आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH, CHENNAI

श्री जॉर्ज जॉर्ज के, उपाध्यक्ष एवं श्री एस.आर.रघुनाथा, लेखा सदस्य के समक्ष
BEFORE SHRI GEORGE GEORGE K, VICE PRESIDENT AND
SHRI S.R. RAGHUNATHA, ACCOUNTANT MEMBER

आयकर अपील सं./**ITA Nos.:1872, 1873, 1875,**
1877 & 1878/Chny/2025
निर्धारण वर्ष / **Assessment Years: 2013-14, 2014-15, 2015-16,**
2016-17 & 2017-18

ACIT, Central Circle -2, Madurai.	vs.	**Transworld Garnet India Pvt. Ltd.,** 500, Pantheaon Road, Egmore S.O., Chennai – 600 008.
(अपीलार्थी/Appellant)		**[PAN: AAACT-3408-N]** (प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri. R.Venkata Raman, C.A.
प्रत्यर्थी की ओर से/Respondent by : Shri. Shiva Srinivas, C.I.T.

सुनवाई की तारीख/Date of Hearing : 24.09.2025
घोषणा की तारीख/Date of Pronouncement : 23.10.2025

आदेश /O R D E R

PER S. R. RAGHUNATHA, AM :

These five appeals preferred by the Revenue are directed against the orders passed by the Learned Commissioner of Income Tax (Appeals)-19, Chennai [hereinafter referred to as "the ld.CIT(A)"]. The impugned orders of the ld.CIT(A) arise out of the assessment orders framed by the Assistant Commissioner of Income Tax, Central Circle-2, Madurai [hereinafter referred to as "the AO"], in respect of the Assessment Years 2013-14 to 2017-18. The

particulars of the respective appeals filed by the Revenue are set out hereinbelow:-

S. No	ITA No	AY	Date of order of CIT(A)	Date of assessment order	Section under which assessment order was passed
1	1872/Chny/2025	2013-14	07.04.2025	05.05.2021	153A r.w.s 143(3)
2	1873/Chny/2025	2014-15	07.04.2025	05.05.2021	153A r.w.s 143(3)
3	1875/Chny/2025	2015-16	09.04.2025	06.05.2021	153A r.w.s 143(3)
4	1877/Chny/2025	2016-17	09.04.2025	06.05.2021	153A r.w.s 143(3)
5	1878/Chny/2025	2017-18	09.04.2025	06.05.2021	153A r.w.s 143(3)

2. The issues arising in all the aforementioned appeals are common and identical in nature. Both the sides advanced their submissions jointly, raising common contentions. In the interest of convenience and to avoid repetition, all these appeals have been heard together and are being disposed of by this consolidated order.

3. The brief facts of the case are that the assessee is a Private Limited Company engaged in the business of manufacture and export of Garnet and Ilmenite. A search and seizure action u/s.132 of the Income-tax Act, 1961 [hereinafter referred to as “the Act”] was carried out in the case of VV Group of concerns, including the assessee, on 25.10.2018. Consequent to the said search, notices u/s.153A of the Act were issued for the impugned assessment years. In compliance thereto, the assessee filed its returns of income, declaring therein the total income as originally returned prior to the search.

4. Subsequently, the AO issued notices u/s.143(2) of the Act, followed by notices u/s.142(1) of the Act, calling for details. After considering the seized material and statements recorded u/s.132(4) of the Act, the AO completed the impugned assessments u/s.153A r.w.s 143(3) of the Act making the following additions: -

(Amount in Rs.)

AY	Undisclosed Income by booking bogus expenses (1)	Disallowance u/s.40A(3) (2)	Inflated Expenses (3)	Unaccounted Cash Receipts (4)	Total
2013-14	2,70,00,000	-	-	9,06,280	2,79,06,280
2014-15	10,00,00,000	-	-	5,49,115	10,05,49,115
2015-16	8,62,05,510	5,41,05,184	-	16,18,61,715	30,21,72,409
2016-17	-	12,92,74,800	16,92,44,747	8,00,00,000	37,85,19,547
2017-18	-	2,59,00,000	14,73,62,400	-	17,32,62,400
Total	21,32,05,510	20,92,79,984	31,66,07,147	24,33,17,110	98,24,09,751

5. Considering the facts and circumstances of the case, we deem it appropriate to adjudicate upon the grounds of appeal raised by the Revenue on an issue-wise basis. However, before adverting to the merits of the issues involved, it would be just and proper to first address the preliminary objection raised by the ld.AR, Shri R, Venkata Raman, Chartered Accountant appearing on behalf of the assessee regarding the very maintainability and validity of the appeals preferred by the Revenue for the AYs 2013-14 to 2015-16.

ITA Nos.1872 & 1873/Chny/2025 (AYs 2013-14 & 2014-15)

6. The facts of the case, as emanating from the record, are that for the AYs 2013-14 and 2014-15, the AO made additions towards undisclosed income

under two distinct heads, viz., (i) booking of expenses claimed to be bogus, and (ii) unaccounted cash receipts.

7. The addition towards bogus expenses was made with reference to the ledger account under the head 'Mine Development Expenses', which formed part of the regular books of account of the assessee, coupled with reliance placed on the sworn statement of one Shri S.Ramesh, Assistant Manager (Accounts). The addition towards unaccounted cash receipts was made on the basis of certain excel sheets said to have been found and seized during the course of search conducted at the premises of a group concern of the assessee.

8. In appellate proceedings, the ld.CIT(A), while dealing with the legality of such additions in the context of assessments framed u/s.153A of the Act, inter alia observed that the ledger account of 'Mine Development Expenses', being part of the regular books of account maintained by the assessee, cannot be regarded as incriminating material discovered during the course of search. The ld.CIT(A) further recorded a finding that since the assessments for the relevant years were unabated as on the date of search, in the absence of any independent incriminating material suggesting that the books of account of the assessee were sham or manipulated, the additions so made could not be sustained in law. Accordingly, the ld.CIT(A) deleted the additions made towards bogus expenses.

9. With regard to the addition on account of unaccounted cash receipts based on excel sheets found from the premises of the group concern, the ld.CIT(A) held that inasmuch as such material was not seized from the premises of the assessee, the same could not be pressed into service to justify additions u/s.153A of the Act in the hands of the assessee, in the absence of any incriminating material relatable to the assessee.

10. In view of the above findings, the ld.CIT(A) deleted the impugned additions made by the AO for AYs 2013-14 and 2014-15, primarily on legal grounds, albeit also deleting on merits.

11. The relevant observations of the ld.CIT(A) deleting the additions upon legality are reproduced hereunder: -

> *"7.2.10 The core legal issue raised by the appellant concerns the additions made by the AO u/s 153A of the Act, as the search was conducted after the completion of the regular assessment u/s 143(3) of the Act under order(s) u/s 143(3) of the Act dated 24.03.2016 and 26.12.2016 for the AY(s) 2013-14 & 2014-15. In the original assessment completed, the AO after examining the books of accounts accepted the various expenses claimed in the books of accounts and has chosen to make regular addition(s) only. As evident in the assessment order(s) passed u/s 153A of the Act for the years under consideration, it can be seen that the addition(s) made was primarily based upon the loose sheets which are said to be the print out extracted from tally data maintained by the appellant company. The Tally data forms part of the books of accounts of the appellant. In addition, the search team was able to find excel sheets attached sheets to the e-mail communications between the employees of the VV Group from a third party. The appellant asserts that since no incriminating material was found during the search at its premises, and given that the original assessment had already been completed, the AO was not justified in making additions u/s 153A of the Act in the absence of such incriminating material. The appellant further emphasizes that the regular books of accounts maintained by the company cannot be regarded as incriminating material, particularly when these very same books were accepted during the original assessment proceedings, which had concluded well before the search was conducted.*

7.2.11 Further, one of the principle piece of evidence relied upon by the AO is the ledger account of 'Mine Development Expenses' found during the course of search. The appellant claims that this ledger, being a part of the regular and duly audited books of account, cannot be treated as incriminating material. This ledger entry, recorded in Tally Software, reflects an expenditure of Rs. 2.70 Crores & Rs. 10 Crores for the FY 2012-13 & 2013-14, with a corresponding credit entry in "other accrued liabilities." The appellant contends that these entries were provisional, and there is no evidence to suggest that it was intentionally made to supress the taxable income or that it represents any sham transaction.

7.2.12 The AO's reliance on this ledger is incorrect because it was part of the regular accounting records, which were audited and accepted during the regular assessment proceedings completed u/s 143(3) of the Act in 2016. For the ledger entry to be considered incriminating, the AO must demonstrate that the transaction does not reflect the true state of affairs. However, the AO failed to provide any evidence or corroboration, such as a parallel set of accounts or proof of falsified transactions, to challenge the accuracy of the regular books of account. As the books were already scrutinized and accepted by the AO during the regular assessment, this ledger cannot serve as the basis for a new addition in an unabated assessment. It is more significant to bring on record that both the AO(s) while completing the original assessment as well as the search assessment have had no occasion to reject the books as contemplated u/s 145(3) of the Act. Therefore, there exists no dispute about the correctness of the books of accounts maintained by the appellant for the years under consideration.

7.2.13 The sworn statement of Shri S. Ramesh, Assistant Manager (Accounts), was recorded during the course of search. In his statement, Shri S. Ramesh explained that the Rs. 2.70 Crore & Rs. 10 Crores entries were provisional entries related to the maintenance of mine roads and other tasks involving casual laborers. Nowhere in the statement it has been claimed that the entries were sham. However, the appellant claims that this does not constitute incriminating evidence, as provisional accounting entries are a common practice in business. These entries do not by themselves indicate any sham transactions.

7.2.14 Moreover, the Investigation Officer and AO had no occasion to travel beyond the books of accounts to prove that the entries were sham. During the course of assessment proceedings, the AO has failed to substantiate the fact that the provisional entry was incorrect with any supporting evidence. The appellant contends that the absence of bills and vouchers does not automatically render an entry sham, especially when the transactions are meticulously recorded in the regular, audited books. In the absence of corroborative evidence, the statement made by Shri S. Ramesh cannot be treated as evidence to substantiate addition(s) made.

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7.2.16 The Hon'ble Apex Court, in PCIT v. Abhisar Buildwell (P.) Ltd [2023] 454 ITR 212, has clarified that, in cases of completed assessments (i.e., where assessments have already been finalized and no reassessment was

pending), the AO can make additions only if incriminating material is found during the search, specifically at the assessee's premises. The AO cannot rely on pre-existing information or previously filed returns in such cases unless the material uncovered is directly linked to the appellant. Therefore, the appellant's case qualifies as a completed/unabated assessment, and the burden is on the AO to provide evidence of incriminating material found during the search.

7.2.17 In light of the judicial precedents cited and the facts of the case, it is evident that no incriminating material was found from the premises of the appellant company during the course of search. The only material relied upon was ledger accounts from the regular books of account, which cannot be treated as incriminating material to make any addition, unless there exists any specific findings that the books of accounts itself is a sham by bringing on record cogent and corroborative evidence to substantiate the same. Therefore, additions made on such loose sheets (ledger accounts) amounting Rs.2.70 Crores and Rs. 10 Crores for the AY(s) 2013-14 & 2014-15 are not sustainable in the eyes of law.

7.2.18 Another crucial aspect in this case involves an excel sheet found during the search, which contained details of unaccounted cash receipts, including scrap sales and large cash transactions, amounting to Rs. 9,06,280/- and Rs. 5,49,115/- for the AY(s) 2013-14 & 2014-15. The appellant claims that this excel sheet is inadmissible as evidence because it was not accompanied by a certificate in compliance with Section 65B(4) of the Indian Evidence Act. The provisions of Section 65B(4) of the Indian Evidence Act requires that electronic records presented as evidence must be accompanied by a certificate identifying the record, describing the manner of its production, and confirming its accuracy. The appellant asserts that the excel sheet lacks this mandatory certificate and, therefore, cannot be considered as valid evidence. This non-compliance with Section 65B(4) of the Indian Evidence Act renders the excel sheet legally inadmissible. Furthermore, the excel sheet was recovered from the premises of M/s. V V Minerals, a third-party entity and not from the appellant company's premises. The appellant claimed that materials seized from a third-party's premises cannot be used against the appellant in the assessment(s) framed u/s 153A of the Act.

7.2.19 Now, the issue before the undersigned is whether the excel sheet found during the course of a search at a third party premise can constitute a valid evidence to make any addition in the case of the appellant. The appellant contends that the provisions of Section 65B(4) of the Indian Evidence Act was not complied with in respect of an excel sheet extracted from the e-mail communication exchanged between Shri S Jegatheesan (partner of M/s. V V Minerals) and Smt R Jayanthi (employee of M/s. V V Minerals), hence the same cannot be treated as a valid evidence. The, excel sheet was not found from the premises of the appellant company, hence it cannot be used against the appellant in the assessment completed u/s.153A of the Act.

7.2.20 The search team, during the search proceedings had found digital evidences comprising e-mail communications and between between Shri S Jegatheesan (partner of M/s. V V Minerals) and Smt R Jayanthi (employee

of M/s. V V Minerals). There are references in the assessment order that these were seized in the normal manner of making bunches of papers, paging and sealing. This is conventionally done for all paper documents. Introduction of Information Technology Act and corresponding amendments in the Indian Evidence Act are to name few changes. Thus significance, relevance and admissibility of electronic or digital evidence has now been given due recognition and importance so as to avoid any conflict.

7.2.21 Section 65 B of Indian Evidence Act is one such historic statute mandating procedure to be adopted in respect of admission of said digital evidence in judicial proceedings. Hon'ble High Courts and the Apex court has also risen to the occasion to lay down a detailed set of guidelines qua relevance and admissibility of digital evidences in a case. The ratio laid down by Hon'ble Apex court w.r.t section 65B of Indian Evidence Act in the case of Shreya Singhal vs. UoI in WP (Crl) No. 165/2012 followed in many other decisions is presently the law of the land as far as admission of digital evidences in a judicial proceeding, including quasi-judicial, is concerned.

