

IN THE INCOME-TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT
BEFORE SHRI DINESH MOHAN SINHA, JUDICIAL MEMBER &
SHRI BIJAYANANDA PRUSETH, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.972/SRT/2024&

Assessment Year: 2020-21

(Physical court hearing)

Deputy Commissioner of Income-tax, Central Circle-4, Surat Room No.508, Majura Gate, Surat-395 001	बनाम/ Vs.	Vikas Nangalia D-1112, Canal Road, Surya Green View, Vesu, Surat-395 007
स्थायीलेखासं./जीआइआरसं./PAN/GIR No: ACXPN 1361 L		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

प्रत्याक्षेप सं/CO No.26/SRT/2024

(A/o ITA No.972/SRT/2024)

Assessment Year: 2020-21

Vikas Nangalia D-1112, Canal Road, Surya Green View, Vesu, Surat-395 007	बनाम/ Vs.	Deputy Commissioner of Income-tax, Central Circle-4, Surat Room No.508, Majura Gate, Surat-395 001
स्थायीलेखासं./जीआइआरसं./PAN/GIR No: ACXPN 1361 L		
(Co-objector)		(प्रत्यर्थी/Respondent)

आयकर अपील सं./ITA No.848/SRT/2024&

Assessment Year: 2021-22

Deputy Commissioner of Income-tax, Central Circle-4, Surat Room No.508, Majura Gate, Surat-395 001	बनाम/ Vs.	Vikas Nangalia D-1112, Canal Road, Surya Green View, Vesu, Surat-395 007
स्थायीलेखासं./जीआइआरसं./PAN/GIR No: ACXPN 1361 L		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

निर्धारिती की ओर से /Assessee by	Shri Ramesh Malpani, CA
राजस्व की ओर से /Revenue by	Shri Mukesh Jain, CIT-DR
सुनवाई की तारीख/Date of Hearing	08/09/2025
उद्घोषणा की तारीख/Date of Pronouncement	31/10/2025

आदेश / ORDER

PER BIJAYANANDA PRUSETH, AM:

These two appeals by the revenue for assessment years (AY) 2020-21 and 2021-22 and Cross Objection (CO) by assessee for AY 2020-21 emanate from the separate orders passed under section 250 of the Income-tax Act, 1961 (in short, 'the Act'), dated 30.07.2024 and 28.06.2024 by the Commissioner of Income-tax (Appeals)-4, Surat [in short, 'CIT(A)'], which in turn arose out of separate assessment orders passed by Assessing Officer (in short, 'AO') u/s 143(3) of the Act on 30.12.2022. With the consent of both parties, both appeals and assessee's CO No.26/SRT/2024 were clubbed, heard together and a common order is passed for the sake of convenience and brevity.

2. Grounds of appeal raised by the revenue in ITA No.848/Srt/2024 for AY 2021-22 are as under:

"1. On the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in deleting the protective addition of Rs.16,00,00,000/- made by the AO u/s 69A of the Act being unaccounted income received for sale of land despite the facts that addition has been made on the basis of incriminating details/document recovered during the search proceedings.

2. In addition to the ground No1 above, on the facts and in the circumstances of the case and in law the Ld. CIT(A) has erred in deleting the addition of Rs.16,00,00,000/- made by the AO u/s 69A of the Act being unaccounted income received for sale of land even though there was clear cut nexus of unaccounted receipts which was detected through the "Saudachitthi" details and not appreciating the documentary importance of the "Saudachitthi" found in course of the search action of the Department.

3. In addition to the ground No.1 & 2 above, on the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in ignoring the meticulous evidence collected by the AO in corroborating the details of parties

and value of land mentioned in "Saudachitthi" with valuation report of Government valuer commissioned by SBI and nexus of parties with each other through the assessee.

4. In addition to the ground nos. 1 to 3 above, on the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in referring the matter DVO despite extensive evidence gathered by the AO to support the actual valuation of the property indicated in the "Saudachitthi".

5. In addition to the ground no. 1 to 4 above, on the facts and circumstances of the case and in law, the Ld. CIT(a) erred in deleting the addition made by the Assessing Officer ignoring the principles of "Human Probability Test" i.e., preponderance of probabilities which is applicable for Income Tax proceedings.

6. On the facts and in the circumstances of the case and in law, the Ld. CIT(A) ought to have upheld the order of the Assessing Officer.

7. It is, therefore, prayed that the order of the Ld. CIT(A) may be set aside and that the AO may be restored to the above extent.

