्धारिती द्वारा/Assessee by:	CA MV Prasad
राजस्व द्वारा/Revenue by::	Dr. Narendra Kumar Naik, CIT-DR

सुनवाई की तारीख/Date of hearing:	03.09.2025
घोषणा की तारीख/Pronouncement:	15.10.2025

**आदेश /ORDER**

**PER VIJAY PAL RAO, VICE PRESIDENT :**

This appeal by the Revenue is directed against the Order dated 19.03.2025 of the learned Commissioner of Income Tax-(Appeals), Hyderabad-11, Hyderabad, relating to the assessment year 2018-2019.

2. The Revenue has raised the following grounds in the instant appeal :

1. *“The Id CIT(A) erred on the facts and in the circumstances of the case and in law*
2. *The id CITA) erred in quashing the notice issued u/s 153C of the Act for the A.Y 2018-19 through the mandatory conditions as prescribed in section 153C are complied and the nexus is drawn from the seized material & documents collected during the post search proceedings and received by AD. The same has a bearing on the determination of the total income of the assessee and the satisfaction also accordingly recorded by the Assessing officer.*
3. *The Id CIT(A) erred in quashing the notice issued u/s 153C only on technical grounds by placing reliance on the decision of Hon'ble Delhi High Court in the case of Dev Technofab Vs. DCIT referred to judgment in the case of Saksham Commodities Ltd & Ors. V ITO(2024) 338 CTR 418(Del), the ratio of which is distinguishable from the facts of the present case without appreciating the post search proceedings on the merits of the additions made.*
4. *The appellant craves leave to amend, modify or alter any ground or grounds of appeal wherever necessary”.*

3. Ground No.1 is general in nature and does not require any specific adjudication.

4. Ground Nos.2 to 6 are regarding quashing of notice issued u/sec.153C of the Income Tax Act, 1961 [in short “the Act”] by the learned CIT(A).

5. The assessee company is engaged in the business of mining activities on contract basis, development of infrastructure facilities in the area of canals, irrigation projects, earthwork contractor for repairing etc. The assessee filed its original return of income for the under consideration on 29.09.2018 declaring a total income of Rs.97,78,81,280/-. The Assessing Officer passed the assessment order u/sec.143(3) of the Act on 11.03.2021 at the total income of Rs.97,82,07,728/-. In the meantime, there was a search and seizure operation u/sec.132 of the Act was conducted in the case of M/s.Vasistha Constructions Pvt. Ltd., on 09.02.2021. During the course of search and seizure action, certain material pertaining to the assessee was found and seized marked as Annexure A/VSC/OFF/04 vide page nos.1 to 12 and 55 to 66 as well as Annexure A/VCPL/PO/01 & 02. Based on the information contained in said seized material, the proceedings u/sec.153C of the Act in the case of the assessee were initiated for the assessment years 2015-2016 to 2020-2021. During the assessment proceedings, the Assessing Officer

was in possession of certain information that the assessee had made sub-contract payments to a company namely M/s. Sunil Hitech Engineer Ltd [in short “M/s. SHEL”] is a paper company and was not operating from their registered address as per the GST reports indicating the fake invoices raised by the said company. Accordingly, the Assessing Officer concluded that the sub-contract payment of Rs.10,53,44,877/- made to M/s SHEL is bogus claim of expenditure and the same was disallowed by adding back to the total income of the assessee.

6. The assessee challenged the action of the Assessing Officer before the learned CIT(A) and also challenged the validity of initiation of proceedings u/sec.153C of the Act. The learned CIT(A) has quashed the notice issued by the Assessing Officer u/sec.153C of the Act while passing the impugned order by recording the fact that the satisfaction recorded by the Assessing Officer while initiating the proceedings u/sec.153C in the case of the assessee based on the seized material does not pertain for the assessment year 2018-2019. This fact is also corroborated by no addition

made by the Assessing Officer on the basis of the seized material for the year under consideration, but, the Assessing Officer has made disallowance on account of sub-contract payments.

7. Aggrieved by the impugned order of the learned CIT(A), the Revenue has filed the present appeal before the Tribunal.

8. Before the Tribunal, the learned CIT-DR for the Revenue Dr. Narendra Kumar Naik has submitted that there was a search and seizure action u/sec.132 of the Act in the case of M/s.Vasistha Constructions Pvt. Ltd., on 09.02.2021 which was a sub-contractor of the assessee. During the course of search and seizure action, it was found that the said sub-contractor did not carry-out any work, but, given the execution of the work to other various entities. All these arrangements are in the nature of accommodation entries without any execution of work. Apart from the seized material, the Assessing Officer also received information from the GST Department regarding the accommodation

entries provided by M/s. SHEL and consequently, the Assessing Officer has disallowed the sub-contract payment claimed as expenses. The Learned DR has submitted that the learned CIT(A) has quashed the notice issued u/sec.153C without appreciating the fact that the all these entities to whom the assessee claimed to have paid sub-contract expenses for execution of the work, are paper companies without any physical existence or infrastructure or carrying-out any actual execution of work as found during the course of proceedings. Therefore, any further information received by the Assessing Officer regarding bogus claim of sub-contract expenses can be the basis of addition in the proceedings u/sec.153C of the Act. In support of this contention, the Learned CIT-DR has relied upon the Judgment of **Hon'ble Supreme Court in the case of K. Krishnamurthy vs., DCIT, Order dated 13.02.2025 in Civil Appeal No.2411 of 2025** and submitted that the Hon'ble Supreme Court has rejected the contention of the assessee that the transaction has not been found in the search at the assessee's premises, but, was found and

collected from the society. The Hon'ble Supreme Court further observed that *"the expression found in the course of search is of wide amplitude and it does not restrict to the document found in assessee's premises alone during the search. Therefore, even if in the course of search in the case of the assessee leads to the search of any individual or further investigation of the interrogation of the third parties, if a document is found, the recovery of the same would fall within the expression found 'in the course of search'"*. The Learned CIT-DR has also relied upon **Judgment of Hon'ble Delhi High Court in the case of Indian National Congress vs., DCIT, Order dated 22.03.2024 in W.P.(C).No. 4264/2024 & CM Nos.17433/2024 & 17435/2024**. Thus, the Learned CIT-DR has submitted that the learned CIT(A) has committed an error in quashing the notice issued u/sec.153C of the Act. He has relied upon the order of the Assessing Officer.

9. On the other hand, the learned Authorized Representative Sri MV Prasad, CA for the Assessee has submitted that the Assessing Officer in the satisfaction note

has made a mention of seized material pertains to the financial years 2018-2019 and 2019-2020 i.e., for the assessment years 2019-2020 and 2020-2021 and not for the assessment year 2018-2019. He has pointed-out that at page-2 of the assessment order, the Assessing Officer has given the details of the transactions found in the seized material. However, the Assessing Officer has not made any addition in respect of those transactions as found in the seized material, but, the addition in question was made solely on the basis of the information received from the GST Authorities which is undisputedly not a seized material found during the course of search and seizure carried-out in the case of M/s.Vasistha Constructions Pvt. Ltd., The Learned AR has referred to the seized material and submitted that none of the seized material or transactions recorded in the seized material pertains to the assessment year under consideration and, therefore, the initiation of proceedings u/sec.153C by the Assessing Officer without having any incriminating material found or seized during the course of search is invalid, *void* and consequently, the order