7.2.22 In the present case, the appellant had contested the issue of use of admissibility of the impugned digital evidences in this case. The undersigned is of the view that the Hon'ble Apex court in Shreya Singhal and other cases has laid down detailed guidelines, albeit now law of the land, prescribing mandatory compliance structure while dealing with digital evidence and that non-compliance thereof would render the matter void ab initio. In the present case, the said compliance was found to be wanting or inadequate.

7.2.23 The extracted Excel sheet, lacking certification under Section 65B(4) of the Indian Evidence Act, is inadmissible. Since it was obtained from a third party's email and not the appellant's premises, it cannot support additions under Section 153A of the Act. Additionally, the sworn statement of Shri S. Ramesh, without corroborative evidence, is insufficient to justify any additions. Given that both assessments were completed u/s 143(3) of the Act and no new material discredits the books of account, no additions can be made in an unabated assessment. In light of legal precedents and the facts, the additions u/s 153A for AYs 2013-14 and 2014-15 are unsustainable in the eyes of law. Therefore, all the grounds raised upon the issue of legality are hereby treated as allowed and there exists no case for making addition by relying on the parts of the books of accounts found and seized during the course of search."

12. We have carefully considered the rival submissions and perused the orders of the lower authorities. At the outset, it is pertinent to note that the ld.CIT(A) has, vide the impugned orders, deleted the entire additions made by the AO for the AYs 2013-14 and 2014-15 on the ground of legality as well. The Revenue, while preferring the present appeals before us, has not raised any

specific grounds of appeal challenging the said findings of the ld.CIT(A) on the issue of legality.

13. In our considered view, when the very foundation of the additions made by the AO stood demolished by the ld.CIT(A) on legal grounds, and such finding has not been assailed by the Revenue in the present appeals, the logical consequence is that the matter has reached finality at the stage of the first appellate authority. It is a settled proposition of law that unless and until the Revenue chooses to contest the reasoning of the ld.CIT(A) by raising specific grounds in the memorandum of appeal, the said reasoning becomes binding and unassailable in subsequent proceedings.

14. Therefore, we find considerable force in the submission of the ld.AR that the failure of the Revenue to challenge the findings of the ld.CIT(A) on legality renders the present appeals wholly infructuous and futile. In such circumstances, the substratum of the appeals no longer survives.

15. In view of the above discussion, we are constrained to hold that the appeals preferred by the Revenue for the AYs 2013-14 and 2014-15 are not maintainable in the eyes of law. Accordingly, the same are dismissed in limine, being devoid of any merit.

ITA No.1875/Chny/2025 (AY 2015-16)

16. We observe from the assessment order for the A.Y.2015-16, the AO has made the following additions to the income returned by the assessee: -

i. Undisclosed income by booking bogus expenses of Rs.8,62,05,510/-;

ii. Disallowance u/s.40A(3) of Rs.5,41,05,184/-;

iii. Unaccounted cash receipts of Rs.16,18,61,715/-; and

iv. Inflated expenses of Rs.16,92,44,747/- (Based on the seized material, the AO discussed in the assessment order that this addition pertained to A.Y.2015-16. However, in the computation section of the assessment order, the AO inadvertently made the addition in A.Y. 2016-17. This error was subsequently rectified by the ld.CIT(A), who correctly directed the addition to A.Y. 2015-16 and accordingly deleted the addition for A.Y.2015-16).

17. Aggrieved of the above additions, assessee carried the matter before the ld.CIT(A) who vide order dated 09.04.2025 deleted the additions in toto. Aggrieved, Revenue is in appeal before us raising the following grounds of appeal: -

1. *The Order of the learned Commissioner of Income Tax (Appeals) is erroneous on facts and in law.*

2. *The Ld. CIT(A) erred in deletion of the addition of Bogus expenses of Rs.2.7 crores & Unaccounted cash receipts of Rs.9.06 lakhs made in the assessment order framed u/s.153A based on the evidence gathered in the form materials seized during the search, which were further corroborated by the sworn statement recorded u/s.132(4) from the Asst.Accounts manager of the assessee company.*

3. *The Ld CIT(A) erred in deletion of the addition made on the basis of seized materials without appreciating that Sec.132(4A) and Sec.292(C) of the Income tax Act,1961 provides presumption that the seized documents belonged to searched person and their contents are true?*

4. *The Ld.CIT(A) erred in deletion of the addition made without taking into consideration the recent directions of the Hon'ble High Court of Madras in (Suo Motu PIL) WP No 1592 of 2015 involving 'Illegal Mining and sale of Beach Sand Materials' in which the present assessee is a respondent and*

against which serious observations of illegal trade practices have been noted by the Hon'ble High Court Madras in its order dated 17.02.2025, the issue of the total turnover & the Net profit thereon needs a revisitation accordingly.

5. *The Ld.CIT(A) has not taken cognizance of the decision of Hon'ble Madras High Court in the case of Thiru.A.J. Ramesh Kumar v. Dy. CIT (2022) 441 ITR 495 (Mad.) (HC)/(2022) 139 taxmann.com 190 (Mad.), where it held that the mere fact that the appellant retracted the statement could not make the statement unacceptable. The Hon'ble High Court held that "the burden lay on the appellant to show that the admission made by him in the statement earlier at the time of survey was wrong. Such retraction, however, should be supported by a strong evidence stating that the earlier statement was recorded under duress and coercion, and this has to have certain definite evidence to come to the conclusion indicating that there was an element of compulsion for appellant to make such statement."*

6. *The Ld.CIT(A) failed to appreciate the decision of the Hon'ble Supreme Cour in the case of B. Kishore Kumar v. Deputy Commissioner of Income-tax, Central Circle – IV(1), Chennai [2015] 62 taxmann.com 215 (SC)/[2015] 234 Taxman 771 (SC) [02-07-2015] wherein the Hon'ble Apex Court has held that the Assessing Officer is justified in making additions as undisclosed income on basis of sworn statements of assessee during search and seizure.*

7. *For these grounds and any other ground including amendment of grounds that may be raised during the course of appeal proceedings, the Order of the Ld CIT(Appeals) may be set aside and that of the Assessing Officer may be restored.*

18. At the very outset, as rightly pointed out by the ld.AR, a plain reading of the grounds of appeal raised by the Revenue would make it manifestly clear that no specific grievance has been raised by the Department against the disallowance made u/s.40A(3) of the Act amounting to Rs.5,41,05,184/-, and the addition made on account of inflated expenses amounting to Rs.16,92,44,747/- for the impugned assessment year 2015-16. It is a well-settled proposition of law that where the Revenue has not raised any challenge to a particular addition or disallowance in its grounds of appeal, the said issues attain finality and cannot be reagitated at any subsequent stage. In the present case, since no ground of appeal has been taken in respect of these additions,

it follows as a necessary corollary that the Revenue has accepted the decision of the first appellate authority in respect thereof, and, consequently, there remains no controversy requiring adjudication by this Tribunal.

19. Further, on a perusal of Ground No.2 of the Revenue's appeal, we find that the grievance articulated therein relates to additions made towards bogus expenses of Rs.2.70 crores and unaccounted cash receipts of Rs.9.06 lakhs. However, upon a careful consideration of the record, it becomes abundantly clear that these additions are germane to the assessment year 2013-14 and have no bearing whatsoever upon the present assessment year 2015-16. Thus, the inclusion of such grounds in the instant appeal is wholly misplaced and irrelevant. It is trite law that grounds which do not emanate from the assessment order under challenge cannot be entertained, and the same deserve to be treated as redundant.

20. In view of the above, we are of the considered view that the appeal filed by the Revenue for the assessment year 2015-16 does not survive for adjudication. In the absence of any valid grounds pertaining to the impugned assessment year, the appeal filed by the Department is rendered infructuous and not maintainable in the eyes of law. Accordingly, the appeal filed by the Revenue for the assessment year 2015-16 stands dismissed as devoid of merit and futile in nature.

21. On merits of the case, our adjudication on an issue-wise basis is as under:

Issue No.1: <u>Addition on account of undisclosed income by booking bogus expenses</u>

22. The facts germane to the issue under adjudication are that a search and seizure action u/s.132 of the Act was conducted in the case of the assessee company. In the course of such search, the Authorized Officer seized, inter alia, the ledger account pertaining to “Mine Development Expenses” for the relevant assessment years. On examination of the said ledger account, it was noticed that the assessee had, on the last date of the financial year, i.e., on 31st March of each year, passed accounting entries debiting the head “Mine Development Expenses” with corresponding credit either to “Other Accrued Liabilities” or to “Expenses Payable”.

23. It was further ascertained that for A.Y.2013-14, the assessee had debited a sum of Rs.2,70,00,000/- to the “Mine Development Expenses” account on 31.03.2013 with corresponding credit to “Other Accrued Liabilities”. Similarly, for A.Y. 2014-15, the assessee passed an entry on 31.03.2014 debiting “Mine Development Expenses” with an amount of Rs.10,00,00,000/- and crediting the same to “Other Accrued Liabilities”. For A.Y. 2015-16, the assessee was found to have debited a sum of Rs.8,62,05,510/- to “Mine Development Expenses” on 31.03.2015, with corresponding credits of Rs.1,40,00,000/- to “Expenses Payable” and Rs.7,22,05,510/- to “Building Maintenance Account”.

24. In connection with the above accounting entries, the Authorized Officer recorded the sworn statement u/s.132(4) of the Act of Shri S.Ramesh, Assistant Manager (Accounts). In his deposition, Shri Ramesh affirmed that the seized ledger represented a print-out of the accounts maintained by the assessee in the Tally Accounting Software. He further stated that the impugned entries dated 31st March of each year were only provisional entries relating to expenses payable by the assessee, and that no supporting bills, invoices, or vouchers were available in respect thereof.

25. On consideration of the seized material and the sworn statement, the AO noted that the claim of mine development expenses made by way of a single journal entry on the last day of the financial year was disproportionately high when compared with the overall expenditure incurred under the said head for the entire year. The AO further observed that the assessee had followed a uniform pattern of passing such lump-sum entries at the close of the financial year for all the impugned assessment years, thereby inflating the expenditure without any evidentiary backing.

26. The AO placed reliance upon the deposition of Shri Ramesh, who had admitted that the impugned entries were provisional in nature and unsupported by any bills or vouchers. On such basis, the AO concluded that the mine development expenses debited through these year-end entries were not

genuine. The AO was of the view that these were nothing but bogus entries introduced with an intent to reduce the taxable profits of the assessee.

27. Accordingly, treating the said amounts as unsubstantiated and fictitious expenditure, the AO proceeded to disallow the same and made an addition of Rs.2,70,00,000/- for A.Y.2013-14, Rs.10,00,00,000/- for A.Y.2014-15, and Rs.8,62,05,510/- for A.Y.2015-16 respectively, holding such amounts to be undisclosed income of the assessee arising from the booking of bogus expenses.

28. Aggrieved of the above additions, assessee carried the matter before the ld.CIT(A).

29. The assessee, in the course of appellate proceedings, submitted before the ld. CIT(A) that the entries passed on 31st March of the relevant previous year represent legitimate provisional entries duly relatable to the business exigencies of the assessee and are not in the nature of bogus claims. It was contended that such expenses are directly connected with the regular business operations of the assessee and cannot, by any stretch, be treated as contingent or uncertain liabilities. The assessee explained that, as on 31st March, liability towards mine development expenditure had crystallized, and therefore, a provision was duly recorded. The subsequent payments, made in later assessment years against such provisions, have not been disputed by the AO. It was further emphasized that there is no material brought on record by the AO,

nor has any incriminating evidence been discovered during the course of search, to suggest that the payments made in subsequent years were either fictitious or routed back to the assessee in any manner.

30. The assessee further submitted that its books of account are subject to statutory audit under the provisions of the Companies Act, as well as tax audit u/s.44AB of the Act. Both these audit reports have been furnished along with the return of income and, significantly, do not contain any adverse remarks, reservations, or qualifications with respect to the provision for mine development expenses made at the close of the financial year. In continuation, it was submitted that the assessee's case was subjected to scrutiny assessments u/s.143(3) of the Act for the AYs 2013-14 and 2014-15. During the course of such proceedings, the AO had the occasion to examine in detail the audited financial statements, tax audit report, and books of account of the assessee. After due examination, the AO accepted the mine development expenses claimed by the assessee. In this backdrop, the assessee argued that once such expenses have been duly examined and accepted in scrutiny assessments, the same cannot be disregarded or characterized as bogus in the absence of any fresh tangible or incriminating evidence brought on record.

31. It was further urged that in the impugned assessment orders, the AO has not rejected the books of account of the assessee u/s.145 of the Act. On the contrary, the turnover disclosed by the assessee has been accepted in toto. According to the assessee, once the sales/turnover has been accepted, the

corresponding expenditure incurred for carrying out such operations cannot, on mere surmise, be disallowed as bogus, particularly when the assessee has discharged its onus of substantiating the same.

32. With regard to the A.Y.2015-16, the assessee drew attention of the ld. CIT(A) to the fact that the disallowance of Rs.8,62,05,510/- is misconceived as the said sum consists of two distinct components: (i) a sum of Rs.1,40,00,000/- representing provision for mine development expenditure, duly recorded as on 31st March; and (ii) a sum of Rs.7,22,05,510/- which is merely a transfer entry involving reclassification of expenditure originally booked under the head “Building Maintenance” to the head “Mine Development Expenses.” It was clarified that the latter sum of Rs.7,22,05,510/- does not represent a provision but only an accounting reclassification. The genuineness of such expenditure, when booked originally under “Building Maintenance,” has not been doubted by the AO. Therefore, the mere re-grouping of such expenditure under the appropriate head of “Mine Development Expenses” cannot, in law or on facts, be treated as booking of bogus expenditure.