8. The appellant craves to add, amend, alter, substitute, modify the above ground of appeal, raise any new ground of appeal, if necessary, either before or during the course of the hearing of the appeal on the basis of submissions to be made."

3. Grounds of appeal raised by the revenue in ITA No.972/Srt/2024 for AY

2020-21 are as under:

"1. On the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in deleting the protective addition of Rs.6,05,91,000/- made by the AO u/s 69C of the I.T Act towards explained marriage expenses despite the facts that the addition has been made on the basis of incriminating details/document recovered during the search proceedings and without confirming the substantive addition made in the case of Shri Rajesh Poddar.

2. In addition to the ground No1 above, on the facts and in the circumstances of the case and in law the Ld. CIT(A) has erred in deleting the protective addition of Rs.6,05,91,000/- made by the AO u/s 69C of the I.T Act towards unexplained marriage expenses despite the facts during the course of search proceedings the assessee in his reply in answer to Q.No.9, has stated that the diary contains details of payments made by him towards various expenses related to marriage of Sh. Apurva Poddar.

3. On the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in deleting the addition of Rs.5,40,00,000/- made by the AO u/s 69A of the Act being unaccounted income received for sale of land despite the facts that addition has been made on the basis of incriminating details/document recovered during the search proceedings.

4. In addition to the ground No.3 above, on the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred deleted the addition of Rs.5,40,00,000/- made by the AO u/s 69A of the Act being unaccounted income received for sale of land even though there was clear cut nexus of unaccounted receipts which was detected through the "Saudachitthi" details and not appreciating the documentary importance of the "Saudachitthi" found in course of the search action of the Department.

5. In addition to the ground nos. 3 & 4 above, on the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in ignoring the meticulous evidence collected by the AO in corroborating the details of parties and value of land mentioned in "Saudachitthi" with valuation report of Government valuer commissioned by SBI and nexus of parties with each other through the assessee.

6. In addition to the ground no. 3 to 5 above, on the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in referring the matter to DVO despite extensive evidence gathered by the AO to support the actual valuation of the property indicated in the "Saudachitthi".

7. On the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in restricting the addition of Rs.24,00,000/- made by the AO towards unexplained cash to Rs.2,69,459/- seized during the course of the search action even though the assessee has not been able to explain source of such cash during the course of the assessment proceedings.

8. On the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in deleting the addition of Rs.39,53,201/- made by the AO on account of unexplained jewellery despite the fact that the assessee has not been able to explain source of investment in such jewellery during the course of the assessment proceedings.

9. On the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in deleting the addition of Rs.39,53,201/- made by the AO on account of unexplained jewellery and without appreciating his own observation in the order that there stood difference as per VDIS declaration and as found in course of the search proceedings and that the source of such jewellery have not been explained by the assessee even in appellate proceedings.

10. In addition to the all the above grounds, on the facts and circumstances of the case and in law, the Ld. CIT(A) erred in deleting the addition made by the

Assessing Officer ignoring the principles of “Human Probability Test” i.e., preponderance of probabilities which is applicable for Income Tax proceedings.

11. On the facts and in the circumstances of the case and in law the Ld. CIT(A) ought to have upheld the order of the Assessing Officer.

12. It is, therefore, prayed that the order of the Ld. CIT(A) may be set aside and that the AO may be restored to the above extent.

13. The appellant craves to add, amend, alter, substitute, modify the above ground of appeal, raise any new ground of appeal, if necessary, either before or during the course of the hearing of the appeal on the basis of submissions to be made.”

ITA No.848/SRT/2024 (AY 2021-22)

4. Brief facts of the case are that the assessee filed his return of income for AY 2021-22 electronically on 28.12.2021 declaring total income of Rs.56,52,390/-. A search and seizure operation u/s 132 of the Act was carried out in case of Kuberji group and the appellant being part of the group was also covered during the search operation. A survey u/s 133A of the Act was also carried out at the business premise at 102, Ritz Square, Surat. During the course of search and survey actions, various incriminating documents were found and seized. Accordingly, notice u/s 143(2) of the Act was issued on the assessee on 30.02.2022. Thereafter, further notices u/s 142(1) and show cause notices were issued to the assessee. The assessee filed written submission and relied on various decisions in response to the queries raised by the AO. The AO was not satisfied with the reply of the assessee and made a single addition of Rs.16,00,00,000/- u/s 69A of the Act towards unaccounted money received

from sale of land barring Block No.457/A, Palsana, Surat ad measuring 15,374 sq. mts. The addition was on the basis of the note pad impounded as Annexure A/1 from Ritz Square, Surat. Aggrieved by the addition, the assessee filed appeal before CIT(A), who deleted the addition as per the reasons given in para-6.2 to 6.7 of the appellate order.