passed u/sec.153C of the Act is *void abinitio*. He has submitted that the satisfaction as required u/sec.153C of the Act should reflect that some undisclosed income in the hands of the assessee emanating from the material belonging to the third party found and seized. Therefore, the material on the basis of which, satisfaction is reached should not be vague, indefinite, distant or remote. In support of this contention, the Learned AR relied upon **Judgment of Hon'ble Delhi High Court in the case of CIT-XIII vs., Radhey Shyam Bansal [2011] 337 ITR 217 (Del.)** and **Judgment of Hon'ble Allahabad High Court in the case of CIT-(C), Kanpur vs., Smt. Nirmala Keshwani [2016] 380 ITR 566 (Allahabad)** and submitted that the Hon'ble High Court has held that "*recording of satisfaction is not a mere formality, but, involves application of mind*". He has submitted that none of seized material have any bearing on the determination of the total income of the assessee for the assessment year 2018-2019 and, therefore, the mandatory condition for initiation of proceedings u/sec.153C of the Act are not satisfied. The Learned AR has

further contended that the existence of incriminating material leading to an inference of undisclosed income is a pre-requisite for initiation of proceedings u/sec.153C of the Act. The Assessing Officer failed to establish the nexus between the seized material and undisclosed income of the assessee for the year under consideration. Once the seized material has no bearing on the determination of the total income of the assessee for the year under consideration, then, the satisfaction drawn by the Assessing Officer for initiation of proceedings u/sec.153C of the Act is completely without any basis. A mere mentioning of seized material and Annexures is not sufficient to draw an inference that transactions mentioned in those Annexures have bearing on the determination of the income. Therefore, in the absence of any incriminating material disclosing any undisclosed income for the year under consideration, satisfaction recorded by the Assessing Officer for initiation of proceedings u/sec.153C is not valid and consequently, the notice issued by the Assessing Officer u/sec.153C is liable to be quashed. He has relied upon the following decisions :

1.	Pr. CIT, Bengaluru vs., Smt. Lakshmi Singh [2017] 78 taxmann.com 207 (Karnataka-HC).
2.	Pr. CIT (Central), Bengaluru vs., Star PVG Exports [2019] 112 taxmann.com 163 (Karnataka-HC).
3.	Dev Technofab Ltd., vs., DCIT [2024] 166 taxmann.com 514 (Del.-HC).
4.	Pr. CIT vs., TDI Infrastructure Ltd., [2024] 169 taxmann.com 223 (Del.-HC).
5.	Saksham Commodities Ltd., vs., ITO [2024] 161 taxmann.com 485 (Del.-HC).
6.	CIT vs., Raj Pal Bhatia [2011] 10 taxmann.com 191 (Del.-HC).
7.	DCIT vs., UK Paints (Overseas) Ltd., [2023] 454 ITR 441 (SC)

9.1. The learned AR relied upon the impugned order of the learned CIT(A).

10. We have considered the rival submissions as well as relevant material on record. The Assessing Officer has given the reasons recorded for issuing notice u/sec.153C of the Act in para-3 of the assessment order as under :

*“3. The following reasons were recorded and a notice u/s 153C of the Act, dated 05.01.2022 was issued and duly served on the assessee :*

*1.0 On verification of Page No.37 to 43 of Annexure - During the course of search and seizure u/s.132 in the office premises of M/s. Vasistha Constructions Private Limited (VCPL). It is noticed that VCPL, has received sub-contract receipts of Rs.50.20 crores from M/s VPR Mining Infrastructure Private Limited for execution*

of work at Siddipet, Telangana, which is part of Kaleswaram project, during the FY 2018-19. M/x. VCPL has in-tum given the part of above work to the following companies on sub-contract basis :

- a) Adurti Enterprises Private Limited- Rs. 7,23,69,657/-
  - b) Shresht Industries Private Limited- Rs. 11,34.48,312/-
  - c) Achith Enterprises Private Limited- Rs. 3,61,94,804/-
  - d) Avago Infracon Private Limited - Rs. 3,54,70,906/-
- Total - Rs. 25,75,03,679/-

2.0. The tax invoices of Vasistha Constructions Pvt. Ltd., in the name of VPR Mining Infrastructure Pvt. Ltd., along with tax invoices of sub-contractors viz., Adurti Enterprises, Shresht Industries, Achith Enterprises and Avago Infracon were seized as per Page Nos 1 to 12, 55 to 66 of Annexure- A/VSC/ OFF/04 and Page No.s 62-66 of Annexure- A/VCPL/PO/01. The details of sub-contract works for the work taken from M/s. VPR Mining Infrastructure Pvt. Ltd., by Vasistha Constructions Pvt. Ltd., are seized as per Page No. 459 of Annexure-A/VCPL/PO/02.

3.0. During the course of search proceedings no documentary evidence in support of the work executed were found at the premises of VCPL. Hence, VCPL was requested to produce documentary evidence such as original sub-contract agreements, work progress certificates issued by site supervisors, M-books etc in support of execution of work by the above sub-contractors. However, no supporting documents were submitted by VCPL.

4.0. During search and PO operations Sri M. Sri Krishna Subba Raju, Ex. Director stated that they do not have sub-contract agreements with the above companies nor even he could identity persons who approached them for the above sub-contract works.

*Further, it was stated that the sub-contract works were awarded to the above companies on behest of the principal contractor, M/s. VPR Mining Infrastructure Pvt. Ltd., and except copies of invoices, they do not have supporting documentary evidencing the work executed by above sub-contractors.*

*5.0. During search proceedings the DDIT, U-1(2), Hyderabad has issued summons on 22-04-2021, 04-06-2021 and 17-06-2021 to the assessee Ms. VPR Mining Infrastructure Pvt. Ltd. However, the assessee could not furnish any documentary evidence in support of execution of works by the above sub-contractors.*

*6.0. It may be noted that the Central Government agencies like GST Department has identified the above four sub-contractors namely M/s.Adurti Enterprises Private Limited, Shresht Industries Private Limited. Achith Enterprises Private Limited and Avago Infracon Private Limited as bogus entities who provide accommodation entries and fake invoices without executing any work.*

*7.0. The above companies are in the list of fake credit issuers for the period July 17- March 20 along with source formation where the case was booked issued by the DG of Analytics and Risk Management vide C. No. DGARM/Tech/SOP/20/2019 dated 22-07-2020.*

*8.0. From the field enquiries by the DDIT,U-1(2), Hyderabad revealed that no such persons or offices at given address of Mis. Adurti Enterprises Private Limited, Shresht Industries Private Limited, Achith Enterprises Private Limited and Avago Infracon Private Limited.*

9.0. Hence, it is clearly evident that assessee M/s. VPR Mining Infrastructure Pvt. Ltd. has used the names of above sub-contractors to book bogus expenditure and withdrew cash and the amount involved of Rs.25.75.03.679/- needs to be brought to tax for the A.Y. 2019-20.

10.0. In view of the above, the information has implication in determining income of the assessee for A.Y. 2019-20.

Therefore, I am satisfied that the Page Nos.1 to 12, 55 to 66 of Annexure-A/VSC/OFF/04, Page Nos.62-66 of Annexure-A/VCPL/PO/01 and Page No. 459 of Annexure-A/VCPL/PO/02 pertains to and the information contained therein relates to M/s. VPR Mining Infrastructure Pvt. Ltd. and has bearing on the determination of total income and this is a fit case for initiation of proceedings u/s. 153C of the Act, 1961 for AYs 2015-16 to AY 2020-21 u/s.153C and u/s. 143(2) for AY 2021-22.”

10.1. Thus, the Assessing Officer has given 4 transactions of sub-contract payments made by the assessee to the 4 entities for initiation of proceedings u/sec.153C of the Act. Thereafter, the Assessing Officer has stated in para-11 of the impugned order as under :

“11. Disallowance of Sub-contract expenses with regard to M/s Sunil Hitech Engineer Ltd. (AY 2018-19).