33. On the basis of the above submissions, it was contended before the ld.CIT(A) that the additions made by the AO for the AYs 2013-14, 2014-15, and 2015-16 towards alleged undisclosed income by treating the mine development expenses as bogus are unsustainable and deserve to be deleted in entirety.

34. The ld.CIT(A) after due consideration of the evidentiary material placed on record and the detailed submissions advanced by the assessee, proceeded to delete the additions made by the AO. The ld.CIT(A) recorded a categorical finding that the accounting entries pertaining to “mine development expenses” were in the nature of legitimate provisional entries, made on the basis of anticipated and ascertained liabilities arising in the normal course of business. It was further observed that such liabilities were subsequently discharged by way of actual payments effected in the succeeding financial year, which were duly adjusted against the account captioned as “Other Accrued Liabilities.”

35. The ld.CIT(A) noted that, in the absence of cogent or corroborative material brought on record by the AO, it would be impermissible to brand the entries made in the assessee’s regularly maintained books of account as sham, particularly when such books had been consistently subjected to statutory audit under the Companies Act as well as the Income-tax Act, and no adverse comments had been recorded therein. The ld.CIT(A) further emphasized that the assessee had, by way of contemporaneous documentation and subsequent settlement of liabilities, successfully demonstrated that the provisions created towards mine development expenses were bona fide and in conformity with accepted accounting principles.

36. It was also observed that the assessment order did not contain any direct evidence whatsoever to establish that the assessee was engaged in the practice of inflating or fabricating expenses. On the contrary, the assessee’s

financial statements had been duly accepted in preceding assessment years u/s.143(3) of the Act and no new incriminating material was unearthed by the AO so as to justify a departure from the past position.

37. For the A.Y.2015-16, with respect to the addition of Rs.7,22,05,510/-, the ld.CIT(A) held that the said amount represented nothing more than a reclassification entry, and hence could not, under any circumstances, be characterized as an inflated, fictitious, or non-genuine expense.

38. In view of the aforesaid findings, and having concluded that the additions were bereft of evidentiary support and contrary to the settled principles governing accrual and recognition of expenditure, the ld.CIT(A) deleted the additions made by the AO towards alleged bogus expenses for the AYs 2013-14, 2014-15, and 2015-16.

39. The relevant observations of the ld.CIT(A) in deleting the additions for the AYs 2013-14 and 2014-15 are reproduced herein below: -

> *"7.3.7 On analysis of the facts and submissions made , it can be seen that the appellant's entries for mine development expenses were legitimate provisional entries, recorded based on expected liabilities. These expenses were later substantiated by payments made in the subsequent financial year, with corresponding entries debited from the "Other Accrued Liabilities" account. The payments were made to a verified entity namely Today Homes and Infrastructure Pvt Ltd amounting to Rs. 2,00,00,000/- in the FY 2013-14 and other parties amounting to Rs. 10,80,37,622/- in the FY 2014-15, and were properly documented, confirming the genuineness of the expenses.*
>
> *7.3.8 Further, as evident in the assessment order, the AO substantially relied upon the claims made in the books of accounts in respect of the expenses claimed and made attempts to dislodge the findings of the AO by completing the original assessments for the years under consideration prior to the date of search without bringing on record any corroborative evidence to substantiate the claims in the books of accounts are sham. Unless and until*

a clear finding are made that the appellant has inflated expenditure and utilised the same, the addition(s) contemplated by the AO are only presumption(s). On the basis of any presumption, no addition can be made without any basis. In the present case of the appellant, there exists no evidence and findings, to substantiate the addition(s). Further The presumption laid down u/s 132(4A) of the Act is always a rebuttable presumption as per the findings of the Hon'ble ITAT Jharkhand in the case of Mahavir Parasad Rungta V. CIT [2014] 43 taxmann.com 328 (Jharkhand).

7.3.9 The Hon'ble Apex Court in the case of P.R. Metrani V. CIT[2006] 157 Taxman 325(SC) has dealt the scope of presumption u/s 132(4A) of the Act wherein its has been observed that "Presumption under sub-section 4A of section 132 is a rebuttable presumption as the expression used is "may presume".

7.3.10 In the case of Brijlal Rupchand v. ITO [1991] 40 TTJ (Indore-Trib.) 668, referring to the decision in the case of Pushkar Narain Sarraf v. CIT [1990] 50 Taxman 213 (Allahabad), the Tribunal observed that the expression 'may presume' appearing in section 132(4A) does convey the same meaning as in section 4 of the Evidence Act and the expression gives legal sanction for drawing such inferences as are possible but the discretion has to be exercised in a judicious manner. It should not be stretched without valid reasons. Therefore, while making the assessment, mechanical application of the provisions of section 132(4A) has to be avoided. In other words, presumption only supplements factual evidence available in the seized material or collected on enquiry but it does not supplant the evidence.

7.3.11 The appellant in this case has clearly demonstrated that the provisions made for mine development expenses are legitimate. The AO's decision appears to be based on assumptions rather than concrete, corroborative evidence. The assessment order does not present any direct proof indicating that the appellant company engaged in the practice of booking bogus expenses. The appellant's books of accounts were audited under both the Companies Act and the Income Tax Act, with no adverse findings. Additionally, the appellant's financial statements were accepted in prior assessments completed u/s 143(3) of the Act, and no new incriminating evidence was presented to challenge the validity of the expenses claimed.

7.3.12 In view of the detailed discussion made supra, the undersigned is of the view that the AO made the addition based on the presumption that the appellant had inflated expenditure without there being any specific findings. Therefore, all the grounds raised by the appellant upon this issue are hereby treated as allowed upon merits and the AO is directed to delete the addition of Rs. 2,70,00,000/- and Rs. 10,00,00,000/- for the AY(s) 2013-14 & 2014-15 respectively."

40. The relevant observations of the ld.CIT(A) in deleting the addition for the A.Y.2015-16 are as under : -

"7.2.2 On examination of the above submission, it can be seen that the appellant has contested against the addition of Rs. 8,62,05,510/- made by the AO for the AY 2015-16. Wherein, the AO had concluded that the appellant's mine development expenses of Rs. 8,62,05,510/- were bogus and inflated for the purpose of reducing taxable profits.

7.2.3 As evident in the assessment order, it is seen that the AO noted that in the ledger of 'Mine Development Expenses' for the AY 2015-16, an amount of Rs. 8,62,05,510/- was passed on 31.03.2015. This ledger extract was seized as a loose sheet during the course of the search. The AO noted that these entries were booked under the accounts of 'Expenses Payable' and 'Building Maintenance,' prompting the AO to conclude that they were provisional entries made without any supporting vouchers as per the deposition of Shri. S. Ramesh. The AO further assumed that these provisional entries were booked to artificially inflate expenses and thereby reduce the appellant's profit for tax purposes. However, upon further scrutiny, it is found that the entries made on 31.03.2015 were not purely provisional but contained two distinct components viz..Rs. 7,22,05,510/- which represents a reclassification of expenses from 'Building Maintenance' to 'Mine Development Expenses' and Rs. 1,40,00,000/- which was incurred for mine development expenses during the year. The relevant ledger extract is reproduced by the AO at Para No. 10 of the assessment order passed for the AY 2015-16. The same is not a provision per se , it was erroneously recorded as a provision , whereas it was an expense incurred during the year but the payment was not made during the year, therefore it was described as "Expenses Payable". This finding suggests that the entries in question were regular accounting entries that were made at the year end with the intention of correcting prior mis-classifications or recognizing legitimate expenses, rather than creating fictitious or inflated expenses.

7.2.4 The AR explained that Rs. 7,22,05,510/- was a transfer entry made to reclassify the expenses originally recorded under the head 'Building Maintenance' to the correct category of 'Mine Development Expenses.' The AR further contended that the correction was carried out based on the advice of the Statutory Auditors, who identified that these expenses had been miscategorized in the earlier periods. The AO has not questioned the genuineness of the expenses recorded under 'Building Maintenance' and did not find any material to suggest that these expenses were fictitious. The fact that these expenses were mis-classified does not make them non existent or fictious. The re-classification was a mere adjustment to align the expenses with the correct category, and there is no evidence to suggest any wrongdoing or deliberate mis-appropriation. Therefore, the AO's assumption that Rs. 7,22,05,510/- represents bogus expenses is erroneous, as it overlooks the nature of the re-classification made. Further, the AO in the assessment order at Para No. 20 has appended the copy of individual voucher(s) for the amounts less than Rs. 20,000/- and also extract of the labour wages register at Para 22 of the assessment order passed for the AY 2015-16 in which the labour wages were paid to numerous labourers. As evident in the Labour Wages Register, it can be seen that each of the payments made to the labourers were less than Rs. 20,000/-. Therefore, it is evident that the appellant company has been incurring this expense in the course of its business.

7.2.5 Therefore, the undersigned is of the considered view that the amount of Rs. 7,22,05,510/- cannot be considered as an inflated or fictitious expense. The contention of the AR in this regard merits consideration. It was a legitimate re classification to properly account expenses.

7.2.6 The appellant has incurred an amount of Rs. 1,40,00,000/- towards mine development expenses on 31.03.2015, recognizing that these expenses were incurred during the year. The amount was credited to the 'Expenses Payable' account, indicating that it was an actual liability that was payable as on the year-end. Payments against this "Expenses Payable" were settled in the subsequent assessment year, as evidenced by the ledger account for 'Expenses Payable' from 01.04.2015 to 31.03.2016.

7.2.7 The AO did not consider the fact that the payments made against this " Expenses Payable" were recorded in the subsequent year. The appellant submitted documentary evidence, including the ledger accounts for 'Expenses Payable' and 'Advance for Expenses,' which clearly demonstrate that the entire amount of Rs. 1,40,00,000/- was paid in the next financial year. Therefore, it is incorrect to classify the "Expenses Payable" as bogus, as the expenses were real and paid out in the subsequent period. Since the amount was settled in the subsequent assessment year, and no material was found to suggest that the payments were not made or were fictitious, the addition of Rs. 1,40,00,000/- as bogus expenses is unjustified.

7.2.8 The AO has relied on the fact that the entries for the mine development expenses were made at the end of the financial year and lacked supporting vouchers. However, the appellant has provided detailed documentation, including ledgers and accounts, to substantiate the legitimacy of these transactions. Additionally, no substantive evidence was found during the course of the search or investigation to suggest that these entries were not genuine. Moreover, the AO has failed to conduct any independent inquiry or examination to verify the payments made against the " Expenses payable" or to establish that the expenses were not legitimately incurred by the appellant. The absence of concrete evidence in support of the AO's claims renders the addition of Rs. 8,62,05,510/- as bogus expenses based purely on presumption rather than factual verification. Therefore, the undersigned is of the view that the AO's conclusion that these expenses were bogus is based on assumption and lacks any factual evidence. There exists no substantive material to support the allegations of inflated or fictitious expenses.

7.2.9 The appellant's books of account have been subjected to both a Statutory Audit under the Companies Act and a Tax Audit u/s 44AB of the Act. Both audit reports have not raised any adverse remarks or qualifications concerning the mine development expenses. This indicates that the expenses have been accounted for in compliance with the applicable accounting standards and tax regulations.

7.2.10 Furthermore, the AO did not reject the appellant's books of account, nor did he question the turnover disclosed by the appellant. Since the turnover has been accepted by the AO, the corresponding expenses incurred to generate that turnover should not be disputed without any valid grounds. Therefore, the AO's addition of Rs. 8,62,05,510/- by treating the

mine development expenses as bogus is without justification. The undersigned is of the view that the acceptance of the books of account through the audit process and the failure of the AO to reject the same supports the view that the expenses claimed were legitimate and should not have been disallowed.

7.2.11 In view of the detailed examination of the facts, evidence, it is concluded that the AO's action of making an addition of Rs. 8,62,05,510/- as bogus mine development expenses is inappropriate. The re-classification of expenses and the " Expenses Payable" for mine development expenses were legitimate and substantiated by appropriate documentation. In light of the above discussions, the undersigned is of the view that the action of the AO in making the addition of Rs. 8,62,05,510/- for the AY 2015-16 is not sustainable on merits. Therefore, all the grounds raised by the appellant upon this issue are hereby treated as allowed and the AO is directed to delete the addition of Rs. 8,62,05,510/- for the AY 2015-16."

41. Aggrieved of the deletion of the additions by the ld.CIT(A), Revenue is in appeal before us.

42. The ld.DR, appearing on behalf of the Revenue, vehemently supported the findings of the AO and contended that the provision created by the assessee towards mine development expenses as on 31st March is not an admissible deduction. The ld.DR, therefore, urged that the additions made by the AO be sustained by setting aside the order passed by the ld.CIT(A).

43. Per contra, the ld.AR placed reliance on the order passed by the ld.CIT(A) and contended that the ld.CIT(A) has categorically recorded a finding that the year-end provision is a bona fide accounting entry duly substantiated by subsequent payments. The ld.AR further submitted that Shri S.Ramesh, in his deposition, had merely stated that the entries in question were provisional in nature and had at no point admitted that the said entries were fictitious or intended to artificially reduce the taxable income. Accordingly, it was argued that the statement of Shri S.Ramesh carries no evidentiary value and, therefore,

cannot form the sole basis for sustaining the impugned additions in the hands of the assessee.

44. With respect to the A.Y.2015-16, the ld.AR emphasised that out of the total amount of Rs.8,62,05,510/-, a sum of Rs.7,22,05,510/- represented a mere reclassification of expenditure from the head “Building Maintenance” to “Mine Development Expenses”. Hence, such reclassification cannot be regarded as a provisional entry.