5. Aggrieved by the order of CIT(A), revenue has filed appeal before the Tribunal. All the grounds in this appeal filed by the revenue are against the deletion of the addition of Rs.16,00,00,000/- made by the AO u/s 69A on account of unaccounted income received from sale of the land. During the course of survey proceedings u/s 133A of the Act at the premises of 102, Ritz Square, Surat, a note pad was found and impounded as Annexure A-1. As per the AO, page Nos. 15, 16 and 17 of this note pad are a Sauda-chithi for sale of the land bearing block No. 457/A, Palsana having area of 18387 sq. yards., in which seller is Shri Rajesh B. Poddar and buyers are Shri Vikash Sheharia, Shri Abhishek Dalmia and Shri Alpesh Ranka. The consideration amount mentioned is Rs. 18,01,00,000/- @ Rs. 9,751/- per sq. yard. Other terms written are that consideration of Rs. 13,50,00,000/- will be given by cheques and cash in four instalments and pending amount of Rs.4,51,00,000/- will be given by means of goods and for any delayed payment, interest @ 2% per month will be charged. It is also mentioned that reverse Satakhat will be made by the buyers of Shri Rajesh Poddar for the pending amount. These pages have been pasted in para 5 of the assessment order. On inquiry from Gujarat Government website

“AnyROR”, the AO noticed that said land of Block No. 457/A Palsana was sold by the assessee, Shri Vikash K. Nangalia to a Company named M/s. Devout Coats and Textiles Pvt. Ltd. for a consideration of Rs.2,01,00,000/- vide registration No. 8646 dated 27.11.2020. Co-relating this registered sale transaction with the above Suda-chitthi, the AO took the view that there was involvement of on-money of Rs. 16,00,00,000/- in this land sale. He also mentioned that for purchasing this land in the year 2018, the funds were provided to assessee by Shri Rajesh Poddar and after sale of the impugned land, the amount was repaid by the assessee to Shri Rajesh Poddar and that is why he has been mentioned as seller in above ‘Suda-chitthi’. Further, the buyers named in this Suda-chitthi were having direct and indirect relation with the actual buyer, Devout Coats and Textile Pvt. Ltd. and thus, they finally purchased the land in the name of this company. It was, thus, finally concluded that undisclosed on-money of Rs.16,00,00,000/- was received from sale of this land, which was liable to be taxed u/s 69A in the hands of assessee.

6. During the assessment proceeding, the AO also noticed that the said land was purchased by the assessee from M/s. Janvi Thread Pvt. Ltd. (JTPL) by registered sale deed dated 20.06.2018 for consideration of Rs.1,35,00,000/- and that said JTPL had purchased this land from State Bank of India (SBI) as a successful bidder in the public auction held on 26.03.2014 for consideration of Rs.9,13,00,000/-. On further inquiry, the AO found that this land was originally owned by a company named M/s Ansuya Enterprises Pvt. Ltd. (AEPL), which

secured this land in favour of SBI as the corporate guarantor for credit facilities of Rs.27 Cr. granted by the SBI to a sister concern of AEPL. It was also found by the AO that for sanctioning the credit facility, the valuation of this land was done by the SBI from its approved Panel Valuer, who valued this land at Rs.18.05 Cr. vide valuation report dated 18.12.2009. As per AO, this valuation report proves that the fair market value (FMV) of this land is about Rs.18 Cr. which corroborates that this land has been actually sold by assessee for Rs.18.01 Cr. by receiving on money of Rs.16 Cr.