11.1. This office received information that the assessee M/s VPR Mining Infrastructure Pvt Ltd. (VPRMIPL) has availed input tax credit by way of bogus sub contract expenses and that there is

short payment of GST of Rs.10.2 Crores on works contract service by the assessee.

11.2. In this regard show cause notice was issued on 25.02.2022, wherein the assessee was requested to furnish information in response to the below mentioned questionnaire :

"Information is received in this office that information was filed by you in response to summons issued u/s.131(1A) before the DDIT(Inv.), Unit-1(2). As per the details it was noticed that for the F.Y.2018-19 & 2017-18, the following GST/ITC amounts have been reversed in DRC-03 by you.

Name of the Sub Contractor	Amount of expenditure pertaining to transaction (Rs.)	GST-ITC reversed pertaining to the transaction (Rs.)
Sri Kakatiya Industries (India) Pvt. Ltd.	14,28,58,163	2,57,14,453
Rayon Infrastructure Pvt. Ltd.	7,27,87,164	1,31,01,690
AY 2019-20	21,56,45,327	
Sunil Hitech Engineer Ltd.	10,53,44,877	1,89,62,077
AY 2018-19	10,53,44,877	
TOTAL	32,09,90,201	5,77,78,220

The evidences in this regard, have not been produced till date. Hence, you are required to show cause as to why the sub-contract expenditure amount reversed to the tune of Rs.32,09,90,201/- for AY 2018-19 and AY 2019-20 should not be disallowed and added back to the total income, as the same is bogus expenditure being booked in the name of sub-contractors and reversed subsequently.

In this regard, please explain why the works contracts claimed in the P&L account should not be treated as bogus and

*the same should not be brought to tax. Please submit the ledger extracts of the above mentioned works contracts for the A.Y.2015-16 to 2021-22 and details of short payment.”*

10.2. Thus, it is clear that the Assessing Officer has proceeded to disallow the sub-contract expenses with regard to M/s. SHEL for the year under consideration based on the information received from the GST Authorities. Finally, in para-11.10, the Assessing Officer has referred the information as provided by the GST Department regarding the bogus entities viz., M/s. Rayon Infrastructure Pvt. Ltd., and M/s. Sunil Hightech Engineer Ltd., Based on the said information, the Assessing Officer has made the disallowance of the sub-contract payments made to M/s. SHEL to the tune of Rs.10,53,44,877/-. It is manifest from the assessment order that the impugned payment of sub-contract expenses made to M/s. SHEL was not part of the seized material found and seized during the course of search, on the basis of which, the proceedings u/sec.153C of the Act were initiated. It is pertinent to note that the initiation of the proceedings u/sec.153C of the Act are depending upon the satisfaction of the Assessing Officer that

incriminating material found during the course of search and seizure action belonging/pertaining to the person other than the searched person disclosed undisclosed income for particular assessment year(s) or the entire block of six assessment years. Therefore, depending upon the fact that the incriminating material found during the course of search and seizure action pertaining to the assessee i.e., a person other than the searched person must disclose an undisclosed income of one or more than one assessment year for initiation of proceedings u/sec.153C of the Act for those assessment years. Unlike the provisions of sec.153A of the Act, the Assessing Officer is not bound to initiate the proceedings u/sec.153C of the Act for all the six years, but, only when the Assessing Officer is satisfied that the material found and seized during the course of search pertains to the person other than the searched person and also disclosed undisclosed income for some of the assessment years or all the six assessment years, the Assessing Officer has to initiate the proceedings u/sec.153C of the Act accordingly. In the case on hand, it is evident that the seized

material/incriminating material as referred by the Assessing Officer in the satisfaction note does not disclose any undisclosed income for the assessment year under consideration and, therefore, in the absence of any incriminating material disclosing any undisclosed income for the year under consideration, there was no basis for initiation of the proceedings u/sec.153C of the Act. The **Hon'ble Supreme Court in the case of CIT-III, Pune vs., Sinhgad Technical Education Society [2017] 397 ITR 344 (SC)** while dealing with an identical issue has held in paras 14 to 19 as under :

**“14.** *We have bestowed our due consideration to the respective submissions of the counsel for the parties.*

**15.** *At the outset, it needs to be highlighted that the assessment order passed by the AO on August 7, 2008 covered eight Assessment Years i.e. Assessment Year 1999-2000 to Assessment Year 2006-07. As noted above, insofar as Assessment Year 1999-2000 is concerned, same was covered under Section 147 of the Act which means in respect of that year, there were re-assessment proceedings. Insofar as Assessment Year 2006-07 is concerned, it was fresh assessment under Section 143(3) of the Act. Thus, insofar as assessment under Section 153C read with Section 143(3) of the Act is concerned, it was in respect of Assessment Years 2000-01 to 2005-06. Out of that, present appeals relate to four Assessment Years, namely,*

2000-01 to 2003-04 covered by notice under Section 153C of the Act. There is a specific purpose in taking note of this aspect which would be stated by us in the concluding paragraphs of the judgment.

**16.** In these appeals, qua the aforesaid four Assessment Years, the assessment is quashed by the ITAT (which order is upheld by the High Court) on the sole ground that notice under Section 153C of the Act was legally unsustainable. The events recorded above further disclose that the issue pertaining to validity of notice under Section 153C of the Act was raised for the first time before the Tribunal and the Tribunal permitted the assessee to raise this additional ground and while dealing with the same on merits, accepted the contention of the assessee.

**17.** First objection of the learned Solicitor General was that it was improper on the part of the ITAT to allow this ground to be raised, when the assessee had not objected to the jurisdiction under Section 153C of the Act before the AO. Therefore, in the first instance, it needs to be determined as to whether ITAT was right in permitting the assessee to raise this ground for the first time before it, as an additional ground.

**18.** The ITAT permitted this additional ground by giving a reason that it was a jurisdictional issue taken up on the basis of facts already on the record and, therefore, could be raised. In this behalf, it was noted by the ITAT that as per the provisions of Section 153C of the Act, incriminating material which was seized had to pertain to the Assessment Years in question and it is an undisputed fact that the documents which were seized did not establish any co-relation, document-wise, with these four Assessment Years. Since this requirement under Section 153C of the Act is essential for assessment under that provision, it becomes a jurisdictional fact. We find this reasoning to be logical

*and valid, having regard to the provisions of Section 153C of the Act. Para 9 of the order of the ITAT reveals that the ITAT had scanned through the Satisfaction Note and the material which was disclosed therein was culled out and it showed that the same belongs to Assessment Year 2004-05 or thereafter. After taking note of the material in para 9 of the order, the position that emerges therefrom is discussed in para 10. It was specifically recorded that the counsel for the Department could not point out to the contrary. It is for this reason the High Court has also given its imprimatur to the aforesaid approach of the Tribunal. That apart, learned senior counsel appearing for the respondent, argued that notice in respect of Assessment Years 2000-01 and 2001-02 was even time barred.*

**19.** *We, thus, find that the ITAT rightly permitted this additional ground to be raised and correctly dealt with the same ground on merits as well. Order of the High Court affirming this view of the Tribunal is, therefore, without any blemish. Before us, it was argued by the respondent that notice in respect of the Assessment Years 2000-01 and 2001-02 was time barred. However, in view of our aforementioned findings, it is not necessary to enter into this controversy.”*

