

**आयकर अपीलीय अधिकरण, हैदराबाद पीठ**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**Hyderabad ‘ DB-B ‘ Bench, Hyderabad**  
 श्री विजय पाल राव, उपाध्यक्ष एवं श्री मधुसूदन सावडिया, लेखा सदस्य के समक्ष ।

**Before Shri Vijay Pal Rao, Vice-President**  
**A N D**  
**Shri Madhusudan Sawdia, Accountant Member**

आ.अपी.सं / **ITA No.707/Hyd/2017**  
 (निर्धारण वर्ष/Assessment Year: 2009-10)

VSN and Jeevan Infra Developers, Peruru Panchayat, Tirupati PAN:AAIFV3414B	Vs.	Dy.CIT Central Circle Tirupati
(Appellant)		(Respondent)
निर्धारिती द्वारा/Assessee by:	Advocate H Srinivasulu	
राजस्व द्वारा/Revenue by::	Dr. Sachin Kumar, Sr. DR	
सुनवाई की तारीख/Date of hearing:	04/11/2025	
घोषणा की तारीख/Pronouncement:	19/11/2025	

**आदेश/ORDER**

**Per Madhusudan Sawdia, A.M.:**

This appeal is filed by VSN and Jeevan Infra Developers (“the assessee”), feeling aggrieved by the order passed by the Learned Commissioner of Income Tax (Appeals)-3, Visakhapatnam (“Ld. CIT(A)”) dated 21.02.2017 for the A.Y 2009-10.

2. The assessee has raised the following grounds of appeal.

*“1. The order of the learned CIT (A) is erroneous to the extent it is prejudicial to the appellant.*

*2. The learned CIT (A) erred in confirming addition of Rs.1,80,00,000/- out of Rs.4,00,00,000/- without considering the detailed explanation submitted by the appellant. The learned CIT (A) ought to have deleted the entire addition made by the Assessing Officer.*

*3. Any other ground or grounds that may be urged at the time of hearing”.*

3. The assessee has raised the following additional grounds on 04.10.2025:

*“1. The learned CIT (A) ought to have deleted the addition of Rs.55,50,000 lakhs made u/s 68 towards credit in the name of Sri N.R. Jayadhar Naidu in the partner’s capital account.*

*2. The learned CIT (A) ought to have appreciated that, although the assessee had omitted to mention this as one of the grounds of appeal, it had submitted details in the statement of facts, written submissions and arguments before the learned CIT (A) as extracted and reproduced in the appellate order itself. A remand report was also called for on this issue.*

*3. The CIT(A) ought to have appreciated that the remand report also addressed this issue and the Assessing Officer had submitted a detailed report, holding the credit as genuine. The remand report was also reproduced in full in the appellate order.*

*4. The CIT (A) ought to have deleted the addition of Rs.55,50,000 on the basis of the remand report of the Ld.AO.*

*5. The appellant inadvertently could not raise the above grounds while filing the appeal. The appellant submits the following case laws for the kind consideration of the Hon'ble ITAT for admission of this additional grounds:-*

*(a) Jehangir H.C. Jehangir v ITO (2015) 229 Taxman 392 (Bom.) (HC)*

*(b) CIT vs. Motor Industries Co Ltd 229 ITR 137 (Kar.)*

*(c) Kandi Industrial (P) Ltd vs. DCIT (2006) 100 ITD 462 (ITAT Kolkata)*

*(d) CIT vs. B.G. Shirke Construction Technology (P) Ltd 79 Taxmann.com 306 (Bombay) 2017.*

*(e) NTPC vs. CIT 229 ITR 382 (S.C)*

*(f) NU Pharma logics (P) Ltd Hyderabad vs. ITO ITAT Hyd. Decision dated 28.02.2025 in ITA No.1165/Hyd/ 2019 and 302/Hyd/2017.*

*(g) TCI Constructions Ltd Hyderabad vs. DCITY 2(3) Hyd- ITAT Hyd. Decision in ITA No.1766 & 1767/Hyd/ 2017 dated 6/4/2021.*

*6. Any other grounds at the time of hearing”*

3.1 The assessee has also raised the following additional grounds on 09.10.2025.

*1. Ld.AO erred in not issuing the notice u/s 153 C of the Act as he relied on the seized material from M.G. brothers Automobiles (P) Ltd.*

*2. Ld.AO erred in not recording the satisfaction before invoking the provisions of Section 153C of the Act.*

*3. Ld.AO erred in issuing the notice u/s 142(1) for filing the return of income for period from 1.4.2018 to 25.7.2008 which falls in the block period u/s 153C. He ought to have issued a notice u/s 153C.*

*4. Ld. AO's notice u/s 142(1) dated 31.05.2010 calling for return of income for A.Y 2009-10 is barred by limitation. He could have issued notice on or before 31.03.2010. Consequently, the assessment order of the Ld.AO is bad in law.”*

4. The assessee has raised many additional grounds. Since the ground raised by the assessee goes to the route of the matter and all the facts necessary for adjudication are already available on record, we admit the same in view of the judgment of the Hon'ble Supreme Court in the case of NTPC vs. CIT (229 ITR 383).