7. Aggrieved by addition of Rs.16,00,00,000/-, the assessee filed appeal before the CIT(A). The assessee contended before him that the note pad impounded as Annexure A-1 is a rough note pad impounded from the office of a Company, namely, M/s Magicreet Building Solutions Pvt. Ltd. and that the page Nos. 15, 16 & 17 are not a separate document or "Sauda-chitthi" but are pages of this rough note pad, on which some rough write-up has been written without any date and signatures. It was also contended that this write-up is not in the hand writing of the assessee or Shri Rajesh Poddar and same has not been signed by any of the persons named therein. Nowhere the name of assessee is mentioned. It was, therefore, pleaded that these pages merely contain the rough write up in a rough note pad by some unknown person. The AO has erred in assuming the same as "Sauda-chitthi". Reliance was also placed on the judgment of Chintan Jadavbhai Patel vs. ITO (2018) 404 ITR 76 (Guj) to contend that unsigned document has no evidentiary value. It was

further pointed out that there has been no evidence of receipt of any goods of Rs.4.51 Cr. and reverse Satakhat (agreement) as has been written in this rough write-up. By pointing out all these facts, the assessee contended that this unsigned write up is not a "Suada-chtthi" or a serious document but is mere rough write-up on some pages of rough note-pad, which has no evidentiary value.

7.1 As regards to findings of AO about this land purchased by the seller of assessee, JTPL in the public auction of SBI for Rs.9.13 Cr. in the year 2014 and valuation of said land at Rs.18.05 Cr. by the approved CBDT/SBI Panel Valuer in the year 2009, it was submitted by the assessee that all these series of events were part of a foul play in granting a bad loan on the basis of highly inflated valuation report and cover up of such foul play from criminal and legal consequences by collusive e-auction at an exorbitant price. It was argued that if the FMV of the land was in fact Rs.18.05 Cr. in the year 2009, then it must be at least 75% to 100% more in the year under appeal and there was no justification for selling the same at half of such FMV in public auction. It was also pointed out that no basis has been mentioned by the SBI-Panel Valuer in his report for adopting the rate of Rs.9,700/- per sq. yd. for valuing the land in the year 2009. By drawing attention to the MCA master data of the original owner AEPL, it was pointed out that huge loan was granted by the SBI to the sister concern of said AEPL on the basis of security of this highly valued land in the year 2009 and shortly thereafter, this company AEPL became inoperative

and defaulted in repayment of loan in the year 2010 itself. This was clearly a case of foul play for granting loan on the basis of very high pitched valuation report. To cover-up this foul play and to avoid criminal legal consequences, the land was arranged to be sold to JTPL at the very high amount of Rs.9.13 Cr. in a collusive e-auction. Otherwise, there was no justification for selling the land at half of the value as per Valuer's Report at the time of granting of loan. It was argued that amount paid in the name of e-auction was not the value of land but was in effect repayment of loan to cover-up the default. Thereafter, said JTPL sold this land to assessee on 22.06.2018 for consideration of Rs.1,35,00,000/- and immediately thereafter this company also became defunct and its name was struck off by the ROC, which is evident from MCA master data of the company. It was, thus, contended that the e-auction value and value as per valuation report of SBI panel valuer do not represent the true FMV of the land but are much higher amounts than the FMV. Before, CIT(A), the assessee also pleaded that the AO could have ascertained the true FMV by making reference to the DVO. Not doing so and relying on high pitched valuation in case of a bank loan defaulter and ignoring the value assessed and accepted by stamp duty authorities are clearly unjustified. Request was made to CIT(A) also for ascertaining the true FMV by making reference to DVO.

7.2 After considering above submission of assessee, the CIT(A) directed to the AO to get the valuation of subject land done from the DVO. Consequently, the AO referred the matter to DVO, who determined the FMV of the said land

at Rs.2.12 Cr. as on the date of sale of the land by the assessee. On the basis of this report of DVO determining the FMV of subject land at Rs.2.12 Cr., which is very near to the actual sales consideration of Rs.2.01 Cr. stated in the sale deed, the CIT(A) found that the actual consideration stated in the sale deed to be reasonable. After considering all the above contentions and evidences furnished by the assessee and the judicial pronouncements relied by the assessee, the CIT(A) deleted the addition made by AO by holding that the unsigned write up on page Nos. 15, 16 and 17 of Annexure A-1 cannot be said to be "Sauda-chitthi" (agreement) and same is not sufficient for holding that any such money was actually received by the assessee.

8. Aggrieved by above order of CIT(A), the Revenue has filed this appeal. Before us, the Ld. CIT-DR supported the order of AO. He submitted that the addition has been made on the basis of incriminating materials impounded during the course of survey at 102, Ritz Square, Surat. The amount of Rs.18,00,00,000/- is clearly written in the said seized document. The Government approved valuer had also determined the value of the land at Rs.18.05 Cr. Hence, the difference between the registered value and the value as per the impounded documents of Rs.16,00,00,000/- was rightly taxed by the AO. The CIT(A) was not correct in deleting the addition made by the AO. He requested to set aside the order of CIT(A) and restore the addition made by AO.