10.3. Thus, it is now settled proposition of law that for initiating the proceedings u/sec.153C of the Act, the incriminating material which was seized had to pertain to the assessment year(s) to establish the co-relation document-wise with each assessment year to disclose undisclosed income of the assessee. It is also held that this

requirement u/sec.153C of the Act is essential for the assessment under that provision as it is a jurisdictional fact. Therefore, the Assessing Officer cannot assume the jurisdiction to initiate the proceedings u/sec.153C of the Act in the absence of any incriminating material having a link with a particular assessment year and disclosing undisclosed income of the assessee. The decisions relied upon by the learned CIT-DR is entirely in a different context of the matter as it is not a case of initiation of proceedings u/sec.153A of the Act based on the recovery or detection of the documents/incriminating material impounded during the course of search or investigation in continuation of the search. Accordingly, those decisions relied upon by the Learned CIT-DR will not help the case of the Department. The learned CIT(A) after considering all the relevant facts has quashed the notice issued u/sec.153C of the Act as well as the consequential assessment order for the year under consideration in paras 6 to 6.3.11 of the order as under :

**6. Decision:**

6.1. The appellant company is engaged in the business of mining activities on contract basis, development of infrastructure facilities in the area of canals, Irrigation projects, earthwork contractor for repairing etc. The original return of income for the impugned A.Y. 2018-19 was filed on 29.09.2018 declaring a total income of Rs. 97,78,81,280/-. Assessment order u/s. 143(3) in appellant's case was passed on 11.03.2021 wherein the income was assessed at Rs. 97,82,07,728/-. A search and seizure operation u/s. 132 was conducted in the office premises of M/s Vasistha Constructions Pvt Ltd., on 09.02.2021. During the course of search certain material pertaining to the appellant was found and seized vide page nos. 1 to 12 and 55 to 66 of Annexure A/VSC/OFF/04, page no. 459 of Annexure A/VCP/PO/02, page nos. 62 to 66 of Annexure A/VCP/PO/01. Basing upon the information contained in above mentioned seized material, proceedings u/s. 153C in the case of the appellant were initiated for A. Ys 2015-16 to 2020-21. During the assessment proceedings, AO was in possession of certain information that the appellant had made sub-contract payments to a company namely M/s Sunil Hitech Engineer Ltd (hereinafter M/s SHEL) to the tune of Rs. 10,53,44,877/-. Basing upon the information available and submissions made by the appellant AO held that M/s SHEL is a paper company and was not operating from their registered address, GST reports indicated that M/s SHEL raises fake invoices and accordingly concluded that the sub-contract payment of Rs. 10,53,44,877/- made to M/s SHEL is bogus sub-contract expenditure. The same amount was disallowed and added back to the total income returned by the appellant. Aggrieved by the action of the AO, appellant filed the present appeal.

6.2. Appellant raised 5 grounds of appeal, out of which grounds of appeal no. 1 and 5 are general in nature and need no separate adjudication. In grounds of appeal no. 2, 3 and 4, appellant contended that the order passed by AO is against the facts of the case and provisions of Income Tax Act and is erroneous per se, AO erred in holding the expenditure made in respect of sub-contract expenses to M/s SHEL as bogus though complete information establishing identity, genuineness and mode through which the expenditure incurred was submitted, AO erred in treating sub-contract expenditure to be bogus merely on the ground that M/s SHEL did not respond to the notice issued u/s. 131 of the Act. Subsequently, during the course of appellate proceedings, appellant filed petition for admission of additional legal ground. Further, it had also submitted that the additional grounds are legal in nature and all the facts relating to the grounds were already on the record. In support of its request for admission of additional grounds appellant relied on decision of Hon'ble Supreme court in the case of National Thermal Power Co. Ltd., vs., CIT [1998] 229 ITR 383. On examination of the nature of the ground raised the additional legal ground was admitted. In the additional ground appellant contended that the issue of

notice u/s. 153C was bad-in-law and without jurisdiction since the material seized on which the satisfaction was recorded does not pertain to the impugned A.Y. 2018-19. The satisfaction recorded by the AO is not incriminating specific and also year specific and hence invalid and has to be treated as void abinitio. Since the additional legal grounds impact the very basis of the assessment made u/s. 153C these grounds are taken up for adjudication ahead of other grounds.

6.3. In support of its arguments made in additional legal grounds appellant relied upon decision of Hon'ble Courts in the following cases.

- (i) CIT Vs. Radhy Shyam Bansal (2012) 11 taxmann.com 294/200 Taxma.. 138 (Mag)(Delhi)
- (ii) CIT Vs. Smt. Nirmala Keshwani (2015) 123 DTR (All)177
- (iii) PCIT Vs Smt Lakshmi Singh (2017) 78 Taxmann.com 207 (Karnataka)
- (iv) PCIT (Central) Bangalore Vs. Star PVG Exports (2019) 112 taxmann.com 163 (Karnataka)
- (v) Dev Technofab Vs. DCIT [2024]166 taxmann.com 514 (Delhi)
- (vi) PCIT (Central)-3 Vs. TDI Infrastructure Ltd (2024) 169 taxmann.com 223 (Delhi).

6.3.1. The submissions made by the appellant and decisions of the Hon'ble Courts have been carefully studied. Hon'ble Delhi High Court in the case of Dev Technofab Vs. DCIT referred to judgment in the case of Saksham Commodities Ltd, for sake of clarity the relevant portion of the decision of Hon'ble Delhi High Court in the case of Saksham Commodities Ltd is reproduced herewith. Hon'ble Delhi High Court in the case of M/s. Saksham Commodities Ltd. & Ors. V. ITO [(2024) 338 CTR 418(Del)] had referred to in following decisions of various Hon'ble Courts.

*"CIT vs Sinhgad Technical Education Society [TS-5244-HC-2016(Bombay)-O], SSP Aviation Ltd vs CIT [TS-211-HC-2012(DEL)-O], Kabul Chawla vs CIT [TS-5656-HC-2015(Delhi)-O], Kamleshbhai Dharamshibhai Patel vs CIT [TS-5866-HC-2012(Gujarat)-O], CIT vs RRJ Securities [TS-5540-HC-2015(Delhi)-O], ARN Infrastructure India Limited vs ACIT [TS-5394-HC-2017(Delhi)-O], PCIT vs Saumya Construction (P) Ltd [TS-5889-HC-2016(GUJARAT)-O], CIT vs Gopi Apartments [TS-5568-ITAT-2010 (Lucknow)-O], CIT vs Mechmen [TS-5358-HC-2015(Madhya pradesh)-O], PCIT vs. Ram Avtar Verma Order [TS-5537-HC-2017(Delhi)-O], PCIT vs Abhisar Buildwell Private Limited (2024) 2 SCC 433, DCIT, Central Circle 20 vs M/s U.K Paints Overseas Ltd 2023 SCC Online SC 818, Agni Vishnu Ventures Pct. Ltd & Ors vs DCIT, ADIT, Madras HC 2023 SCC Online Mad 8017, Saraya Industries Ltd.[TS-5285-HC-2008(Delhi)-O]"*

In part G headed as CONCLUSIONS, HON'BLE DELHI HIGH COURT HELD AS FOLLOWS:

**“ G. CONCLUSIONS**

“63. On an overall consideration of the structure of Sections 153A and 153C, we thus find that a reopening or abatement would be triggered only upon the discovery of material which is likely to “have a bearing on the determination of (the total income’ and would have to be examined bearing in mind the AYs’ which are likely to be impacted. It would thus be incorrect to either interpret or construe Section 153C as envisaging incriminating material pertaining to a particular AY having a cascading effect and which would warrant a mechanical and inevitable assessment or reassessment for the entire block of the “relevant assessment year.”