45. In light of the above submissions, the ld.AR argued that the ld.CIT(A) has rightly deleted the additions by rendering well-reasoned and cogent findings, which are neither perverse nor contrary to law. It was therefore prayed that the order of the ld.CIT(A) be upheld and the appeals preferred by the Revenue be dismissed on merits of the case as well.

46. We have heard the rival submissions advanced by the learned representatives of both sides, perused the materials placed on record, and duly considered the orders passed by the lower authorities. We observe that the AO made additions of Rs.2,70,00,000/- for the A.Y.2013-14, Rs.10,00,00,000/- for the A.Y. 2014-15, and Rs.8,62,05,510/- for the A.Y.2015-16 towards undisclosed income of the assessee, arising out of booking of bogus expenses in the guise of “Mine Development Expenses.”

47. It was noted by the AO that at the close of the relevant previous years, the assessee had passed journal entries debiting “Mine Development

Expenses" and crediting the corresponding amounts to "Other Accrued Liabilities/Expenses Payable." According to the AO, such entries were artificial in nature, devoid of any underlying business transaction, and were introduced with the sole object of suppressing the true profits of the assessee. The foundation for such a finding, as recorded by the AO, emanated from (i) the seized ledger accounts pertaining to "Mine Development Expenses" unearthed during the course of search, and (ii) the statement of Shri S. Ramesh, Assistant Manager, Accounts of the assessee, wherein, according to the AO, certain admissions were made indicating that the provisional entries were made without the support of any bills.

48. Being aggrieved by the aforesaid additions, the assessee carried the matter in appeal before the ld.CIT(A). The ld.CIT(A), after appreciating the evidences and explanations tendered by the assessee, was of the considered view that the impugned year-end provisions represented legitimate accounting entries, consistently passed by the assessee in the normal course of business, and duly supported by subsequent outgoings/payments effected in the succeeding financial years. It was further observed by the ld.CIT(A) that the AO had merely proceeded on suspicion and surmise, and had failed to bring on record any positive or cogent material to establish that the expenses debited were sham or fictitious in nature. The ld.CIT(A), therefore, deleted the additions made by the AO.

49. The Revenue, being aggrieved with the relief granted by the ld.CIT(A), has carried the present appeals before us. The short question which thus arises for our adjudication is: whether, on the facts and in the circumstances of the case, the ld.CIT(A) was justified in deleting the additions made by the AO on account of alleged bogus expenses under the head “Mine Development Expenses”.

50. We observe that the assessee had, on 31.03.2013, debited an amount of Rs.2,70,00,000/- under the head “Mine Development Expenses” with corresponding credit to “Other Accrued Liabilities”. Likewise, on 31.03.2014, the assessee passed a journal entry debiting “Mine Development Expenses” with Rs.10,00,00,000/- and crediting “Other Accrued Liabilities”. Further, on 31.03.2015, the assessee had debited “Mine Development Expenses” with Rs.1,40,00,000/- and an amount of Rs.7,22,05,510/- with corresponding credit to “Expenses Payable” Account and “Building Maintenance” Account respectively. These facts are borne out of the ledger accounts extracted from the regular books of account maintained by the assessee and duly noted by the AO.

51. It is an undisputed proposition of law that regular books of account maintained in the normal course of business and found during the course of search cannot, by themselves, constitute incriminating material unless it is established by the Revenue that such books contain sham or fictitious transactions intended to suppress taxable income. In the present case, no

incriminating or corroborative material has been brought on record by the Revenue to demonstrate that the said year-end provisional entries passed by the assessee were bogus or fictitious. We note that there is nothing on record to suggest that these entries were made with the motive of reducing the taxable profits.

52. We further take note of the fact that Shri S.Ramesh, Assistant Manager (Accounts), in his statement recorded, has never deposed that the said year-end provisional entries were sham or manipulated. Hence, his statement has no credence in arriving at a conclusion that the year end provisional entries are bogus. Thus, in the absence of any corroborative material, we are of the considered opinion that such provisional entries cannot be treated as bogus merely because they were passed at the year-end.

53. The ld.CIT(A), after detailed examination of the books of account and the corresponding liabilities, has recorded a categorical finding that the provisions created by the assessee were subsequently settled through actual payments. This finding of fact has not been rebutted by the Revenue by bringing any contrary evidence on record. When the liabilities created by the assessee have actually been discharged in subsequent years and when such payments have not been disputed by the AO, the natural inference is that the provisional entries made at year-end are genuine and in the normal course of accounting.

54. We also observe that for the AYs 2013-14 and 2014-15, regular scrutiny assessments were completed u/s.143(3) of the Act, wherein the AO, after due verification, accepted the accounts including the impugned provisional entries passed as on 31st March of the respective years. Having accepted the genuineness of such entries in scrutiny assessments, the AO, in the absence of any fresh incriminating material found during search, cannot now take a different stand and treat the same entries as bogus.

55. With respect to A.Y.2015-16, we find that out of the total addition of Rs.8,62,05,510/-, an amount of Rs.7,22,05,510/- represents a mere reclassification entry from “Building Maintenance” Account to “Mine Development Expenses” Account. The expenditure under “Building Maintenance” head has already been accepted by the AO as genuine. Once the nature of expenditure itself has been accepted, a subsequent reclassification of the said expenditure by way of journal entry cannot render the same as bogus. The ld.CIT(A) has rightly appreciated this factual aspect and deleted the addition. The Revenue has failed to bring any material on record to contradict these factual findings.

56. In light of the foregoing discussion, we are of the considered opinion that the year end provisional entries made by the assessee cannot be treated as bogus and accordingly we concur with the well-reasoned findings of the ld.CIT(A) in deleting the additions made by the AO on account of alleged bogus expenses for the AYs 2013-14, 2014-15 and 2015-16. We, thus, find no infirmity

in the impugned orders of the ld.CIT(A) warranting our interference. Consequently, the grounds of appeal preferred by the Revenue upon this issue for the aforesaid years stand dismissed.

Issue No.2: <u>Disallowance u/s.40A(3) of the Act</u>

57. The facts relevant to the issue are that the AO observed from the seized ledger account of "Mine Development Expenses" that the assessee had effected cash payments exceeding Rs.20,000/- on a single day in respect of such expenditure. Further, during the course of search proceedings, in the statement recorded u/s.132(4) of the Act, Shri S.Ramesh, Assistant Manager, Accounts, deposed that the said payments were incurred towards casual labour charges and other expenses pertaining to the maintenance and development of mines. As per the said ledger account, there were instances of cash payments exceeding the threshold prescribed under the provisions of section 40A(3) of the Act.

58. In view of the aforesaid observations, the AO held that the assessee had contravened the provisions of section 40A(3) of the Act in respect of the mine development expenses so incurred in cash. Accordingly, the AO proceeded to disallow the said expenditure u/s.40A(3) of the Act, amounting to Rs.5,41,05,184/- for the A.Y.2015-16, Rs.12,92,74,800/- for the A.Y.2016-17, and Rs.2,59,00,000/- for the A.Y.2017-18.

59. Aggrieved of the above disallowance made by the AO u/s.40A(3), assessee preferred appeal before the ld.CIT(A).

60. During the course of the appellate proceedings before the ld.CIT(A), the assessee, has submitted that the cash payments reflected in the impugned ledger accounts do not represent cash payments made to any single individual in excess of the statutory threshold prescribed u/s.40A(3) of the Act. It was explained that the assessee, for administrative convenience and accounting purposes, has recorded consolidated entries in the ledger, which, in fact, represent aggregate amounts paid to a number of workers on a particular date. The assessee has further stated that instead of posting individual transactions of each worker into the books of account, consolidated entries were passed, while the detailed breakup of such payments was duly maintained in the wage registers and payment vouchers.

61. It was further brought to the notice of the ld.CIT(A) that during the course of search proceedings, the Investigation Wing had seized wage registers and supporting vouchers, which, on examination, would reveal that no single worker was in receipt of any cash payment exceeding Rs.20,000/- in a day. The assessee contended that this fact is corroborated from the seized material itself, which the Department is already in possession of.

62. The assessee also highlighted that though the statement of Shri S.Ramesh was relied upon by the Department, no specific enquiry was directed

to ascertain whether any individual worker had, in fact, received cash payments beyond the monetary limit prescribed. In the absence of such a specific enquiry, it was urged that the said statement is incomplete, vague and cannot form the sole basis of a disallowance u/s.40A(3) of the Act.

63. The assessee has also drawn attention to the fact that its books of account are duly subjected to tax audit u/s.44AB of the Act. It was submitted that the tax auditor, while conducting the audit under the said provision, has not reported any violation of section 40A(3) in the audit report furnished in Form 3CD. According to the assessee, the absence of any such adverse remark by the statutory auditor lends support to its contention that no individual payment in excess of Rs.20,000/- has been made to any worker in contravention of section 40A(3) of the Act.

64. On the strength of the above submissions, it was contended before the ld.CIT(A) that the consolidated entries in the books of account cannot be viewed in isolation or in a manner divorced from the underlying supporting records, viz., wage registers and payment vouchers, which establish beyond doubt that no violation of section 40A(3) of the Act has occurred. It was therefore urged that no disallowance u/s.40A(3) of the Act is warranted in the facts and circumstances of the case of the assessee.

65. The ld.CIT(A) upon considering the submission of the assessee deleted the disallowance made by the AO u/s.40A(3) of the Act for the AYs 2015-16,

2016-17 and 2017-18. The ld.CIT(A) noted that the payments so reflected in the ledger under the head “Mine Development Expenses” were, in fact, consolidated payments made to groups of workers and not to a single individual. The ld.CIT(A) categorically recorded a finding that at no point of time was any payment exceeding Rs.20,000/- made in cash to a single worker on a single day.

66. The ld.CIT(A) further took note of the fact that during the course of search proceedings, the Investigation Wing had seized the relevant supporting records such as cash vouchers, wage registers and allied documents. On examination of such seized material, the ld.CIT(A) found that the vouchers and registers corroborated the assessee’s version that the cash disbursements were only in respect of multiple labourers and not to any individual in excess of the statutory threshold. The ld.CIT(A) thus held that the documentary evidence emanating from the search proceedings itself substantiated the genuineness of the claim and rebutted the allegation of contravention of section 40A(3) of the Act.

67. The ld.CIT(A) also placed reliance on the fact that the tax auditor, in the tax audit report furnished in Form 3CD, had not reported any instance of violation of section 40A(3) of the Act. This further support to the contention of the assessee that no such violation had occurred. The ld.CIT(A) further recorded that no incriminating material whatsoever had been unearthed during the course of search to suggest that the assessee had attempted to circumvent the law by making excessive cash payments.

68. The ld.CIT(A) further held that the AO, while making the impugned disallowance, had merely relied upon the entries in the general ledger and had not undertaken any enquiry or verification to ascertain whether, in fact, any individual labourer had been paid in excess of the statutory limit prescribed u/s.40A(3) of the Act.

69. In light of the aforesaid factual findings, the ld.CIT(A) came to the categorical conclusion that the assessee had not violated the provisions of section 40A(3) of the Act. Accordingly, the disallowance made by the AO u/s.40A(3) of the Act for the AYs 2015-16, 2016-17 and 2017-18 were deleted by the ld.CIT(A). The relevant observations of the ld.CIT(A) are reproduced here under for ready reference: -

> *"7.3.4 During the course of assessment proceedings, the AO identified certain cash payments exceeding Rs. 20,000/- in the ledger accounts of "Mine Development Expenses" for each of the assessment years separately. However, it is crucial to clarify that the cash payments in question were consolidated payments made to multiple workers and not to a single individual. The AR has provided detailed evidence showing that these amounts represent aggregated sums paid to several workers rather than a single person. For example, in the AY 2015-16, the cash payment of Rs. 10,75,784/- made on 20.11.2014 was not a single payment to one individual but rather a consolidated payment made to several workers. At any point of time, the appellant company has never paid such a huge sum to any single worker. This itself vitiates the stand of the AO that the amount incurred is against the provision of section 40A(3) of the Act. The appellant has consistently maintained that no individual worker received a payment exceeding Rs. 20,000/- on a single day. The undersigned is of the view that the payments exceeding Rs. 20,000/- in the ledger accounts do not violate Section 40A(3) of the Act, as they were not made to any single individual worker in excess of the prescribed limit. Instead, they reflect aggregated payments to multiple workers. Further, the AO in the assessment order at Para No. 20 to 24 has appended the copy of individual voucher(s) for the amounts less than Rs. 20,000/- and also extract of the labour wages register at Para 22 of the assessment order passed for the AY 2015-16 in which the labour wages were paid to numerous labourers. As evident in the Labour Wages Register, it can be seen that each of the payments made to the labourers were less than Rs. 20,000/-. Further, the AR submitted that the*

expenses pertains to the wages paid to workers engaged in maintenance activities of the mine, such as manual cleaning and upkeep of mine roads at various mining areas located at remote villages. The workers sourced for the task are from these remote villages, and the disbursement of wages was carried out by the Mines in- charge, who were responsible for paying a large number of workers.

7.3.5 To support its position, the AR has submitted wage payment registers which were seized during the search conducted by the Department. These wage registers contain detailed records of individual payments made to workers, and they clearly reflect that no worker received more than Rs. 20,000/- in cash on any single day. These registers provide a breakdown of the payments and corroborate the appellant's claim that the total cash payments recorded were not made to individual workers in violation of the threshold. The search team seized relevant documents, including cash payment vouchers and wage registers, all of which confirm that the cash payments were appropriately made and were consistent with the AR's submission. Therefore, the seized wage payment registers and cash payment vouchers confirm that no single worker received a cash payment exceeding Rs. 20,000/- on any given day. These documents are strong evidence(s) supporting the appellant's claim that the provisions of Section 40A(3) of the Act were not violated.