9. On the other hand, the Id. A.R. of the assessee also repeated the same arguments as were made before the CIT(A). Ld. A.R. also filed paper book containing the evidences relied before the CIT(A). Valuation report of DVO is also placed on page nos. 13 to 17 of the paper book, from which it is evident that the DVO has determined the FMV of the land sold by the assessee at Rs.2,12,00,000/- on 27.11.2000, *i.e.*, the date of sale of the land by assessee. The Ld. A.R. also placed reliance on following decisions to contend that the page nos. 15,16 & 17 of Annexure A-1 have no evidentiary value and addition on account of receipt of on money cannot be made merely on the basis of write-up on these pages: (i) Chintan Jadavbhai Patel vs. ITO, [2017] 79 taxmann.com 302 (Guj); (ii) CIT vs. Maulikkumar K. Shah, [2008] 307 ITR 137 (Guj); (iii) Common Cause (A Registered Society) vs. UOI, [2017] 394 ITR 220 (SC); (iv) DCIT vs. Prarthana Construction Pvt. Ltd., Tax Appeal No. 79 of 2000 (Guj) and (v) CIT vs. Lavanya Land (P.) Ltd., [2017] 397 ITR 246 (Bom).

10. We have heard both parties and perused the materials available on record. We have also deliberated the decisions relied upon by Ld. AR. The AO has made the impugned addition based on page Nos. 15, 16 and 17 of Annexure A-1 as the "Sauda-chitthi", which has culminated into the sale of the land by the assessee vide registered sale deed dated 27.11.2000. On the other hand, Ld. AR submitted that these pages cannot be said to be the "Sauda-chitthi". We have perused these impounded pages as pasted on page no. 2 of the assessment order. Though various terms and conditions with rate, area

and consideration amount with payment schedule are mentioned in the documents, but the same was not signed by anyone. Further, this writing is on the pages of a note-pad and is not a separate document. It was submitted by the Ld. AR that this write-up is not in the hand writing of assessee or in the hand writing of Shri Rajesh Poddar, who is named as seller in it. We also find that there is no mention about the assessee in this write-up. There is no mention of date of agreement. There is no mention about any statement of the person from whose custody the note pad containing these pages was found and impounded. Thus, nothing has been brought on record to prove that the terms and conditions written on these pages were in fact agreed to between the parties and that the sale of the land by the assessee by registered sale deed dated 27.11.2020 is the culmination of this write-up. We are, therefore, inclined to agree with the CIT(A) that this write-up on page Nos. 15, 16 & 17 of Annexure A-1 cannot be considered to be the "Sauda-chthhi" actually acted upon by the parties.

10.1 The above view finds support from the judgment in the case of Chintan Jadavbhai Patel (supra), in which it was observed by Hon'ble High Court that formation of opinion of actual sale consideration amount merely on the basis of "Sauda- chthhi" neither signed by the assessee nor by the purchasers is mere surmises and conjectures. The Hon'ble jurisdictional High Court in case of CIT vs. Maulikkumar K. Shah (2008) 307 ITR 137 (Guj) where held that mere entries in seized materials are not sufficient to prove that assessee has

indulged in such a transaction in which “on-money” was received. The Ld. AR also pointed out that there is no finding about the receipts of goods of Rs.4.51 Cr. and reverse Satakhat as mentioned in the write-up of these pages, which shows that this writing is not relevant in respect of the actual sale of land by the assessee.

10.2 As regards the valuation report of the SBI Panel valuer, for bank loan purpose and purchase of the subject land by the company JTPL in public auction for Rs.9.13 Cr. these amounts may not necessarily indicate the FMV of this land, if defects mentioned by Ld. AR are considered. The Ld. AR invited our attention on MCA master data of both the companies AEPL and JTPL placed on page nos. 10 and 11 of paper book. It is evident that credit facilities of Rs.35 Cr. were granted on the basis of charge created on 20.01.2010 and this company became non-compliant immediately thereafter. Last balance-sheet filed by it was of 31.03.2010 and last AGM held on 30.09.2010. Further, the very fact that the land was sold by SBI in e-auction to JTPL in the year 2014 proves that default in repayment of loan was committed in a short time. From MCA master data of JTPL, it is seen that name of this company has been stuck off by the ROC after 29.09.2018, shortly after sale of the land to assessee. Further, there was no inquiry with the directors of JTPL. Considering all these facts and also considering the FMV determined by the DVO, which is very near to the consideration amount stated in the sale deed of assessee, we do not find merit in the arguments of AO that FMV of the land was around Rs. 18 Cr.