64. In our considered view, abatement of the six AYs or the ‘relevant assessment year under Section 153C would follow the formation of opinion and satisfaction being reached that the material received is likely to impact the computation of income for a particular, AY or AYs’ that may form part of the block of AYs. Abatement would be triggered by the formation of that opinion rather than the other way around. This, in light of the discernibly distinguishable statutory regime underlying Sections 153A and 153C as explained above. While in the case of the former, a notice would inevitably be issued the moment a search is undertaken or documents requisitioned, whereas in the case of the latter, the proceedings would be liable to be commenced only upon the AO having formed the opinion that the material gathered is likely to inculcate the assessee. While in the case of a Section 153A assessment, the issue of whether additions are liable to be made based upon the material recovered is an aspect which would merit consideration in the course of the assessment proceedings, under— Section 153C the AO would have to be prima facie satisfied that the documents, data or asset recovered is likely to “have a bearing on the determination of the total income”. It is only once an opinion in that regard is formed that the AO would be legally justified in issuing a notice under that provision and which in turn would culminate in the abatement of pending assessments or reassessments as the case may be.

65. We would thus recognize the flow of events contemplated under Section 153C being firstly the receipt of books, accounts, documents or assets by the jurisdictional AO, an evaluation and examination of their contents and an assessment of the potential impact that they may have on the total income for the six AYs’ immediately preceding the AY pertaining to the year of search and the “relevant assessment year. It is only once the AO of the non-searched entity is satisfied that the material coming into its possession is likely to “have a bearing on the determination of the total income” that a notice under Section 153C would be issued. Abatement would thus be a necessary corollary of that notice. However, both the issuance of notice as well as abatement would have to necessarily be preceded by the satisfaction spoken of above being reached by the Jurisdictional AO of the non-searched entity.

66. ‘Therefore, and in our opinion, abatement of the six AYs’ or the “relevant assessment year” would follow the formation of that opinion and satisfaction in that

respect being reached.

67. On an overall consideration of the aforesaid, we come to the firm conclusion that the "incriminating material" which is spoken of would have to be identified with respect to the AY to which it relates or may be like to impact before the initiation of proceedings under Section 53C of the Act. A material, document or asset recovered by the course of a search or on the basis of a requisition made would justify abatement of only those pending assessments or reopening of such concluded assessments to which alone it relates or is likely to have a bearing on the estimation of income, the mere existence of a power to assess or reassess the six AYs immediately preceding the AY corresponding to the year of search or the "relevant assessment year" would not justify a sweeping or indiscriminate invocation of Section 153C.

68. The Jurisdictional AO would have to firstly be satisfied that the material received is likely to have a bearing on or impact the total income of years or years which may form part of the block of six or ten AYs' and thereafter proceed to place the assessee on notice under Section 153C. The power to undertake such an assessment would stand confined to those years to which the material may relate or is likely to influence. Absent any material that may either cast a doubt on the estimation of total income for a particular year or years, the AO would not be justified in invoking its powers conferred by Section 153C. It would only be consequent to such satisfaction being reached that a notice would be liable to be issued and thus resulting in the abatement of pending proceedings and reopening of concluded assessment."

6.3.2. The decision of Hon'ble Delhi High Court in the case of Saksham Commodities Ltd has been carefully studied, Hon'ble Court held that initiation of action u/s. 153C is significantly premised upon the AO being satisfied that the books of accounts or documents and assets seized or requisitioned having a bearing on the determination of total income of such other person. Held that, AO should satisfy that the material received would have a bearing on the determination of the total income of such other person before commencement of action u/s. 153C. Held that, have a bearing would necessarily lead to a conclusion that mere discovery of books, documents or assets would not justify initiation of proceedings u/s. 153C. The jurisdictional AO must satisfy that those material are likely to have an impact on the determination of the total income, Held that, initiation of action u/s. 153C should be founded on a formation of opinion by the jurisdictional AO that the material handed over and received pursuant to a search is likely to influence the determination of the total income. Held that, unless the AO is satisfied that the material gathered could potentially impact the determination of total income it would be unjustified in mechanically reopening or assessing all over again all the ten A.Ys that could possibly form part of the block of ten years. Held that, **unless the material gathered and recovered is found to be relevant to A.Y which is sought to be subjected to action u/s. 153C, it would be legally impermissible for the AO to invoke**

**provisions u/s. 153C.** Held that, satisfaction notes should evidence a formation of opinion that the material is likely to be incriminating for more than a singular A.Y and thus warranting the drawl of section 153C proceedings for years in addition to those to which the material may be directly relatable. Held that, issuance of notice as well as abatement would have to necessarily be preceded by the satisfaction reached by the jurisdictional AO of non-searched entity. Hon'ble Court concluded that the incriminating material would have to be identified with respect to the A.Y. to which it relates or may be likely to impact before the initiation of proceedings u/s. 153C of the Act.

6.3.3. The decision of Hon'ble Court in the case of Saksham Commodities Ltd was followed by Hon'ble Delhi High Court in the case of Dev Technofab Vs. DCIT. The headnote of the decision in the case of Dev Technofab Ltd. Vs. DCIT is reproduced as below:

*"Section 153C of the Income Tax Act, 1961 - Search and seizure - Assessment of any other person - Assessment years 2014-15 to 2020-21 - Assessee filed instant writ petition for challenging notices issued under section 153C for assessment years 2014-15 to 2020-21 - It was noted that satisfaction note pertained to non-searched entity, namely assessee, and material which was alluded to pertained to assessment year 2019-20 only Whether in view of aforesaid, impugned action under section 153C, pertaining to A.Ys 2014-15, 2015-16, 2016- 17, 2017-18, 2018-19 and 2020-21 were liable to be quashed and set aside - Held, yes - Whether however, and insofar as Assessment Year 2019-20 was concerned, same was left untouched and all rights and contentions of respective parties were kept open to be addressed in ongoing assessment proceedings for Assessment Year 2019-20 - Held, yes [Paras 5 and 6][Partly in favour of assessee]."*

[Emphasis supplied]

6.3.4. Further, appellant also relied upon the Hon'ble Delhi High Court in the case of PCIT(Central)-3 Vs. TDI Infrastructure Ltd. The head note of the decision in the case of TDI Infrastructure Ltd is as follows:

*Section 153C of the Income-tax Act, 1961 - Search and seizure - Assessment of income of any other person (Incriminating material) - Assessment years 2007-08 and 2008-09 - During search conducted in premises of TP Group, incriminating material in relation to assessee were unearthed - Consequently, a survey was conducted at premises of assessee -Consequently, a notice under section 153C was issued to assessee and in response to said notice, assessee filed its return - Assessing Officer made additions on account of disallowance of claim for brokerage and interest charges and further made addition on strength of documents recovered from assessee's premises - Tribunal held that none of additions made in impugned assessment orders were based on any*

*seized/incriminating material either found during course of search or had been recorded in 'satisfaction note' by Assessing Officer and, thus, none of these additions could be made in proceedings under section 153C - It was noted that in case similar to assessee, High Court held that if no incriminating material was found during the course of the search in respect of an issue, then no addition in respect of such an issue could be made in assessment under sections 153A and 153C - Whether thus, additions were to be deleted - Held, yes [Para 23] [In favour of assessee]"*

[Emphasis supplied]

6.3.5. In the case of TDI Infrastructure Ltd, Hon'ble ITAT held that none of the additions made in the impugned assessment orders were based on any seized material seized/incriminating material either found during the course of search or had been recorded in the satisfaction note by the assessing officer and therefore none of the additions could be made in the proceedings u/s. 153C. Hon'ble High Court of Delhi upheld the decision of Hon'ble ITAT.