5. The brief facts of the case are that the assessee is a partnership concern engaged in real estate business. A search and seizure operation under section 132 of the Income Tax Act, 1961 (“the Act”) was conducted on 25.07.2018 at the business premises of the assessee, the residence of the managing partner and at the premises of M/s. M.G. Brothers Automobiles Pvt. Ltd.(“ M.G Brothers”) to whom the assessee had sold land. During the search at the premises of the searched person, certain loose sheets containing details of schedule of payment and cash receipts relating to the said land transaction were found and seized. On the basis of such documents, the Learned Assessing Officer (“Ld. AO”) issued a notice under section 142(1) of the Act on 31.05.2010 calling for return of income from the assessee. The assessee did not file the return in response to the said notice. However, in response to a subsequent show cause notice, the assessee filed its return of income on 26.11.2010, declaring Rs.59,13,740/- as total income. On the same day, notice under section 143(2) of the Act was issued to the assessee. The Ld. AO thereafter completed assessment under section 143(3) of the Act on 29.12.2010, making total additions of Rs. 5,79,02,000/- and determined the total income of the assessee at Rs.6,38,15,740/-.

6. Aggrieved with the order of the Ld. AO, the assessee had filed appeal before the Ld. CIT(A). The Ld. CIT(A) had partly allowed the appeal of the assessee. Aggrieved with the order of the Ld. CIT (A), the assessee had filed appeal before this Tribunal. In the first round, the appeal was dismissed as withdrawn in view of

opting for Vivad Se Vishwas Scheme ("VSVS"). Since payment could not be made under VSVS, the assessee filed a Miscellaneous Application before this Tribunal for recalling of the appeal. This Tribunal, vide order dated 28.08.2025 in M.A. No. 25/Hyd/2025, recalled the appeal for adjudication on merits.

7. At the outset, the Learned Authorized Representative ("Ld. AR") submitted that three issues arise out of the grounds and additional grounds of the appeal of the assessee. The first issue relates to the sustenance of addition of Rs.1.80 crores by the Ld. CIT(A) out of the total addition of Rs.4.00 crores made by the Ld. AO on account of alleged on-money received in cash by the assessee from M.G. Brothers. The second issue relates to the addition of Rs.55,50,000/- made under section 68 of the Act on account of a unsecured loan received by the assessee from Shri Jayadeva Naidu, and the third issue relates to a legal ground wherein the assessee has challenged the validity of the assessment proceedings.

8. As regards the addition of Rs. 1.80 crores on account of alleged on-money received from M.G. Brothers, the Ld. AR submitted that the assessee had sold land to M.G. Brothers as per a registered sale deed for a consideration of Rs. 1.3 crores. However, during search and seizure operations conducted in the premises of M.G. Brothers, certain seized material was found alleging that the assessee had sold the said land for a total consideration of Rs.5.13 crores, and that M.G. Brothers had paid on-money of Rs.4 crores in cash. Based on the said seized material, the Ld. AO made an

addition of Rs.4 crores in the hands of the assessee. During the appeal before the Ld. CIT(A), the Ld.CIT(A) noted that in the case of M.G. Brothers, this Tribunal had examined the same seized material and held that the real on money involved in the transaction was only Rs.1.8 crores and accordingly the Tribunal had sustained an addition of Rs.1.8 crores in the hands of M.G. Brothers. Relying upon the said decision, the Ld. CIT(A) restricted the addition in the hands of the assessee from Rs.4 crores to Rs. 1.80 crores. The Ld. AR submitted that even if it is held that M.G. Brothers had paid Rs.1.8 crores as on-money, there is no evidence whatsoever that the said amount was received by the assessee. The Ld. AR further submitted that the impugned amount of Rs.1.80 crores was never received by the assessee and no corroborative evidence of cash received by the assessee has been produced by the Ld. Ld. AO. Inviting our attention to the seized endorsements placed at page nos. 112 to 117 of the paper book, the Ld. AR submitted that the said document do not contain the signature of the assessee, several seized documents do not contain the signature of any witness, in some documents, only illegible signatures appear without any name. Furthermore, the persons who had signed or witnessed those documents are not connected with the assessee. The Ld. AR further submitted that the seized material was found from the premises of a third party, i.e., M.G. Brothers, and not from the assessee. Therefore, the statutory presumption under section 292C of the Act cannot be applied to the assessee. It was also submitted that on the same day, a search was conducted in the assessee's own premises, and during the