7.3.6 The appellant's books of account have been subject to statutory audit and tax audit u/s 44AB of the Act for the relevant assessment years. The tax audit reports in Forms 3CA-3CD for the AYs 2015-16, 2016-17, and 2017-18 have been submitted. Notably, the tax auditor did not report any violations of the provisions of Section 40A(3) of the Act in these reports, which further supports the appellant's position that the payments were made in accordance with the law. The AR asserted that the tax auditor's approval signifies compliance with the legal requirements, and there has been no material non-compliance or violation of Section 40A(3) of the Act as reported in the audit reports. The appellant has diligently followed the relevant rules and regulations in making the cash payments, and the tax auditor's findings do not indicate any irregularity in this regard. The absence of any adverse remarks in the tax audit reports lends credibility to the appellant's contention that no violation of Section 40A(3) of the Act occurred. The tax auditor's findings do not support the AO's disallowance.

7.3.7 During the course of search, no incriminating material was unearthed to indicate that the appellant made any payments exceeding Rs. 20,000/- in cash to any individual worker on a single day. The appellant submits that the absence of any incriminating material further supports its claim that no violation of Section 40A(3) of the Act occurred. Despite the search, the AO has not brought on record any cogent and corroborative evidence that indicate any deliberate attempt was made by the appellant company to circumvent the provisions of the Act by making excessive cash payments in violation of the provisions of section 40A(3) of the Act. In addition, no independent inquiry or verification was conducted with Shri S Ramesh, the Assistant Manager, Accounts, to ascertain whether any individual payment exceeded the Rs. 20,000/- limit. The AO relied solely on the general ledger entries, without conducting any further investigation to verify whether the individual payments crossed the threshold limit. In this back ground, the

undersigned is of the view that the lack of incriminating evidence and the failure of the AO to conduct independent inquiries regarding the nature of the payments further suggests that the appellant's cash payments did not violate Section 40A(3) of the Act.

7.3.8 In this regard, the AR has rightly relied upon on the judgment of the Mumbai Bench of the Hon'ble Income Tax Appellate Tribunal in the case of Amitabh Bachchan Corporation Ltd. v. DCIT [2015] 56 taxmann.com 77 (Mum-ITAT) wherein, it has been held that no disallowance under Section 40A(3) of the Act could be made in the absence of material evidence or verification of cash payments exceeding the threshold limit. The relevant para of the Tribunal's decision is as follows:

> *"We have considered the rival contention and found that a categorical finding has been recorded by the ld.CIT(A) to the effect that at no stage the A.O. had any material on record or any verification report for quantification of probable cash expenditure above Rs. 20,000/- which would be hit by mischief of section 40A(3) of the Act."*

7.3.9 The ratio laid down in the above case is directly applicable to the appellant's situation. Since the AO has failed to provide any substantive evidence that the appellant's payments violated Section 40A(3) of the Act, the disallowance cannot be justified.

7.3.10 In view of the above discussions, and judicial precedents discussed above, it is evident that the appellant did not violate the provisions of Section 40A(3) of the Act. The cash payments in question were aggregate payments made to multiple workers, and no individual payment exceeded Rs. 20,000/- on a single day. Furthermore, the appellant has provided comprehensive documentation such as wage payment register extracts & tax audit reports, all of which confirm compliance with the law. The AO has failed to provide any tangible evidence or conduct any independent inquiry to establish that the appellant made payments that violated Section 40A(3) of the Act. Therefore, all the grounds raised by the appellant company upon this issue are hereby treated as allowed and the AO is directed to delete the additions of Rs. 5,41,05,184/- , Rs. 12,92,74,800/- & Rs.2,59,00,000/- made u/s 40A(3) of the Act for the AYs 2015-16, 2016-17 & 2017-18 respectively."

70. Aggrieved of the relief granted by the ld.CIT(A) in deleting the additions made by the AO u/s.40A(3) of the Act, Revenue is in appeal before us.

71. The ld.DR supported the order of the AO and submitted that since the ledger itself showed cash transactions exceeding Rs.20,000/-, the disallowance u/s.40A(3) of the Act was justified. Accordingly prayed for upholding the assessment order by reversing the order of the ld.CIT(A).

72. Per contra, the ld.AR invited the attention of this Tribunal to the fact that albeit the AO had made disallowances for the AYs 2015-16, 2016-17 and 2017-18, the said additions stood deleted in toto by the ld.CIT(A) for all the years under consideration. However, the Revenue, has preferred to contest the decision of the ld.CIT(A) only for AYs 2016-17 and 2017-18. It was thus the submission of the ld. AR that the impugned dispute is confined exclusively to AYs 2016-17 and 2017-18. The ld.AR, adverting to the submissions made before the lower authorities, reiterated that the seized vouchers and registers categorically demonstrated that no single payment exceeding Rs.20,000/- was effected to any person on any single day. He placed reliance upon the specific and categorical finding recorded by the ld.CIT(A) in this regard. Thus, the ld.AR prayed for sustaining the well-reasoned order of the ld.CIT(A) and urged that the appeals preferred by the Revenue be dismissed.

73. At the outset, we note that for the A.Y.2015-16, the ld.CIT(A) has deleted the disallowance made by the AO u/s.40A(3) of Rs.5,41,05,184/- of the Act. However, no ground of appeal has been raised by the Revenue challenging such deletion before us. In these circumstances, it is manifest that the Revenue has consciously chosen not to contest the relief granted by the first appellate authority in respect of the said disallowance for the A.Y.2015-16. The settled position in law is that when no grounds are raised in the appeal with regard to a particular issue, the same is deemed to have been accepted by the party concerned and no further adjudication thereon arises before the Tribunal.

Accordingly, we hold that the finding of the ld.CIT(A) deleting the disallowance u/s.40A(3) of the Act for the A.Y.2015-16 has attained finality and stands accepted by the Revenue. Consequently, our consideration and adjudication on the merits of the controversy shall be confined to the subsequent Assessment Years i.e., AYs 2016-17 and 2017-18, wherein identical additions/disallowances have been made by the AO and contested before us.

74. We have considered the rival contentions, perused the material available on record and orders of the lower authorities. The sole effective grievance of the Revenue is that the ld.CIT(A) erred in deleting the disallowance made by the AO u/s.40A(3) of the Act for the AYs 2016-17 and 2017-18 in respect of mine development expenses, despite the fact that the ledger reflected cash payments exceeding the prescribed monetary limit.

75. We observe that the assessee is engaged in mining operations. A search and seizure operation u/s.132 of the Act was carried out in the case of the assessee. During the course of the search, the Department seized, inter alia, the ledger account of “Mine Development Expenses” showing various cash payments. The AO noticed that the ledger reflected entries of cash payments exceeding Rs.20,000/- per day. Referring to the statement of Shri S.Ramesh, Assistant Manager (Accounts), recorded u/s.132(4) of the Act, the AO concluded that such expenses were in contravention of section 40A(3) of the Act. Accordingly, the AO disallowed the impugned expenditure amounting to Rs.12,92,74,800/- for A.Y. 2016-17, and Rs.2,59,00,000/- for A.Y. 2017-18.

Aggrieved, the assessee preferred appeal before the ld.CIT(A). The ld.CIT(A), upon examination of seized vouchers, wage registers and other supporting material, found that no individual labourer was paid cash in excess of Rs.20,000/- per day. The ld.CIT(A) held that the AO had disallowed the expenditure merely on the basis of consolidated ledger entries without verifying the underlying evidence. The disallowance was accordingly deleted.

76. We find that the principal basis adopted by the AO for making the disallowance u/s.40A(3) of the Act is the presence of consolidated entries in the ledger account titled “Mine Development Expenses.” The AO, however, has failed to bring on record any incriminating material during the course of search to substantiate the allegation that the consolidated entries reflected therein are nothing but cash payments made to a single worker.

77. On the contrary, it is an undisputed position that the magnitude of the amounts reflected in the ledger does not leave any scope for a single worker to have been the recipient of such substantial sums by way of wages. Furthermore, it is not the specific case of the AO, supported by corroborative evidence, that any individual worker was paid in cash exceeding the statutory threshold of Rs.20,000/- in a single day. Rather, the seized material in the form of cash payment vouchers and wage registers recovered during the course of search itself demonstrates beyond doubt that the assessee had made disbursements of cash wages only in denominations below Rs.20,000/- per worker per day.

78. We also note that the Revenue, before us, has not been able to controvert the factual findings of the ld.CIT(A). The categorical finding recorded therein is that the entries in the assessee's books, under the head "Mine Development Expenses", were consolidated and aggregated for accounting convenience, representing disbursements made to a large number of labourers, and not as payments to a single individual. We see no infirmity in such finding.

79. It is further relevant to observe that the assessee's books of account were duly subjected to audit u/s.44AB of the Act. The tax auditor, in his report, has not made any adverse comment regarding violation of the provisions of section 40A(3) of the Act. This lends additional credence to the claim of the assessee that no such violation has, in fact, occurred.

80. It is a well-settled proposition in law that disallowance u/s.40A(3) of the Act cannot be made on the basis of assumptions, presumptions, or mere consolidated entries in the ledger. The statute contemplates that the Revenue must establish, through cogent and credible evidence, that a single person has been paid in cash exceeding the prescribed monetary limit. In the instant case, the AO has not conducted any independent enquiry to ascertain such fact. In the absence of such an exercise, the disallowance so made stands on the foundation of assumption alone, which is impermissible in law.

81. As regards the reliance placed by the AO on the statement of Shri S.Ramesh, Assistant Manager (Accounts), we are of the considered opinion

that such statement holds no evidentiary value. The reason being that despite the existence of seized material in the form of payment vouchers and wage registers clearly indicating that no worker was paid more than Rs.20,000/- in cash on a single day, no further enquiry was conducted by the AO with Shri S. Ramesh to substantiate whether, at any point in time, payments exceeding the prescribed limit were ever made to a single individual. The statement, therefore, is incomplete, uncorroborated, and cannot form the sole basis to fasten liability under section 40A(3).

82. We find that the issue relating to disallowance u/s.40A(3) of the Act, on identical set of facts, has been adjudicated upon by the Coordinate Bench of this Tribunal in the case of Amitabh Bachchan Corporation Ltd. v. DCIT [2015] 68 SOT 217 (Mumbai – Trib). In the said decision, the Tribunal categorically held that no disallowance u/s.40A(3) of the Act can be sustained where the AO fails to bring on record any material to demonstrate or quantify that cash expenditure in excess of the prescribed monetary limit of Rs.20,000/- had actually been incurred. The relevant observations of the Tribunal read as under:-

> *"11. We have considered the rival contention and found that a categorical finding has been recorded by the ld. CIT(A) to the effect that at no stage the A.O. had any material on record or any verification report for quantification of probable cash expenditure above Rs. 20,000/- which would be hit by mischief of section 40A(3) of the Act. The ld. CIT(A) further found that even the tax audit report did not include any list of cases where there was expenditure above Rs. 20,000/- which attracts provisions of section 40A(3) of the Act. Since the findings recorded by the ld. CIT(A) has not been controverted by the ld. D.R. by bringing any positive material on record, we do not find any reason to interfere with the order of ld. CIT(A) deleting the disallowance made u/s 40A(3) of the Act."*

83. Applying the ratio of the above decision to the facts of the present case, we find that the AO, at no stage, has brought any material on record to establish or quantify that the payment made to any individual worker exceeded the threshold limit of Rs.20,000/- in a single day. The Revenue has also failed to rebut the categorical findings of fact recorded by the ld.CIT(A). Respectfully following the above decision, we hold that no disallowance u/s.40A(3) of the Act is called for in the assessee's case.

84. In view of the foregoing discussion, we find ourselves in complete agreement with the well-reasoned order of the ld.CIT(A), who has rightly deleted the disallowance of Rs.12,92,74,800/- for A.Y.2016-17 and Rs.2,59,00,000/- for A.Y. 2017-18. Accordingly, finding no infirmity in the order of the ld.CIT(A), we uphold the same and dismiss the grounds of appeal raised by the Revenue upon the impugned issue for both the assessment years under consideration.

Issue No.3: <u>Addition towards inflated expenses</u>

85. The facts germane to the issue under consideration are pursuant to a search and seizure operation conducted at the premises of the assessee, certain books and documents in the form of cash payment vouchers and wage registers were seized. On a perusal of the said seized material, it was observed by the Authorized Officer that the cash payment vouchers did not contain the signatures of the respective payees. Likewise, several box files containing wage registers were also found and seized, wherein, upon examination, it was noted

that the signatures or acknowledgements of the recipients of the wages were absent.

86. In this regard, the statement of Shri S.Ramesh, Assistant Manager (Accounts), was recorded under oath. In his deposition, Shri Ramesh clarified that the cash payment vouchers were created in connection with mine development expenditure at the Uvari site for the relevant periods as mentioned in the respective bills. He further deposed that the vouchers were prepared by Smt. Devi, the Mines In-charge, who signed the same in the column captioned “Approved By.” However, insofar as the column captioned “Payment Received By” is concerned, it was admitted that no signatures were obtained from the concerned workers.

87. As regards the wage registers, Shri Ramesh deposed that the same pertained to labour wages in respect of mining area cleaning works, and were also drawn up in connection with the mine development expenditure at the Uvari site. The registers contained the list of persons with reference to the relevant period of work. However, he stated that in the column captioned “Paid On” the signature or acknowledgement of the workers was not obtained at the time of preparation.

88. On the strength of the above deposition, coupled with the absence of signatures of the payees both in the vouchers and in the wage registers, the AO was of opinion that the expenditure so reflected was not genuine but was

artificially inflated. According to the AO, the assessee was in the practice of creating self-serving documents in order to project expenditure that had not, in fact, been incurred. The AO, therefore, came to the conclusion that the mine development expenses, mine maintenance expenses, and mine area cleaning expenses were inflated to the tune of Rs.16,92,44,747/- in A.Y.2015-16 and Rs.14,73,62,400/- in A.Y.2016-17. Consequently, the AO proceeded to make an addition towards the said inflated expenditure. However, while framing the assessment, the AO committed an error in so far as the additions were wrongly made in A.Y. 2016-17 and A.Y. 2017-18, instead of AYs 2015-16 and 2016-17. The said error was duly rectified by the ld.CIT(A), who, for adjudication has taken the additions for A.Y. 2015-16 and A.Y. 2016-17.