6.3.6. At this juncture, it is pertinent to examine the satisfaction note recorded by the AO.

PROFORMA FOR RECORDING SATISFACTION UNDER SECTION 153C		
1	Name of the Group searched	M/s. Vasistha Constructions Pvt. Ltd.
2	Name and PAN No. of the person referred to in the section 153A	Vasistha Constructions Pvt. Ltd. PAN-AAACV6828L
3	Date of initiation of search in the case of the person referred to in section 153A	09.02.2021
4	Name, address and PAN No. of the person in whose case action under section 153C is proposed	M/s. VPR Mining Infrastructure Ltd. PAN: AACCV6733A 3rd Floor - Plot No.1259, Lakshmi Towers, Road No.36, Jubilee Hills, Hyderabad.
5	Specific details of the seized material on the basis of which action under section 153 is proposed: (a) Nature of the seized material(money/bullion/jewellery/other valuable article or thing/books of account/documents)  (b) Description of the seized material  (c) Address of premise/place from where such material was seized  (d) Date of seizure of such material  (e)Particulars of the relevant Panchnama  (f) Annexure/S No./Page number etc.(Particulars to be specified)	Page Nos 6-12 of Annexure-A/VSC/ OFF/04 are tax invoices of Vasistha Constructions Pvt. Ltd., in the name of VPR Mining Infrastructure Pvt. Ltd. Page No. 1 to 5 of Annexure-A/VSC/ OFF/04 are tax invoices of sub-contractors viz., Adurti Enterprises, Shreast Industries, Avago Infracon, Page No. 6 55 to 61 of Annexure-A/VSC/ OFF/04 are tax invoices of VCPL in the name of VPR Mining and 62 to 66 of Annexure- A/VSC/ OFF/04 are tax invoices of Avago Infrastructure, Achit Enterprises, Shreast Industries and Adurti Enterprises.  Page No.s 1 to 12, 55 to 66 of Annexure- A/VSC/ OFF/04  At the office premises of M/s. Vasistha Constructions Pvt. Ltd. S-2-293/B2/AL/38, Ashwini Heights, Jubilee Hills, Hyderabad. 500033  09-02-2021  Panchanama dated 12-02-2021  Page No.s 1 to 12, 55 to 66 of Annexure- A/VSC/ OFF/04 Tax invoices -  Page No. 459 of Annexure-A/VCPL/PO/02 contain details of sub-contract works for the work done from M/s. VPR Mining Infrastructure Pvt. Ltd., by Vasistha Constructions Pvt. Ltd.  Page No.s 459 of Annexure-A/VCPL/PO/04
	Specific details of the seized material on the basis of which action under section 153 is proposed: (a) Nature of the seized material(money/bullion/jewellery/other valuable article or thing/books of account/documents) (b) Description of the seized material	

(c) Address of premise/place from where such material was seized	At the office premises of M/s. Vasistha Constructions Pvt. Ltd. 8-2-293/82/AL/38, Ashwini Heights, Jubilee Hills, Hyderabad. 500033
(d) Date of seizure of such material	09-02-2021
(e)Particulars of the relevant Panchnama	Panchanama dated 09-04-2021
(f) Annexure/S.No./Page number etc.(Particulars to be specified)	Page No. 459 of Annexure-A/VCPL/PO/02 contain details of sub-contract works for the work taken from M/s. VPR Mining Infrastructure Pvt. Ltd., by Vasistha Constructions Pvt. Ltd.
Specific details of the seized material on the basis of which action under section 153 is proposed:	Page No.s 62-66 of Annexure-A/VCPL/PO/01 are tax invoices of sub-contractors viz., Avago Infracon, Adurti Enterprises, Achith Enterprises and Shresht Industries.
(a) Nature of the seized material(money/bullion/jewellery/other valuable article or thing/books of account/documents)	
(b) Description of the seized material	Page No.s 62-66 of Annexure-A/VCPL/PO/01
(c) Address of premise/place from where such material was seized	At the office premises of M/s. Vasistha Constructions Pvt. Ltd. 8-2-293/82/AL/38, Ashwini Heights, Jubilee Hills, Hyderabad. 500033
(d) Date of seizure of such material	09-02-2021
(e)Particulars of the relevant Panchnama	Panchanama dated 01-04-2021
(f) Annexure/S.No./Page number etc.(Particulars to be specified)	Page No.s 62-66 of Annexure-A/VCPL/PO/01 Tax invoices
6 Relationship of the person referred in S.No.4 with the person referred to in S.No. 2	Assessee firm is main contractor of M/s. Vasistha Constructions Pvt. Ltd.
7 Satisfaction of the Assessing Officer of the person referred to in section 153A that the seized material referred to in S.No 5 belongs to the person referred to in S.No. 4	
1.0	On verification of Page No.s 37 to 43 of Annexure During the course of

search and seizure u/s. 132 in the office premises of M/s. Vasistha Constructions Private Limited (VCPL). It is noticed that VCPL has received sub-contract receipts of Rs. 50.20 crores from M/s. VPR Mining Infrastructure Private Limited for execution of work at Siddipet, Telangana, which is part of Kaleswaram project, during the FY 2018-19. M/s. VCPL has in-turn given the part of above work to the following companies on sub-contract basis:

- a) Adurti Enterprises Private Limited- Rs. 7,23,89,657/-
- b) Shresht Industries Private Limited- Rs. 11,34,48,312/-
- c) Achith Enterprises Private Limited- Rs. 3,61,94,804/-
- d) Avago Infracon Private Limited - Rs. 3,54,70,906/-

Total- Rs. 25,75,03,679/-

- 2.0 The tax invoices of Vasistha Constructions Pvt. Ltd., in the name of VPR Mining Infrastructure Pvt. Ltd., along with tax invoices of sub-contractors viz., Adurti Enterprises, Shresht Industries, Achith Enterprises and Avago Infracon were seized as per Page No.s 1 to 12, 55 to 66 of Annexure- A/VSC/OFF/04 and Page No.s 62-66 of Annexure- A/VCPL/PO/01. The details of sub-contract works for the work taken from M/s. VPR Mining Infrastructure Pvt. Ltd., by Vasistha Constructions Pvt. Ltd., are seized as per Page No. 459 of Annexure-A/VCPL/PO/02.
- 3.0 During the course of search proceedings no documentary evidence in support of the work executed were found at the premises of VCPL. Hence, VCPL was requested to produce documentary evidence such as original sub-contract agreements, work progress certificates issued by site supervisors, M-books etc in support of execution of work by the above sub-contractors. However, no supporting documents were submitted by VCPL.
- 4.0 During search and PO operations Sri M. Sri Krishna Subba Raju, Ex. Director stated that they do not have sub-contract agreements with the above companies nor even he could identify persons who approached them for the above sub-contract works. Further, it was stated that the sub-contract works were awarded to the above companies on behalf of the principal contractor, M/s. VPR Mining Infrastructure Pvt. Ltd., and except copies of invoices, they do not have supporting documentary evidencing the work executed by above sub-contractors.
- 5.0 During search proceedings the DDIT, U-1(2), Hyderabad has issued summons on 22-04-2021, 04-06-2021 and 17-06-2021 to the assessee M/s. VPR Mining Infrastructure Pvt. Ltd. However, the assessee could not furnish