course of the search no incriminating evidence, no unaccounted cash, and no material relating to alleged on-money was found. In support of their Contention, the assessee relied on the decision of the Hon'ble Delhi High Court in the case of CIT vs. Sant Lal 422 ITR 01 dated 11.03.2020. Accordingly, the Ld. AR prayed for deletion of the entire addition of Rs. 1.8 crores.

9. Per contra, the Learned Departmental Representative ("Ld. DR") strongly relied upon the orders of the lower authorities. The Ld. DR submitted that the seized documents recovered from M.G. Brothers during search clearly established the payment of on-money exceeding the registered consideration. These seized documents, including loose sheets, receipts, notings and endorsements, are contemporaneous documents recovered during a valid search and constitute reliable evidence. The Ld. DR further submitted that this Tribunal, in the case of M.G. Brothers, had already examined these very documents and held that the actual on-money involved in the transaction was Rs.1.8 crores. Hence, the Ld. CIT(A) was justified in sustaining the addition to that extent. Accordingly, the Ld. DR prayed before the Bench to uphold the findings of the Ld. CIT (A).

10. We have carefully considered the rival submissions and perused the material available on record. We observe that the original addition of Rs.4 crores by the Ld. AO (which the Ld. CIT (A) reduced to Rs. 1.80 crores) was made solely based on seized documents found in the premises of M.G. Brothers, and not from the assessee. These include certain endorsement slips, loose

notings, and alleged acknowledgements of cash receipts. On perusal of the seized documents placed at page nos. 112 to 117 of the paper book, we find that none of the documents bear the signature of the assessee, the documents contain signatures of persons unrelated to the assessee, in many cases, no name is mentioned beneath the signatures and several documents contain no witness signatures. Therefore, the evidentiary value of these documents, when sought to be used against the assessee, is weak. We further note that a search was also conducted in the assessee's premises, during which no incriminating material relating to receipt of on-money, no unaccounted cash, no loose sheets or endorsements connecting the assessee to receipt of Rs.1.80 found. This significantly weakens the Revenue's case. Further, we find that this Tribunal, in the case of M.G. Brothers, has given a clear finding that Rs.1.8 crores was paid by M.G. Brothers as on-money. However, the fact that a payment was made by the buyer does not automatically establish that the seller received it. That presumption is not available in law unless the seized material is found in the seller's premises (which is not the case here). The presumption under section 292C of the Act applies only to the person from whose possession the material is found, unless corroborated. Further, the Revenue has not produced any corroborative evidence in support of their claim that the actual cash has been received by the assessee. In this regard, we have gone through para no.11 of the decision of the Hon'ble Delhi High Court in the case of CIT vs. Sant Lal (Supra) relied upon by the assessee which is to the following effect:

*"11. We have perused the impugned order and notice that the ITAT has given a finding of the fact that the case of the respondent is covered with the decision of the ITAT in the Cases of Mahabir Prasad Gupta (supra) and Ashok Prasad (supra). The relevant portion of the impugned order read as under:*

"4. In the circumstances and fact of the case, we are of the view that the case is fully covered with the decision of ITAT in the cases of Mahabir Prasad Gupta (supra) and Ashok Prasad Gupta (supra) and further observed that Revenue could lay its hands on the diary of Sh. Brij Mohan Gupta where names of persons were recorded in quoted words and revenue could not establish the name of the assessee from such quoted words. Though the Revenue has placed on record statement of Sh. Brij Mohan Gupta, Ram Avtar Singal and Rajiv Gupta but still Revenue has failed to establish link between the information noted in abbreviated form and the assessee. The diary was neither found from the premises of the assessee nor in the hand writing of the assessee any third person may write the name of any person at his sweet will, such circumstances assessee cannot be put to any liability on the action of the third person, the same has to be corroborated by the Revenue which has not been In the circumstances and done in the present case. In the circumstances and facts of the case, we do not find any infirmity in the order of the Ld. CITA) who has rightly deleted the additions SO made by the AO. Accordingly, all the grounds of the Revenue are dismissed."