89. Aggrieved of the above additions, assessee preferred appeal before the ld.CIT(A).

90. During the course of appellate proceedings before the ld.CIT(A), the assessee contended that the expenditure, as reflected in the cash payment vouchers and wage registers, represented wages disbursed to a large number of workers engaged in manual cleaning of the mine area and for other allied maintenance activities, including upkeep of mine roads. It was submitted that such workers were largely deployed in remote villages and the responsibility for disbursement of payments was entrusted to the Mines In-charge.

91. The assessee further submitted that, having regard to the extensive maintenance activities undertaken in the course of mining operations and the engagement of a large number of illiterate workers possessing no commercial acumen, it was not practically feasible to obtain their signatures on vouchers/registers. Consequently, the signatures of recipients were left blank. However, for accounting purposes, the assessee duly prepared and maintained the vouchers and wage registers which were incorporated in the regular books of accounts. These books of accounts were duly subjected to statutory audit, wherein no adverse comments or qualifications were recorded by the auditors. It was emphasized that, in view of the nature of daily payments made across scattered and remote sites, the Mines In-charge could not, as a matter of practicality, insist upon obtaining the signatures of each worker.

92. On the above premises, the assessee contended before the ld.CIT(A) that the mere absence of workers' signatures could not, by itself, lead to the conclusion that the mine development expenditure was inflated. It was further pointed out that no incriminating material whatsoever was found during the course of search to suggest that the impugned vouchers or registers were fabricated with a view to inflate expenses. The Authorized Officer did not unearth any parallel set of accounts, diaries, or other evidence to establish that the payments recorded towards mine maintenance were not genuine or were diverted for any other purpose. Hence, in the absence of any cogent or incriminating material, the assessee submitted that the addition made by the

AO on account of alleged inflated mine development expenditure to be wholly unjustified.

93. The assessee also placed on record before the ld.CIT(A) that the mine development expenditure, as claimed in the relevant assessment years, was commensurate with the scale of mining operations carried out and that there was no abnormal or disproportionate increase in such expenditure as compared to earlier years. It was thus submitted that the allegation of inflation of expenditure, as drawn by the AO, was factually unfounded. On the basis of these submissions, the assessee urged that the additions made by the AO on account of inflated mine development expenses be deleted.

94. The ld.CIT(A), after considering the submissions of the assessee and examining the assessment records, deleted the additions made by the AO on account of alleged inflated mine development expenses.

95. At the outset, the ld.CIT(A) observed that albeit the AO, in the assessment order, had discussed that the alleged inflated expenses amounting to Rs.16,92,44,747/- and Rs.14,73,62,400/- pertained to AYs 2015-16 and 2016-17 respectively, an apparent error had crept in, inasmuch as the AO had made the corresponding additions in AYs 2016-17 and 2017-18. The ld.CIT(A), therefore, rectified this anomaly by bringing the said additions to the correct assessment years, i.e., AYs 2015-16 and 2016-17, for the purpose of adjudication.

96. The ld.CIT(A) noted that the business operations of the assessee, being in the nature of mining activities, necessarily require substantial deployment of manpower and workforce, without which the turnover achieved by the assessee would not have been possible. The ld.CIT(A) further held that the mere absence of signatures of the payees on payments vouchers and registers, in isolation, cannot form the sole basis for disallowance of such expenditure, particularly in the absence of any material on record suggesting that the expenditure was not incurred for the legitimate business purposes of the assessee.

97. The ld.CIT(A) further recorded a finding that no incriminating material had been brought on record by the AO to substantiate the allegation that the mine development expenses were inflated. No parallel books of accounts, loose sheets, or other documents were found or seized to indicate that the said expenses were fabricated or diverted for non-business purposes. It was further noted that the AO did not make any effort to examine any of the workers or payees who purportedly received the payments, despite having full opportunity to do so. Thus, the AO failed to conduct any independent verification to substantiate his claim. The conclusion of the AO that the expenses were inflated was, therefore, found to be based merely on technical grounds, without any corroborative or direct evidence.

98. The ld.CIT(A) also observed that the pattern of mine development expenditure claimed by the assessee during the relevant assessment years was

consistent with the scale and nature of its business operations and that there was no abnormal or disproportionate increase in such expenses when compared with earlier years. There was no material on record to suggest any abrupt or unexplained escalation in such expenditure which could warrant an inference of inflation.

99. In view of the foregoing observations and having regard to the totality of the facts and circumstances of the case, the ld.CIT(A) held that there was no justifiable basis for the AO to conclude that the mine development expenses were inflated. Accordingly, the additions made by the AO towards mine development expenses for AYs 2015-16 and 2016-17 were deleted.

100. For the ready reference, the relevant observations of the ld.CIT(A) are reproduced as under:-

> *"7.4.5 The undersigned is of the view that on account of the above rectification, there exists no enhancement in the income of the appellant, therefore no opportunity of being heard was provided to the appellant. Accordingly, the grounds raised with respect of the above addition in the AY(s) 2016-17 & 2017-18 will now be treated as ground raised for the AY(s) 2015-16 & 2016-17 respectively.*
>
> *7.4.6 On examination of the above submission made by the AR , it can be seen that the disputed additions were primarily based on the AO's findings that the cash payment vouchers and wage payment registers seized during the search did not bear the signatures of the workers, leading the AO to arrive at a presumption that the expenses were not genuine and were inflated. The AO presumed that the absence of signatures on the vouchers and registers indicated that the expenses were fabricated. However, the AR submitted that the mine development expenses pertain to wages paid to workers engaged in maintenance activities of the mine, such as manual cleaning and upkeep of mine roads at various mining areas located at remote villages. The workers sourced for the task are from these remote villages, and the disbursement of wages was carried out by the Mines in-charge, who were responsible for paying a large number of workers. Given that many of these workers were illiterate and migratory, obtaining signatures on cash payment vouchers and wage payment registers was impractical.*

7.4.7 As brought out by the AR, the activities of the appellant in operating the mines involves large of labour work force. Without the involvement of active labour, the achievement of turnover reported in the financials is not possible. Therefore, the presumption of the AO that the absence of signatures on these documents is an indicator of falsified expenses is not correct. The AO has failed to appreciate the nature of the work, voluminous of the work and the turnover reported in the financials of the appellant company to arrive a presumption that the labour expenses claimed were fabricated. The undersigned is of the view that the assessee has the discretion to run their business as they see fit, as long as it is within the boundaries of the law. The AO's scrutiny should be focused on verifying whether the expenses are wholly and exclusively incurred for business purposes, and any interference in the assessee's business decisions without concrete evidence is not justified. Further, the AO has not brought on record any evidence to prove that the expenses incurred were against the provisions of the Act.

7.4.8 In this context, the undersigned is of the view that the absence of signatures on certain documents does not invalidate the business expenses is in line with these legal precedents. The contention of the appellant that the absence of worker signatures is not abnormal or suspicious, particularly in the context of the large, remote workforce and the nature of the business operations. Therefore, the undersigned is of the view that the grounds raised upon this merits consideration.

7.4.9 It is significant to bring on record that during the course of search, the cash payment vouchers and wage payment registers were seized by the search team. However, no incriminating material was found to substantiate the AO's claim that the mine development expenses were inflated. Importantly, no parallel books of accounts or notebooks were discovered to indicate that the expenses were fabricated or diverted for other purposes. The AO also failed to examine any of the workers who received the payments to verify the authenticity of the expenses. Despite having the opportunity, the AO did not take these crucial steps in verifying the payments, which could have provided clarity on the issue. Therefore, the AO's claim that the expenses were inflated is based solely on the technicality of the absence of signatures, without any direct evidence to support such a conclusion.

7.4.10 The appellant further brought out a comparative analysis of the mine development expenses for the assessment years under consideration in comparison with previous years. The analysis reflects that the mine development expenses are proportionate to the turnover of the appellant's business and indicate no significant, abnormal increase.

Particulars	AY 2016-17	AY 2015-16	AY 2014-15
Turnover (Rs.)	81,36,54,178	96,30,72,846	85,69,38,488
Mine Maintenance Expenses (Rs.)	14,36,26,691	21,65,20,242	20,35,63,095
Percentage of Mine Maintenance Expenses to Turnover	17.65%	22.48%	23.75%

7.4.11 From the above table, it is clear that the mine development expenses are consistent with the appellant's business size and have not significantly increased when compared to previous years. There is no disproportionate or abrupt jump in the expenses that would suggest they were inflated. The undersigned is of the view that the expenses claimed for mine development are consistent with past expenditure trends, and there is no basis for the AO's conclusion that these expenses were inflated.

7.4.12 In light of the detailed discussion made supra, the undersigned is of the view that the disallowance of mine development expenses as inflated is not based upon any concrete evidence followed by a logical conclusion. The AO considered the addition(s) of Rs. 16,92,44,747/- & Rs. 14,73,62,400/- for the AY(s) 2016-17 & 2017 18 in the orders passed. The undersigned has rectified the error and substituted the same addition(s) for the AY(s) 2015-16 & 2016-17 vide Para 7.4.13. Accordingly, all the grounds raised by the appellant upon this issue are hereby treated as allowed and the AO is directed to delete the addition of Rs.16,92,44,747/- & Rs. 14,73,62,400/- made in the respective assessment years."

101. Aggrieved of the above relief granted by the ld.CIT(A), Revenue is in appeal before us.

102. The ld.DR vehemently supported the order passed by the AO and submitted that the absence of signatures of the respective payees on the vouchers and wage payment registers casts a serious doubt on the

genuineness of the expenditure claimed by the assessee. It was further contended that, in the given circumstances, the AO was fully justified in disallowing the said expenses. The ld.DR, therefore, prayed that the order of the AO be upheld by allowing the grounds of appeal raised by the Revenue.

103. Per contra, the ld.AR, placing reliance on the well-reasoned order of the ld.CIT(A) submitted that the nature of the assessee's business necessitates deployment of a large labour force at remote mining sites, where obtaining signatures of individual payees on a day-to-day basis is practically not feasible. The ld. AR contended that, in the absence of any incriminating material brought on record by the AO to suggest that either the mine development expenses have been inflated or that the payments recorded in the cash vouchers and wage registers have been received back by the assessee, the mere non-availability of signatures on certain vouchers is only a procedural or technical lapse and cannot, by itself, be construed as evidence of inflation or falsification of expenses.

104. It was further submitted by the ld.AR that in the statement of Shri S.Ramesh, nowhere has it been stated that the mine development expenses were inflated; therefore, his statement has no evidentiary value or relevance to the issue under consideration.

105. The ld.AR invited our attention to the comparative figures of mine development expenses vis-à-vis turnover, which stood at 23.75% in A.Y.2014-15, 22.48% in A.Y.2015-16, and 17.65% in A.Y.2016-17, showing a consistent decreasing trend. According to the ld.AR, such declining ratio itself indicates

that the expenses are genuine and not inflated, as any artificial inflation would have resulted in a higher percentage over the years.

106. The ld. AR further placed reliance on the decision of this Tribunal in the case of the assessee's sister concern, M/s.Beach Minerals Company in ITA No.366/Chny/2023, wherein, under identical facts and in the same line of business, the Tribunal estimated the income at 2.21% of turnover. It was thus submitted that, when in a comparable concern engaged in identical business, income has been accepted at 2.21%, the additions made by the AO towards alleged inflated mine development expenses would lead to distortion of the true financial results of the assessee.

107. It was also submitted that the assessee has disclosed net profit rates of 8.69% and 5.73% for AYs 2015-16 and 2016-17 respectively, which are substantially higher than the rate of 2.21% upheld by this Tribunal in similar business cases. Therefore, the allegation of inflation of expenses does not hold any merit.

108. The ld.AR further placed reliance on the decisions of the Coordinate Benches of this Tribunal in Vijayashanthi Builders Ltd v. JCIT [2016] 69 taxmann.com 31 (Chennai – Trib) and Hassan Hajee & Co v. DCIT [ITA Nos.1358 to 1363/Bang/2015 dated 22.09.2022] and submitted that mere absence of signature of workers on the vouchers or maintenance of self-made vouchers cannot be the basis for disallowance of expenses.

109. In view of the above submissions, the ld.AR urged that the findings of the ld. CIT(A) being well reasoned and based on proper appreciation of facts and law, deserve to be upheld, and the grounds raised by the Revenue are liable to be dismissed.

110. We have heard the rival submissions, perused the material available on record, and carefully considered the orders passed by the authorities below. Upon such consideration, we observe that the AO has made additions on account of inflated mine development expenses, primarily on the ground that the cash payment vouchers and wage registers maintained in respect of mine area cleaning and mine maintenance activities did not bear the signatures or acknowledgments of the purported recipients of such payments.

111. From the perusal of the assessment order, it is evident that the AO has discussed at length that the impugned additions towards inflated expenditure amounting to Rs.16,92,44,747/- and Rs.14,73,62,400/- pertained to the AYs 2015-16 and 2016-17 respectively. However, while computing the income and giving effect to such findings, the AO inadvertently made these additions in the subsequent AYs 2016-17 and 2017-18. The ld.CIT(A), upon due verification of records, noted this apparent factual error and accordingly rectified the same by treating the additions as relatable to AYs 2015-16 and 2016-17 and deleted them.

112. On careful consideration of the facts and the reasoning given by the ld.CIT(A), we find no perversity or infirmity in his action in correcting such an error apparent on record. The Revenue, in its grounds of appeal, has merely challenged the deletion of the additions of Rs.16.92 crores and Rs.14.73 crores in AYs 2016-17 and 2017-18 respectively, without disputing the factual aspect of the apparent mistake committed by the AO. In our considered view, the action of the ld.CIT(A) in rectifying such patent mistake does not call for any interference. Accordingly, the grounds raised by the Revenue on this issue are devoid of merit and are liable to be dismissed at the threshold.