any documentary evidence in support of execution of works by the above sub-contractors.	
6.0	It may be noted that the Central Government agencies like GST Department has identified the above four sub-contractors namely M/s. Adurti Enterprises Private Limited, Shresht Industries Private Limited, Achith Enterprises Private Limited and Avago Infracon Private Limited as bogus entities who provide accommodation entries and fake invoices without executing any work.
7.0	The above companies are in the list of fake credit issuers for the period July'17- March'20 along with source formation where the case was booked issued by the DG of Analytics and Risk Management vide C.No. DGARM/Tech/SOP/20/2019 dated 22-07-2020.
8.0	From the field enquiries by the DDIT,U-1(2), Hyderabad revealed that no such persons or offices at given address of M/s. Adurti Enterprises Private Limited, Shresht Industries Private Limited, Achith Enterprises Private Limited and Avago Infracon Private Limited.
9.0	Hence, it is clearly evident that assessee M/s. VPR Mining Infrastructure Pvt. Ltd. has used the names of above sub-contractors to book bogus expenditure and withdrew cash and the amount involved of Rs. 25,75,03,679/- needs to be brought to tax for the A.Y. 2019-20.
10.0	In view of the above, the information has implication in determining income of the assessee for A.Y. 2019-20.
11.0	Therefore, I am satisfied that the Page No.s 1 to 12, 55 to 66 of Annexure-A/VSC/ OFF/04, Page No.s 62-66 of Annexure- A/VCPL/PO/01 and Page No. 459 of Annexure-A/VCPL/PO/02 pertains to and the information contained therein relates to M/s. VPR Mining Infrastructure Pvt. Ltd. and has bearing on the determination of total income and this is a fit case for initiation of proceedings u/s.153C of the Act, 1961 for AYs 2015-16 to AY 2020-21 u/s. 153C and u/s. 143(2) for AY 2021-22.
Assessment Years involved.	AY 2015-16 to 2021-22

**DATE:05-01-2022**

  
 (D. SREEDHAR REDDY)  
 Assistant Commissioner of Income Tax  
 Central Circle - 1(2), Hyderabad

6.3.7. AO relied upon the following seized material while recording the satisfaction for initiating proceedings u/s. 153c.

- (i) Page nos. 1 to 12, 55-66 of Annexure AVSC/OFF/04
- (ii) Page no. 459 of Annexure A/VCPL/PO/02
- (iii) Page nos. 62 to 66 of Annexure A/VCPL/PO/01

From the seized material, AO noticed that M/s Vasishtha Constructions Pvt Ltd (VCPL) received sub-contract receipts from the appellant for execution of work at Siddipet, Telangana during the F.Y. 2018-19. M/s VCPL had inturn given the part of a bove said work to the following companies on sub-contract basis.

- a) Adurti Enterprises Private Limited - Rs. 7,23,89,657/-

b)	Shresht Industries Private Limited	- Rs. 11,34,48,312/-
c)	Achith Enterprises Private Limited	- Rs. 3,61,94,804/-
d)	Avago Infracon Private Limited	- Rs. 3,54,70,906/-
	<b>Total-</b>	<b>- Rs. 25,75,03,679/-</b>

Further, AO describes the seized material i.e page nos. 1 to 12, 55-66 of Annexure AVSC/OFF/04 and page nos. 62 to 66 of Annexure AVCPL/PO/01, as tax invoices of M/s VCPL in the name of appellant along with tax invoices of sub-contractors mentioned above as (a) to (d). Page no. 459 of Annexure AVCPL/PO/02 was depicting sub-contract works taken from the appellant by M/s VCPL. Further, in para no. 9 of column (7) of the proforma, AO mentions that the appellant had used the names of sub-contractors mentioned above as (a) to (d) to book bogus expenditure and withdrew cash and the amount involved of Rs. 25,75,03,679/- needs to be brought to tax for the **A.Y. 2019-20** (whereas the impugned assessment year is A.Y 2018-19). The AO thereafter proceeds to initiate proceedings u/s. 153C of the Act for A.Y. 2015-16 to A.Y. 2020-21. In this regard, the seized material referred by the AO in the satisfaction note was obtained from the AO during appellate proceedings and examined. It was noticed that the invoices were pertaining to the period F.Y. 2018-19 and the sub-contract works taken from the appellant by VCPL for F.Y. 2018-19. For sake of clarity one page from each set of seized material is extracted below:

1. Page 1 of AVSC/OFF/01

TAX INVOICE					
Adarsh Emergents India Pvt Ltd Address: Opp Pawan Plaza, Ground Floor, Paragade, Hyderabad, Telangana. Pin: 500082 GST No: 36AAOCB5461P1ZA			Invoice Number: ADL/VCPL/18-19/11 Invoice Date: 31/01/2019		
Customer Name & Address: Vasudha constructions Pvt Ltd B-2-226/96/A/23, ROAD No.2, BANARA HILLS Hyderabad - 500034 Telangana			GSTIN No: 36AAACV8281EZV PAN No: AAACV82EL & Place of supply: TELANGANA SAC Code: 998022		
Sl. No.	Description of Services	UOM	Quantity	Rate / Cum	Amount
1	Providing casing embankment using semi-previous soil from approved borrow areas of Submergence area	CUM	373,142.56	194.00	72,389,657
PAYABLE AMOUNT (A)					72,389,657
CGST @ 9%					6,515,069
SGST @ 9%					6,515,069
TOTAL GST AMOUNT (B)					13,030,138
(C) PAYABLE AMOUNT (C = A+B)					85,419,795
Amount (Words)	Rupees- Eight Crores Fifty Four Lakhs Nineteen Thousand Seven hundred and sixty five Only.				
10/1/2019 31-01-19			For Adarsh Emergents 		

2. Page 55 of AVSC/OFF/04

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**VASHTA CONSTRUCTION PRIVATE LIMITED**  
 PLOT No.25, Plot B, Raju colony, Road No.12, Banjara Hills  
 Hyderabad - 500 024, Telangana

**TAX INVOICE**  
 (Section 31 & Rule 3 of Tax Invoice, Serial No. & Credit Note Rules)

Invoice No. : 34AACCST34121	Invoice Date : 24/08/2024
GSTIN No. : 36AACCST34121E	State : 36
Invoice No. : VPL/TS/1818/04/2	Date : 21.08.2024
<b>NAME &amp; ADDRESS OF THE RECEIVER / ORDER TO :</b>	<b>NAME &amp; ADDRESS OF THE CONTRACTOR / SHIPPED TO :</b>
Name of the party : VPS Mining Infrastructure Pvt Ltd Plot B-2-25A/42/W/1218, 3rd floor, Laxmi towers, Road No.30, Jubilee Hills, Hyderabad - 500033	Name of the party : VPS Mining Infrastructure Pvt Ltd SEM Project Reach-1 Bidder
GSTIN No. : 36AACCST34121E STATE : Telangana Order Acceptance No. : 1848.2024 Terms of Payment :	GSTIN No. : 36AACCST34121E STATE : Telangana CODE : 36

Sl. No.	Item Description	Grade	HSN / SA Code	UOM	Gross Weight / Gross Amount	Tare Weight / (Mob. Adv. Deduction)	Net Quantity / Value	Rate / Cum.	Taxable Value
1	Providing casting embankment by manual and mechanical using semi-pervious soil from approved borrow areas of Submergence area.		9954	Cum				188.00	
2	Providing casting embankment by manual and mechanical using semi-pervious soil from approved borrow areas.		9954	Cum	2,34,590.41		2,34,590.41	758.80	5,11,48,719
SGST (In words) Rs.		Forty Six Lakhs and Two Thousand Six Hundred Sixty Four Rupees only/-			SGST @	9.6%			48,82,664
CGST (In words) Rs.		Forty Six Lakhs and Two Thousand Six Hundred Sixty Four Rupees only/-			CGST @	9.6%			48,82,664
Total Invoice Value (In words) Rs.		Six Crore Three Lakhs Forty Six Thousand and Thirty Eight Rupees Only/-			<b>TOTAL INVOICE VALUE</b>				<b>6,33,40,038</b>

Subject to SGST/CGST/IGST as applicable at the time of delivery : E & O.E.