11. On perusal of the above, we find that the Hon'ble High Court has held that the diary found from the premises of third party cannot be relied unless corroborated by the Revenue. Under the present case also, the Revenue has not corroborated the documents found from the premises of M.G. Brothers, being the third party. Accordingly, respectfully following the decision of the Hon'ble Delhi High Court, we hold that the Revenue has not discharged its burden to prove that the assessee received Rs. 1.80

crores. Accordingly, the addition of Rs. 1.8 crores sustained by the Ld. CIT(A) is directed to be deleted.

12. As regards addition of Rs.55,50,000/- under section 68 of the Act, the Ld. AR submitted that the Ld. Assessing Officer had made the addition towards the amount of unsecured loan taken by the assessee from Shri Jayadeva Naidu. In this regard, the Ld. AR invited our attention to page no. 7 of the order of the Ld. CIT(A) wherein the Ld. CIT(A) has reproduced the remand report submitted by the Ld. AO. The remand report clearly records that the identity as well as the creditworthiness of the creditor and the genuineness of the transaction is established. The Ld. AR further submitted that despite this favourable finding in the remand report, the Ld. CIT(A), due to absence of a specific ground raised by the assessee, inadvertently did not adjudicate on the issue in the appellate order. Accordingly, the Ld. AR prayed that since the Ld. AO himself accepted the genuineness of the loan in the remand proceedings, the addition should be deleted.

13. Per contra, the Ld. DR relied on the order of the lower authorities.

14. We have carefully considered the rival submissions and perused the material available on record. We have gone through the remand report reproduced by the Ld.CIT (A) at page no.7 of his order, which is to the following effect:

(3) Unexplained cash credit under section 68 of the Act - Rs.55,50,000/- (Sri NR Jayadeva Naidu)

*My predecessor was of the view that the assessee claimed Sri N.R. Jayadeva Naidu as NRI and found that Sri Jayadeva Naidu is an Ex-MLA and therefore prima-facie disbelieved the confirmation letter given by Sri N.R. Jayadeva naidu and made the addition of Rs.55,50,000/- as unexplained cash credit under section 68 of the Act.*

*Before the Commissioner of Income Tax (Appeals), the assessee filed confirmation of account along with copy of green card and passport of Sri N. Rakesh, Son of Sri N.R. Jayadeva Naidu. The assessee also clarified that he never stated that Sri N.Jayadeva Naidu is an NRI and submitted that the funds emanated from the funds received from NRI Sri N. Rakesh, S/o. Sri N.R. Jayadeva Naidu.*

*From the confirmation letter along with confirmed account copy and copies of green card & passport of his son, Sri N. Rakesh, the creditworthiness of Sri N.R.Jayadeva Naidu cannot be doubted. The genuineness is also proved. Hence, decision in this regard may be taken on merits.*

15. On perusal of the above, it is evident that the remand report of the Ld. AO unequivocally states that the identity and report of the Ld. Ld. AO unequivocally states that the identity and creditworthiness of the creditor is established and the genuineness of the loan transaction is accepted. Thus, in our considered view, the statutory requirements under section 68 of the Act stand fulfilled. We also observe that the Ld. CIT(A) did not adjudicate on this issue only in absence of any specific ground raised by the assessee during hearing. Further, the Revenue has also not brought any contrary material to rebut the findings in the remand report. Accordingly, the addition of Rs.55,50,000/- made under section 68 of the Act is directed to be deleted.

16. Since we have allowed the appeal of the assessee on merits in respect of both the issues, we do not propose to adjudicate upon the legal issue raised by the assessee, and the same is kept open.

17. In the result, the appeal of the assessee is allowed.

Order pronounced in the Open Court on 19<sup>th</sup> November, 2025.

Sd/-

Sd/-

<b>(VIJAY PAL RAO) VICE PRESIDENT</b>	<b>(MADHUSUDAN SAWDIA) ACCOUNTANT MEMBER</b>
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Hyderabad, dated 19<sup>th</sup> November, 2025

***Vinodan/sps***

Copy to:

S.No	Addresses
1	VSN and Jeevan Infra Developers, 1-227/J Tarakaram Nagar, Peruru Panchayat, Tirupati
2	Dy. CIT, Central Circle, Aayakar Bhavan, K.T. Road, Tirupati
3	Pr. CIT – Tirupati
4	DR, ITAT Hyderabad Benches
5	Guard File

*By Order*