10.3 Considering the totality of facts and the precedent cited supra, we are of the view that there was no tangible material with the AO for holding that the on-money of Rs.16,00,00,000/- was received by the assessee for sale of the said land. We, therefore, do not find any infirmity in the order of CIT(A), which is upheld and, consequently, appeal of the revenue is dismissed.

ITA NO. 972/SRT/2024 and C.O. No. 26/SRT/2024 – A.Y. 2020-21

11. Brief facts of the case are that assessee filed his return of income for AY 2020-21 on 30.03.2021 declaring total income of Rs.8,84,680/-. As stated in the earlier appeal, there were search and survey operations in case of Kuberji group and the premises of the appellant was also covered. Various incriminating documents were found and seized during the search operation. The AO picked up the case for scrutiny by issuing notice u/s 143(2) on 31.03.2021. Thereafter, he issued notices u/s 142(1) and show cause notice calling for various details and explanation. After hearing assessee, the AO completed the assessment on 30.09.2021 determining the total income at Rs.12,18,28,880/- by making the following additions: (i) Rs.6,05,91,000/- u/s 69C of the Act on account of unexplained expenditure on protective basis; (ii) Rs.5,40,00,000/- on account of unexplained income; (iii) Rs.24,00,000/- treating the seized cash as unexplained income and (iv) Rs.39,53,201/- on account unexplained jewellery. Aggrieved by the additions made by the AO, the assessee filed appeal before the CIT(A) who has deleted the additions at Sl. No. 1, 2 and 4. He has partly allowed the ground on unexplained cash and

confirmed addition of Rs.2,69,459/-. Aggrieved by the order of CIT(A), revenue has filed the present appeal before Tribunal whereas appellant has filed CO contesting the confirmation of addition of Rs.2,69,459/-.

12. Ground Nos. 1 and 2 pertain to deletion of protective addition of Rs.6,05,91,000/- made u/s 69C of the Act on account of unexplained expenses incurred for marriage of Shri Apurv Poddar, son of Shri Rajesh Poddar. Substantive addition of this amount was made in the hands of Shri Rajesh Poddar. The CIT(A) deleted the substantive addition made in the hands of Shri Rajesh Poddar and for the same reason, he also deleted the protective addition made in the hands of assessee.

12.1 Against the deletion of substantive addition in the hands of Shri Rajesh Poddar, the revenue had filed appeal before the Tribunal vide IT(SS)A No.56/SRT/2024 for AY 2020-21. We have confirmed the order of CIT(A) and dismissed the grounds raised by the revenue on the impugned issue in IT(SS)A No.56/SRT/2024 dated 31.10.2025 by observing as below:

"11. We have heard both parties and perused the materials available on record. We have also deliberated on the decisions relied upon by the parties. The basis for making this addition is the notebook (diary) found as annexure BF-2 from residence of Shri Vikash K. Nangalia and his statement recorded during search and seizure operation. It is also found that the search and seizure actions were carried out at the residence and business premises of assessee on the same day. But, no evidences of any such unaccounted expenses were found from the premises of the assessee. Further, no other evidence such as bills, vouchers, receipts etc. were found, at the premises of Shri Vikash K. Nangalia, to indicate actual payments of the amounts recorded in the note book. Thus, there were no supporting evidences either from the premises of Shri Vikash K. Nangalia or the appellant. The impugned note book, also does not contain any entry regarding the source of such expenses. Hence, it cannot be concluded with any certainty that the entries recorded in the seized diary are of actual payment. Various discrepancies pointed out by CIT(A) and the Ld. AR also indicate that this note book does not contain the record of actual transactions.

11.1 As regards to statement of Shri Vikash Nangalia, we note that his statement was retracted within a short time. He has been able to prove that his son was hospitalized at the time of search and seizure action. We also note that both Shri Vikash K. Nangalia and the assessee have been contending that the jottings in the impugned note book are rough jottings of estimations and work planning and are not the entries for actual payments. There has been no corroborative findings, such as copies of bills, receipts, vouchers etc., supporting the view of the AO. Therefore, we agree with the view of the CIT(A) that the retracted statement of Shri Vikash K Nangalia is not sufficient for holding that entries recorded in the seized diary are in respect actual payments. We also find that most of the entries recorded in this note book are in respect of jewellery items. It has been noted by the CIT(A) that actual purchases of jewellery by the assessee and his family members during the year are of Rs.3,27,58,634/-, which have been duly accounted for and for which sufficient evidences were furnished. No defect has been pointed out in this regard by the revenue. Thus, explanation of assessee that jottings in the seized note book were mere rough estimations and that actual expenses incurred have been duly accounted for cannot be disregarded.