Received Goods in Good Condition :  Customer's Signature :	Vashta Construction Private Limited  AUTHORIZED SIGNATORY
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## 3. Page 62 of AVCP/PO/01

**AVAGO INFRACON PVT. LTD.** 62

ORIGINAL FOR RECIPIENT  
DUPLICATE FOR SUPPLIER

TAX INVOICE						
Avago Infracon Private Ltd 8-137, Shanti Nagar, Chandanagar, Hyderabad, 500119 GSTIN No: 36AAQCA4749K1Z2 PAN No: AAQCA4749K			Invoice Number: AIPE/VCPL/18-19/25 Invoice Date:- 06/01/2019			
Customer Name & Address: Vaishta constructions Pvt Ltd 8-2-120/96/A/23, ROAD No.2, BANJARA HILLS Hyderabad - 500034 Telangana			GSTIN No: 36AACV6828L1ZV PAN No: AAACV6828L Place of Supply: TELANGANA SAC Code: 998622			
Sl. No.	Description of Services	UOM	Quantity	Rate / Cum	Amount	
1	Providing casing embankment using semi-pervious soil from approved borrow areas of Submergence area	CUM	182,839.72	194.00	35,470,906	
<b>PAYABLE AMOUNT :- (A)</b>					<b>35,470,906</b>	
GST					CGST @ 9%	3,192,382
					SGST @ 9 %	3,192,382
<b>TOTAL GST AMOUNT (B)</b>					<b>6,384,764</b>	
<b>( C ) PAYABLE AMOUNT ( C = A+B ) :-</b>					<b>41,855,670</b>	
Amount : (in words) Rupees:- Four Crores Eighteen Lakhs Fifty Five Thousand Six Hundred and Seventy only.						
For Avago Infracon P Ltd 						

Address: H.no 8-137, Shanti Nagar, Chandanagar, Hyderabad. 500 019.

## 4. Page 459 of ANVCPL/PO/02

**Vasishtha Constructions Pvt Ltd**  
**Sub-Contractor Works of VPR Maining**  
**F/Y - 2018-19**

459

Sr.No.	Name of the Sub - Contractors/PRWs	Amount
1	Shresht Industries Private Limited	11,34,48,312
2	Achith Enterprises	3,61,94,804
3	Avago Infracon P Ltd	3,54,70,906
4	Adurthi Enterprise India Pvt Ltd	7,23,89,657
5	Green Seatek Services	6,04,74,718
6	Aynic Pvt Ltd	2,28,91,458
7	Maczon Engineering Services	1,88,11,280
8	Jm Enterprises	2,77,99,510
9	Sri Gajalakshmi Industries	70,00,860
10	Maa Kela Devi Construction Company	47,06,902
11	Md Munajir Alam	28,61,249
12	Kashi Sharma	28,37,536
13	Santosh Rai	28,29,517
14	P B L Transport Corporation Pvt. Ltd	27,23,590
15	Jagdish Sharma	26,72,804
16	Baidhnath Rai	23,41,300
17	Sainath Reddy Katam	22,45,745
18	Mohansing Daulagupu	22,02,722
<b>Total</b>		<b>41,99,02,870</b>

6.3.8. On examination of the satisfaction note, seized material and the assessment order the following inferences can be drawn.

(i) The AO had relied upon the seized material viz., Page nos. 1 to 12, 55-66 of Annexure ANVC/OFF/04, Page no. 459 of Annexure ANVCPL/PO/02, Page nos. 62 to 66 of Annexure ANVCPL/PO/01 while recording the satisfaction.

(ii) AO had categorically noted in para no. 9 of column (7) that an amount of Rs. 25,75,03,679/- needs to be brought to tax for the A.Y. 2019-20

(iii) There is no reference of seized material which can be said as impacting the determination of total income for the impugned A.Y. 2018-19 in the satisfaction note.

(iv) The AO had not established the link between the seized material and how such seized material could impact the determination of total income for the impugned A.Y. 2018-19.

(v) The disallowance of sub-contractor payments made in the assessment order has no link with the seized material referred in the satisfaction note.

(vi) In the assessment order AO mentions that the information was received from DDIT(Inv.) Unit-1(2) who in turn received the information from the details filed by the

appellant in response to summons issued u/s. 131(1A) of the Act.

(vii) The addition made on account of disallowance on sub-contract payments was not emanating from the seized material referred by the AO in the satisfaction note.

6.3.9. In the present case, the seized material on which the satisfaction was derived has no relevance to the additions made in the impugned assessment year. AO in his satisfaction note has not established as to how the seized material received from the AO of the searched party has a bearing on the determination of total income of the appellant for the impugned A.Y. 2018-19. From the perusal of the satisfaction note dated 05.01.2022 mentioned supra, it is found that there is no mention of any material which could be said to have impact on the determination of total income for the impugned A.Y. 2018-19. AO had demonstrated that the seized material pertains to F.Y. 2018-19 relevant to A.Y. 2019-20. However, the satisfaction note is silent on the issue of relevance of the seized material to the impugned A.Y. 2018-19, there is no link between the seized material and the A.Y. for which the proceedings u/s. 153C was sought to be initiated.

6.3.10. The AO before initiating the proceedings u/s 153C should satisfy that material received would have a bearing on the determination of the total income for the relevant assessment year for which notice u/s 153C is intended to be issued. AO should come to an opinion that the material handed over is likely to influence the determination of the total income. Further, the satisfaction notes should evidence a formation of opinion that the material is likely to be incriminating for each of the assessment year for which proceedings u/s 153C are desired to be initiated.

6.3.11. In view of the above discussion and respectfully following decisions of Hon'ble Courts mentioned supra, in the present case, I am of the considered opinion that the proceedings u/s 153C were initiated without coming to proper satisfaction that the seized material mentioned in the satisfaction note impact the determination of the total income for the impugned assessment year 2018-19. Further, seized material referred in the satisfaction note does not pertain to the impugned A.Y and accordingly AO wrongly assumed jurisdiction u/s. 153C of the Act. Hence, the assessment for the impugned assessment year is annulled. As the assessment is annulled, there is no need of separate adjudication of other grounds of appeal. The other grounds of appeal are held to be infructuous and not adjudicated separately.

11. In view of the facts and circumstances as discussed above as well as various Judgments relied upon by the learned AR and the Judgment of Hon'ble Supreme Court in the case of CIT vs., Singhad Technical Education Society (supra), we do not find any error or illegality in the impugned order of the learned CIT(A). The same is upheld.

12. In the result, appeal of the Revenue is dismissed.

Order pronounced in the Open Court on 15<sup>th</sup> October, 2025.

**Sd/-**  
**[MANJUNATHA G]**  
**ACCOUNTANT MEMBER**

**Sd/-**  
**[VIJAY PAL RAO]**  
**VICE PRESIDENT**

Hyderabad, Dated 15<sup>th</sup> October, 2025

VBP

Copy to :

1	The DCIT, Central Circle-1(2), 7 <sup>th</sup> Floor, Aayakar Bhavan, Basheerbagh, Hyderabad – 500 004. Telangana.
2	VPR Mining Infrastructure Private Limited, 16-3-805, Ramamurthy Nagar, NELLORE – 524003 Andhra Pradesh
3.	The CIT(A), Hyderabad-11, Hyderabad.
3	Pr. CIT (Central), Hyderabad
4	DR, ITAT Hyderabad “B’ Bench, Hyderabad
5	Guard File

*//By Order//*

*//True Copy//*