113. Nevertheless, considering the vehement contentions advanced by the ld.DR and having regard to the peculiar facts and circumstances of the case, we deem it appropriate, in the interest of justice and completeness, to examine the issue relating to the merits of the additions deleted by the ld.CIT(A). The matter is therefore discussed hereinafter.

114. We observe that the cash payment vouchers and the wage payment registers seized during the course of search proceedings are admittedly part of the regular books of account maintained by the assessee in the normal course of business. There is no material on record to suggest that such documents were prepared outside the regular accounting system or were not duly reflected in the books of account. This factual position has also not been disputed by the Revenue at any stage. From the submissions placed before the ld.CIT(A), it is evident that the said vouchers and registers constitute the primary supporting

evidence for the expenditure duly claimed in the return of income filed for the impugned assessment years. It is also not the case of the Revenue that these documents were fabricated, manipulated, or otherwise inconsistent with the entries appearing in the regular books of account. Therefore, prima facie, the seized vouchers and wage registers cannot be construed as incriminating material so as to warrant an adverse inference against the assessee. Furthermore, as rightly noted by the ld.CIT(A), the search team has not unearthed or brought on record any tangible evidence indicating that the assessee had inflated the expenditure or that any portion of the cash payments recorded in the seized vouchers and registers was subsequently received back by the assessee. In the absence of such corroborative or direct evidence, the mere existence of vouchers and registers, which are already part of the regular books, cannot lead to the presumption of inflation or diversion of expenditure. In view of the foregoing, and considering the absence of any incriminating material discovered during the search, we are of the considered opinion that the conclusion drawn by the AO in alleging inflation of mine-related expenses is based on mere conjecture and surmise, and hence devoid of any legal or factual foundation. Accordingly, the finding of the ld.CIT(A) deleting the additions made by the AO is upheld.

115. We find from the nature of business activities carried on by the assessee that the maintenance and operation of mines inherently require deployment of a large workforce, particularly for cleaning, clearing, and other ancillary

operations across vast mine fields located in remote and inaccessible areas. The said operations, by their very nature, necessitate engagement of casual labourers and contractual workers, who are largely unorganized and illiterate, and whose engagement and payment are generally effected through field supervisors or intermediaries.

116. In the aforesaid factual backdrop, we find that the AO has made an addition on the ground that the expenditure claimed under the head labour charges and mine maintenance expenses are supported by self-made vouchers, without obtaining signatures or acknowledgements from the recipients. The AO, without bringing on record any corroborative material or independent evidence to substantiate that such expenses were inflated or fictitious, has proceeded to disallow a portion of the said expenditure merely on the premise that the vouchers were unsigned or self-prepared.

117. In our considered view, such a disallowance made solely on the basis of the absence of recipient signatures cannot be sustained in law. The absence of signatures or thumb impressions on labour vouchers, by itself, cannot lead to a presumption of falsity or inflation of expenditure, particularly when the books of account are duly maintained in the regular course of business, are duly audited by the statutory auditors, and have not been rejected by the AO u/s.145(3) of the Act. The AO has not pointed out any specific defect, discrepancy, or inconsistency in the books of accounts. Thus, the ld.CIT(A) has rightly held that the absence of acknowledgement from the recipients cannot, in isolation,

constitute a valid basis for making an addition towards alleged inflated expenses. The ld.CIT(A) has, in our opinion, correctly appreciated the factual and legal matrix in deleting the addition. We find support for this view from the decision of the Coordinate Bench of this Tribunal in the case of ACIT v. Hassan Hajee & Co. (ITA Nos. 1358 to 1363/Bang/2015, order dated 22.09.2022), wherein following the judgment of the Hon'ble Karnataka High Court in Shri Ganesh Shipping Agency (ITA No. 366 of 2015, dated 06.02.2021), it was held that when the books of accounts are accepted and no defect therein is pointed out, disallowance of labour or miscellaneous expenses merely because they are supported by self-made vouchers or unsigned payment slips is unsustainable.

118. In the said case, the Tribunal observed that the assessee's business operations involved handling of iron ore requiring large numbers of unskilled workers. The vouchers were self-made due to practical difficulties in obtaining signatures of illiterate workers engaged at various remote sites. The AO's action of making adhoc disallowance without rejecting the books of accounts or pointing out specific infirmities was held to be without legal sanction. The Tribunal further observed that when the self-made vouchers are internally generated for accounting purposes, similarity in handwriting or preparation pattern cannot, by itself, lead to an inference of falsity.

119. The Hon'ble Karnataka High Court in Shri Ganesh Shipping Agency (supra) as followed by the Tribunal has also held that once the books of

accounts are accepted and the expenditure is duly supported by contemporaneous records, disallowance of a fixed percentage of such expenses merely because the payments were made in cash or supported by self-made vouchers, is arbitrary and perverse. The Court categorically held that unless the entries in the books of account are specifically challenged or the books are rejected, such disallowance cannot be sustained.

120. Relevant para of the order of the Tribunal in ACIT v. Hassan Hajee & Co. (supra) is extracted below for ready reference:

> *"6.1 The main reason for disallowance by AO was that payment Labour Charges supported by self-made vouchers and have no signature of recipients. These expenditures mainly pertain to iron ore loading and unloading transit/site marshalling charges and other casual labour charges. According to the assessee, these expenditures incurred at various stages of iron ore movements. These expenses are pertaining to wages paid to various parties, such as workers manually handling iron ore from lorries/railway vehicles to the exporter's yard, those engaged to counter pilferage of iron ore at railway yards, export yards and other casual labourers engaged for cleaning purposes. It was explained before us that the assessee has been carrying voluminous quantity of iron ore and large number of workers who were illiterate and have no commercial knowledge and it is not possible to take down the signatures of those persons and in such circumstances, the vouchers were blank and for the accounting purposes assessee prepared vouchers and they were duly accounted in the books of accounts of the assessee and books of accounts were audited by the statutory auditors and no adverse comments has been made by them. The A.O. alleged in the first page of the assessment order that incriminating evidence has been seized which reveals that the assessee has been engaged in inflation of expenditure substantially. This statement of the AO in the first page of the order shows that he has opened the file with pre-determined mind that assessee has inflated the expenditure. It was so alleged by the AO even without rejecting the books of accounts. Before making allegation that assessee has inflated expenditure, it is incumbent upon the AO to reject the audited books of accounts maintained by the assessee, he should challenge the entries in the books of accounts by duly rejecting the same. In other words, it is evident that the AO considered the income declared by the assessee, thereafter, he made disallowances of expenditure after accepting the books of accounts. The total disallowance made by the AO is only on conjectures and surmises. The claim of labour charges in these assessment years commensurate with the nature of volume of business carried on by the assessee and there is no sudden or steep increase in the claim of assessee as compared to year to year.*

However, the AO opted to disallow the expenditure on the reason that these are supported by self-made vouchers and were written by common persons. In our opinion, when the self-made vouchers are prepared inhousely, it must be prepared by inhouse persons only and as such, it has common pattern and that cannot be reason to doubt the genuineness of the payment. The assessee cannot carry on this business without incurring the expenditure. The allegation of the AO is that the vouchers are prepared at a stretch on one or two days during the financial year. There is no basis for this kind of allegation made by the AO and he has not brought anything on record to establish this contention of him. Being so, we have to reject this plea of the revenue authorities. In our opinion, considering the nature of the business of the assessee, we can take the judicial notice of the fact that if the AO had any doubt with regard to genuineness of any one of the voucher produced by the assessee, he could have drawn sample vouchers and called upon the assessee to produce the concerned recipient to establish the genuineness. Without doing so, making any adhoc disallowance is not legally sustainable. If the Ld. CIT(A) also without carrying on any enquiry, certain percentage of the labour payment at 10% in assessment years 2007-08 to 2011-12 and 2.5% in assessment years 2012-13 & 2013-14 was sustained. This act of Ld. CIT(A) is not justified. In our opinion, the impugned expenditure in fact claimed to have been incurred by the assessee wholly and exclusively for the purpose of its business and it cannot be said that this expenditure is bogus or fictitious and cannot be said that it has not been incurred by the assessee for the purpose of business. We do not see remotely there is any mention of rationale in arriving at the percentage of disallowance in the present case, and secondly, we find force in the claim of assessee that devoid of any specific infirmity in the books of accounts of the assessee, disallowance of labour charges expenditure by the lower authority is not proper and the adhoc disallowance made by authorities in most ordinary manner. In our opinion, to estimate any disallowance the first and foremost thing is that the A.O. has to reject the books of accounts by observing that books of accounts are not reliable and not verifiable. Then he has to specify the each entry which are to be considered as bogus or unverifiable and only to that extent he can make disallowance. In the present case, in a wholesome manner the A.O. made disallowance on estimate basis without rejecting the books of accounts. However, Ld. CIT(A) sustained this addition to the tune of 10% in A.Y. 2007-08 to 2011-12 and 2.5% in A.Y. 201213 & 2013-14. This is having no legal sanction. For this purpose, we rely on the judgement of Hon'ble Karnataka High Court in the case of Shri Ganesh Shipping Agency in ITA No.366 of 2015 dated 6.2.2021, wherein held as follows:-

> *"5. We have considered the submissions made on both sides and have perused the record. From perusal of the order passed by the authorities, it is evident that the authorities have accepted the books of accounts produced by the assessee. The Assessing Officer, in its order, has admitted that the payment of speed money is a trade practice which is followed by the assessee and similar business concerns functioning for speedy completion of their work. However, the disallowance of 20% of the expenses is made solely on the ground that the assessee had produced the self-made cash vouchers which showed that the payment was made by cash to each gang leader and the identity of the gang*

leader is not verifiable and the recipients are not assessee's employees. The aforesaid finding has been affirmed by the Commissioner of Income Tax (Appeals) as well as by the Tribunal. However, it is pertinent to note that the books of accounts have not been touted by any of the authorities under the Act. A Bench of this Court vide judgment dated 24.03.2015 passed in ITA No.22/2015, has held that admittedly the normal practice in the line of business of the assessee is to pay certain extra amounts to port labourers as speed money for promptly and speedily carrying out the labour work of handling cargo beyond working hours and has placed reliance on, the decision rendered by this Court in KONKAN MARINE AGENCIES, supra. It is pertinent to note that in CLIFFORD D'SOZA, supra, payment was made to the sub-contractors in cash as well as by Cheques. In the absence of any challenge to the entries made in the books of accounts by the authorities, in our opinion, the finding recorded by the Assessing Officer as well as the Tribunal that it denied the claim of the assessee for expenditure to the extent of 10% on account of payment of speed money, is perverse as the same is duly supported by the documentary evidence. Insofar as the submission made by the learned counsel for the revenue that in paragraph 4 of the order of the Commissioner the assessee himself had restricted the payment of speed money to 10% is concerned, it is pertinent to note that the restriction was made by the assessee in respect of Assessment Year 200405 and from the grounds of memorandum of appeal before the Tribunal, we find that the assessee had challenged the aforesaid finding which is evident from paragraphs 1 and 2, therefore, the aforesaid submission is of no assistance to the revenue.

6. In view of aforesaid preceding analysis, the substantial question of law involved in this appeal is answered against the revenue and in favour of the assessee."

Accordingly, we delete the addition and allow the ground taken by the assessee in these appeals and dismiss the ground taken by the revenue in these appeals."

121. Respectfully following the aforesaid judicial precedents and applying the same ratio to the facts of the present case, we hold that the mere absence of recipient signatures on the vouchers cannot justify disallowance of labour or mine maintenance expenses. The AO has failed to bring any independent evidence or material to establish that the impugned expenditure is bogus, inflated, or not incurred for the purposes of business. Accordingly, we are of the

considered opinion that the ld.CIT(A) has correctly appreciated the facts and law in deleting the addition made by the AO.

122. We further take note of the fact that the ld.CIT(A) has recorded the following comparative analysis of the assessee's turnover and mine development expenses over the relevant assessment years:

(Amount in Rs.)

AY	2014-15	2015-16	2016-17
Turnover as per the Audited Profit & Loss Account	85,69,38,488	96,30,72,846	81,36,54,178
Mine Development expenses debited to the Profit & Loss Account	20,35,63,095	21,65,20,242	14,36,26,691
% of mine development expenses to the total turnover	23.75	22.48	17.65

123. On perusal of the above tabular statement, we observe that the ratio of mine development expenses to turnover for the AYs 2015-16 and 2016-17 is broadly consistent with the corresponding figures of the immediately preceding year. The trend demonstrates a stable and proportionate relationship between turnover and the mine development expenditure incurred by the assessee. It is pertinent to note that there is no material brought on record by the AO to indicate that the quantum of mine development expenses claimed during the impugned years is abnormally high or disproportionate to the operational scale of the assessee. The AO has also not alleged that the said percentage of expenditure is excessive when compared to any recognised industry standard. We further note that no external benchmark or standard percentage has been cited by the

AO for the purpose of comparison. In the absence of any such external comparative data, it was incumbent upon the AO to have examined the internal comparables, i.e., the assessee's own historical financial data, which was readily available on record. Such internal comparison, in our considered view, provides a more reliable basis for assessing the reasonableness of expenditure in cases where external industry data is not produced.

124. Having regard to the above facts and circumstances, and considering that the claim of mine development expenses is consistent with the past pattern of expenditure and bears a rational nexus with the turnover, we are of the considered opinion that there exists no evidence of any abnormal or excessive claim by the assessee. When the expenditure pattern is in conformity with the trend established in earlier years and no deviation of significant magnitude is observed, the possibility of inflation or overstatement of expenses stands effectively ruled out. Accordingly, we find no justification for any adverse inference drawn by the AO in this regard, and the findings of the ld.CIT(A) merit to be upheld.