11.2 The Id. AR has relied on various decision in support of the contention that the seized material in the form of a rough note book found from the third-party office is not a conclusive evidence, namely, (i) Common Cause (supra), (ii) Sunil Kumar Sharma (supra), (iii) Maulikkumar K. Shah (supra); (iv) Prarthana Construction P. Ltd. (supra); and (v) Smt. Rashmi Rajiv Mehta (supra). The Hon'ble Supreme Court in case of Common Cause (supra) held that loose sheets of papers are irrelevant as evidence with respect to the transaction mentioned therein. In the said case, raids were conducted on two business groups and incriminating materials in form of random sheets and loose papers, computer prints, hard disk, pen-drive etc. were found. Evidence of highly incriminating money transactions were also found. The Hon'ble Supreme Court held that these documents had no evidentiary value. In case of Sunil Kumar Sharma (supra), the Hon'ble Karnataka High Court held that loose sheets of paper/diaries found during the search, not shown to form part of books of account regularly maintained by assessee or his business entities, did not constitute material evidence and thus, notice u/s 153C of the Act was void. The Hon'ble Supreme Court dismissed the SLP against the order of the Hon'ble High Court. The Hon'ble Gujarat High Court in case of Maulikkumar K. Shah (supra) held that mere entries in seized material are not sufficient to prove that assessee has indulged in such a transaction. The Hon'ble Bombay High Court in case of CIT vs. Lavanya Lands Pvt. Ltd., 397 ITR 246 (Bom.) held that where seized documents were not in name of the assessee, no action could be taken in case of assessee u/s 153C of the Act and further, the entire decision being based on huge amounts revealed from seized documents not being supported by actual cash passing hands, addition u/s 69C of the Act was not sustainable. The Hon'ble Supreme Court in case of PCIT vs. Krutika Land Pvt. Ltd., 103 taxmann.com 9 (SC) dismissed SLP against Hon'ble High Court ruling that where seized documents were not in the name of the assessee, no action could be undertaken in case of assessee u/s 153C of the Act and further entire decision being based on huge amounts revealed from seized documents not being supported by actual cash passing hands, addition was not sustainable. The Hon'ble Gujarat High Court in case of CIT vs. M. P. Scrap Trader, 372 ITR 507 (Guj.) held that where the AO, while making addition in the hands of the assessee-firm as well as its partners, solely relied upon statement

of partner recorded at the time of survey, which was subsequently retracted, additions made by the AO were to be deleted. In view of these authoritative precedents and after considering the facts as discussed above, we are of the considered view that there is no infirmity in the order of CIT(A), which we confirm. Accordingly, ground Nos. 1 and 2 of the appeal of revenue are dismissed.”

12.2 In view of above, there is no basis for sustaining the protective addition in the hands of assessee. Consequently, order of the CIT(A) deleting the protective addition in the hands of assessee is upheld and these grounds of Revenue's appeal are dismissed.

13. Ground Nos. 3 to 6 pertains to deletion of addition of Rs.5,40,00,000/- made u/s 69A of the Act on account of unaccounted income received from sale of the land. At the time of hearing before us, the Id. A.R. submitted that this addition has been made on the same basis on which the addition of Rs.16,00,00,000/- was made in the hands of assessee A.Y. 2021-22, which is also a subject matter of appeal for A.Y 2021-22 in ITA No. 848/SRT/2024. The AR submitted that the addition of Rs.5,40,00,000/- made in this year (A.Y. 2020-21) is also included in the addition of Rs.16,00,00,000/- in A.Y. 2021-22. The Ld. CIT-DR also confirmed these facts. This fact is also confirmed in para-8.2 of order of CIT(A). We have verified the facts and find that based on the impounded page Nos. 15, 16 & 17 of Annexure A-1, the AO treated the total amount of Rs.16,00,00,000/- as “on-money” receipt on the sale of land and added this entire amount as unaccounted income u/s 69A in A.Y. 2021-22 and on the same basis the addition of Rs.5,40,00,000/- was made in A.Y. 2020-21