125. We further observe that albeit the AO has alleged that the assessee had inflated the mine development expenses, we find that the AO has not rejected the books of account maintained by the assessee. Had the AO rejected the books of account of the assessee, the AO would have estimated the income of the assessee. We note that this Tribunal, in the case of the assessee's sister concern, Beach Minerals Company v. ACIT (ITA No. 366/Chny/2023), which is

engaged in a similar line of business, has estimated the income at 2.21% of turnover. The said ratio was consistently followed by the Tribunal in the subsequent decision rendered in ACIT v. Bala Murugan Co. (ITA Nos. 1471 & 1472/Chny/2023 dated 26.11.2024). It is pertinent to mention that in those cases, during the course of search and seizure proceedings, the Department had unearthed parallel sets of books of account, evidencing inflation of expenses and suppression of income, despite of which income has been estimated at 2.21%. However, in the case before us, the factual matrix stands on a different footing. The Department has not brought on record any material or evidence indicating the existence of any parallel books of account or other incriminating documents to substantiate the allegation of inflation of mine development expenses. The AO has merely made a general observation of possible inflation without any corroborative evidence.

126. We also note from the record that the Net Profit Ratio declared by the assessee for the relevant assessment years is 8.69% for A.Y. 2015-16 and 5.73% for A.Y. 2016-17, which is significantly higher than the 2.21% profit ratio accepted by the Tribunal in the comparable cases referred to supra. This itself indicates that the assessee's declared results are reasonable and in consonance with the nature and scale of its business operations. Hence, need for any disallowance towards expenses does not arise.

127. We note from the statement recorded from Shri S.Ramesh, at no point therein did he admit that the details of payments reflected in the cash payment

vouchers or the wage registers represent bogus or inflated expenditure. On the contrary, his deposition only indicates that such vouchers were prepared in the ordinary course of business and were duly signed in the column marked “Approved By” by the Mines In-Charge, Smt. Devi. It is further observed that the AO has not conducted any independent verification or enquiry from Smt. Devi, who, as per the records, was the person responsible for approving the said vouchers. In the absence of such verification, any inference drawn by the AO regarding the genuineness or otherwise of the said expenditure remains unsubstantiated and purely presumptive in nature. In view of this, we are of the considered opinion that the statement of Shri S.Ramesh, devoid of any corroborative material or supporting enquiry, cannot be accorded any evidentiary value. Consequently, the same cannot form the sole basis for arriving at the conclusion that the assessee had inflated or claimed bogus mine development expenses. Such an inference, in our view, is based on conjecture and surmise and cannot be sustained in law.

128. In view of the foregoing discussion, we are of the considered opinion that there is no justification for the AO’s action in making additions towards alleged inflation of mine development and related expenses for the assessment years under consideration. We therefore hold that the ld.CIT(A) was fully justified in deleting the additions of Rs.16,92,44,747/- and Rs.14,73,62,400/- made by the AO for AYs 2015-16 and 2016-17 respectively. Accordingly, finding no perversity or infirmity in the order of the ld.CIT(A), we decline to interfere with the same.

Consequently, all the grounds of appeal raised by the Revenue on this issue stand dismissed.

Issue No.4: <u>Addition towards unaccounted cash receipts</u>

129. The brief facts of the issue are that the AO has made additions of Rs.9,06,280/-, Rs.5,49,115/-, Rs.16,18,61,715/-, and Rs.8,00,00,000/- for the AYs 2013-14, 2014-15, 2015-16, and 2016-17 respectively, treating the same as unaccounted cash receipts of the assessee. The basis for such additions was an Excel sheet found as an attachment to an e-mail communication exchanged between Shri Jagatheesan, Managing Partner of M/s. V.V. Minerals, and Smt.Jeyanthy, who was stated to be a data entry operator of the said concern. The AO, relying upon the notings contained in the said Excel sheet, concluded that the entries therein represented unaccounted cash receipts pertaining to the assessee, and accordingly, made the aforesaid additions to the total income for the respective assessment years.

130. Aggrieved, assessee preferred appeal before the ld.CIT(A), who deleted the additions in toto. The relevant observations of the ld.CIT(A) from the common order passed for the AYs 2015-16 to 2017-18 are extracted herein below for ready reference :-

> *"7.5.11 At this juncture, it is appropriate to bring on record the observation of the Hon'ble ITAT in the case of DCIT v. V.V.Titanium Pigments Pvt Ltd as brought out supra. The entity M/s. V.V. Titanium pigments Pvt Ltd is one of the sister concerns of the appellant company and was subjected to search u/s 132 of the Act along with the appellant company. Both the AO(s) of V.V. Titanium pigments Pvt Ltd and the appellant company have relied upon the same Excel sheet found during the course of search in making the*

addition(s) in both the hands of V.V. Titanium pigments Pvt Ltd as well as the appellant company.

7.5.12 In the case of V.V. Titanium pigments Pvt Ltd, the jurisdictional tribunal has upheld the appellate order of the undersigned by deleting the addition based on the same excel sheet and held as under.

". In the absence of valid details and the circumstances in which the excel sheet was prepared and the corresponding entries, the same could not be relied upon to make impugned additions in the hands of the assessee. The sheet has no narration relating to the quantity of scrap sold and the details of buyer to whom it was sold. It could also be noted that had the assessee company been receiving cash from the sale of scrap as stated in the excel sheets, the same should have been mentioned in the notebooks as seized from Shri J. Thangadurai (GM Finance & Accounts). Further, there was no corroborative evidences to prove that the noting in the excel sheet were actual cash receipts of the assessee company. In such circumstances, this sheet could not be relied upon. This sheet was neither recovered from the office of the assessee company nor from its employees and therefore, the presumption laid u/s 132(4A) of the Act could not be invoked. The author of the excel sheet was not conclusively established. There was no corroboration from any of the party and the evidence being relied upon by Ld. AO was merely hearsay evidence carrying no evidentiary value. At the time of seizure, the excel sheets were not authenticated either by the assessee company nor by the witnesses or by an authorized officer. This was an unsigned document and as such loses its evidentiary value for want of authentication. The evidences relied upon by the AO in the form of excel sheets does not constitute adequate evidence to draw adverse inference against the assessee, in the absence of any other corroborative evidences. We concur with all these findings of Ld. CIT(A) and also confirm reliance on the decision of Hon'ble Delhi High Court in the case of CIT vs. Sant Lal (supra) holding that the assessee could not be put to any liability on the action of a third-person where the material was not found from the premises of the assessee nor was it in the handwriting of the assessee since the third person may write the name of any person at his sweet will and the revenue did not make any effort to gather corroborative evidences in this relation."

7.5.13 From the above discussions and judicial decisions relied upon, the undersigned is of the view that the Excel sheets, upon which the AO relied, were neither recovered from the appellant's premises nor authenticated at the time of seizure. The authorship of these documents remains unclear, and no attempt was made by the AO to examine the individuals responsible for them. The Excel represents the same transaction relating to the appellant company upon which the jurisdictional tribunal has made the above findings. Furthermore, the seized documents do not provide the necessary details or corroborative evidence to support the claim of unaccounted cash receipts by the appellant company.

7.5.14 Therefore, the additions made by the AO for the AY(s) 2015-16 and 2016-17, amounting to Rs. 16,18,61,715/- and Rs. 8,00,00,000/-, respectively, unsustainable as the reliance on unsigned and unverified Excel sheets, unsupported by independent corroborative evidence, is insufficient to justify the additions. By following the judicial precedence(s) relied upon

more particularly the decision of the jurisdictional tribunal in the case of M/s. V.V. Titanium Pigments Pvt Ltd, all the grounds raised by the appellant upon this issue are hereby treated as allowed upon merits and the AO is directed to delete the additions of Rs. 16,18,61,715/- & Rs. 8,00,00,000/- made for AY(s) 2015-16 & 2016-17."

131. Aggrieved of the decision of the ld.CIT(A) in deleting the additions made towards unaccounted cash receipts, Revenue is in appeal before us.

132. At the outset, it was brought to our notice by both the parties that the impugned issue involved in the present appeals stands squarely covered in favour of the assessee by the decision of this Tribunal rendered in the case of the assessee's sister concern, namely, DCIT v. V.V. Titanium Pigments Pvt. Ltd. in ITA Nos. 1312 to 1316/Chny/2024, order dated 09.10.2024. In the said decision, this Tribunal, after a detailed consideration of the identical set of facts and circumstances, as well as on appreciation of the same evidentiary material forming the basis of the impugned additions, had upheld the action of the ld.CIT(A) in deleting the additions made by the AO towards alleged unaccounted cash receipts. The additions in that case, as in the present appeal, were made solely on the strength of an Excel sheet said to have been exchanged between Shri Jagatheesan, Managing Partner of M/s. V.V. Minerals, and Smt. Jeyanthy.

133. This Tribunal, while adjudicating the said issue in V.V.Titanium Pigments Pvt. Ltd. (supra), had categorically held that the AO had failed to establish the nexus between the entries appearing in the impugned Excel sheet and the actual business affairs or income of the assessee, nor had the Department

brought on record any corroborative evidence, either in the form of seized materials, statements, or independent enquiries, to substantiate the allegation of unaccounted cash transactions. Consequently, the Tribunal held that the mere presence of names or figures in an unsigned and unverified electronic document, without further corroboration, cannot form the sole basis for making additions under the provisions of the Act.

134. The relevant findings of the Tribunal in the said case are reproduced hereunder for ready reference: -

> *"19. We find that the additions for AYs 2014-15 & 2015-16 are based on certain excel sheet as exchanged in e-mail between Shri Jegatheesan (Partner of M/s V.V. Minerals) and Smt. Jeyanthi (an employee of M/s V.V. Minerals). However, these sheets are unsigned sheets and unless corroborated by independent evidences, would bear no evidentiary value. The Ld. AO has not made any enquiries to corroborate the notings in the excel sheet. The Ld. CIT(A) has correctly noted that Ld. AO did not examine / confront the excel sheets to any of the parties. In the absence of valid details and the circumstances in which the excel sheet was prepared and the corresponding entries, the same could not be relied upon to make impugned additions in the hands of the assessee. The sheet has no narration relating to the quantity of scrap sold and the details of buyer to whom it was sold. It could also be noted that had the assessee company been receiving cash from the sale of scrap as stated in the excel sheets, the same should have been mentioned in the notebooks as seized from Shri J. Thangadurai (GM Finance & Accounts). Further, there was no corroborative evidences to prove that the noting in the excel sheet were actual cash receipts of the assessee company. In such circumstances, this sheet could not be relied upon. This sheet was neither recovered from the office of the assessee company nor from its employees and therefore, the presumption laid u/s 132(4A) of the Act could not be invoked. The author of the excel sheet was not conclusively established. There was no corroboration from any of the party and the evidence being relied upon by Ld. AO was merely hearsay evidence carrying no evidentiary value. At the time of seizure, the excel sheets were not authenticated either by the assessee company nor by the witnesses or by an authorized officer. This was an unsigned document and as such loses its evidentiary value for want of authentication. The evidences relied upon by the AO in the form of excel sheets does not constitute adequate evidence to draw adverse inference against the assessee, in the absence of any other corroborative evidences. We concur with all these findings of Ld. CIT(A) and also confirm reliance on the decision of Hon'ble Delhi High Court in the case of CIT vs. Sant Lal (supra) holding*

that the assessee could not be put to any liability on the action of a third-person where the material was not found from the premises of the assessee nor was it in the handwriting of the assessee since the third person may write the name of any person at his sweet will and the revenue did not make any effort to gather corroborative evidences in this relation. We also concur with the findings of Ld. CIT(A) as enumerated by us in preceding para 18.3. Accordingly, the adjudication for AY 2015-16 do not call for any interference on our part. The corresponding grounds raised by the revenue stand dismissed."

135. In view of the aforesaid binding precedent rendered in the case of the assessee's sister concern, wherein identical facts and circumstances were examined in detail and a categorical finding was recorded in favour of the assessee, we are of the considered view that the same ratio squarely applies to the present case. The principle of judicial discipline mandates that a coordinate bench should follow the view taken in an earlier decision rendered on the same set of facts and issues, unless there are cogent reasons to deviate therefrom. In the instant case, the Revenue has not brought on record any material distinction in facts, nor has it demonstrated any change in law which would justify a departure from the earlier view. Accordingly, we find no justifiable reason to take a divergent stand from the coordinate bench decision in the case of the assessee's sister concern. In conformity with the said binding judicial precedent, we uphold the action of the ld.CIT(A) in following the same and in deleting the additions made by the AO towards alleged unaccounted cash receipts for the AYs 2013-14, 2014-15, 2015-16, and 2016-17. We thus find no infirmity in the order of the ld.CIT(A) warranting any interference from our end. Consequently, the issue under consideration stands decided in favour of the assessee and against the Revenue. In light of the foregoing discussion, all the

grounds of appeal raised by the Revenue on this issue for the AYs 2013-14 to 2016-17 are dismissed.

136. In the result, all the five appeals of the Revenue are dismissed.

Order pronounced in the court on 23rd October, 2025 at Chennai.

Sd/-	**Sd/-**
(जॉर्ज जॉर्ज के)	**(**एस**.** आर**.** रघुनाथा**)**
(GEORGE GEORGE K)	**(S. R. RAGHUNATHA)**
उपाध्यक्ष **/VICE PRESIDENT**	लेखा सदस्य**/ACCOUNTANT MEMBER**

चेन्नई/Chennai,

दिनांक/Dated, the 23rd October, 2025

SP

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant

2. प्रत्यर्थी/Respondent

3.आयकर आयुक्त/CIT– Chennai/Coimbatore/Madurai/Salem

4. विभागीय प्रतिनिधि/DR

5. गार्ड फाईल/GF