on receipt basis. This amount of Rs.5,40,00,000/- is included in the addition of Rs.16,00,00,000/- in A.Y. 2021-22, the year in which sale of the land was completed by executing registered sale deed. Thus, this amount of Rs.5,40,00,000/- has been added in both the years. We have already confirmed the deletion of Rs.16,00,00,000/- in A.Y. 2021-22 in ITA No.848/SRT/2024 (supra). Therefore, there is no basis sustaining this addition in A.Y. 2020-21. Consequently, order of CIT(A) deleting this addition of Rs.5,40,00,000/- is upheld and grounds of revenue are dismissed.

14. Ground No. 7 pertains to restriction of the addition made by the AO of Rs.24,00,000/- on account of unexplained seized cash to Rs.2,69,459/- by the CIT(A). On the other hand, the assessee has challenged the addition sustained of Rs.2,69,459/- by filing CO. During search proceeding at the residence of the assessee, cash of Rs.25,90,290/- was found out of which cash of Rs.24,00,000/- was seized. As per AO, though the assessee replied that the cash found and seized during search proceedings pertain to his family members but he did not furnish any supporting evidence in support of above explanation either during search proceedings or during assessment proceedings. Hence, the AO treated the cash seized of Rs.24,00,000/- as unexplained cash and added the same to the total income of assessee.

15. Before the CIT(A), the assessee submitted that the cash found and seized is actually disclosed and accounted for. He furnished copies of the cash books of business concerns and family members to whom this cash belonged

to the AO vide submission dated 18.09.2021. Copy of this submission along with copies of the cash books of assessee, his family members and the firms M/s. Ekta Developers and M/s. Legend Developers, as submitted to the AO, were also furnished to the CIT(A). It was submitted that the AO has not found or pointed out any defect in the explanation and cash books so furnished but made the addition by totally ignoring the same. As per this explanation of assessee, the cash found and seized during search proceedings belonged to following firms and family members:-

1	M/s Ekta developers	Rs.9,06,113/-
2	M/s Legend Developers	Rs.3,06,339/-
3	Rent received on behalf of M/s Ekta Developers	Rs.3,00,000/-
4	As per cash book of Vikash Nangalia	Rs.2,50,903/-
5	As per cash book of Vikash Nangalia (HUF)	Rs.2,42,750/-
6	As per cash book of Lavishka Vikash Nangalia	Rs.3,68,240/-
7	As per cash book of Shankutala Devi Nangalia	Rs.1,32,834/-
8	As per cash book of Kajormal Nangalia	Rs. 67,644/-
9	Household cash of family	Rs. 15,467/-
	Total	Rs.25,90,290/-

15.1 It was explained that the assessee is partner in the firms, M/s. Ekta Developers and M/s. Legend Developers and as a normal practice, cash of both these firms was kept at the home of assessee for safe custody. It was also explained that during the survey action u/s 133A of the Act at the office premises of these firm on the same day, no cash as per the cash book was found. It was explained that the cash of these firms was kept at the home of assessee and such explanation has been accepted in the scrutiny assessments of the above firms.

15.2 After considering above explanation and evidences furnished by the assessee, the CIT(A) observed that the addition made by the AO was without considering the details filed by the assessee vide letter dated 18.09.2021. In respect of cash balance as per cash books of M/s. Ekta developers and M/s. Legend Developers, the CIT(A), after considering the facts that cash as per cash books of these firms was not found physically during survey actions at office premise of these firms on the same day, held that the explanation regarding the cash lying at the home of assessee was acceptable. Thus, explanation regarding cash Rs.15,12,452/- belonging to these firms was accepted by the CIT(A). In respect of remaining cash of Rs.8,87,548/- claimed to be belonging to the family members, the CIT(A) observed that the withdrawals shown by the family members are not commensurate with the standard of their living and he, therefore, considered 25% of this amount as excessive and unexplained. Accordingly, addition of Rs.2,69,459/- was sustained and balance addition was deleted.

16. The Ld. CIT-DR supported the addition made by the AO by arguing that explanation and cash books submitted by the assessee before the AO and CIT(A) were not furnished at the time of search proceeding and, therefore, same must not be considered as evidence in support of explanation of cash seized. He also argued that cash books of family members were not found at the time of search action and the same appears to be prepared subsequently. However, he could not point out any defect in these cash books.

17. On the other hand, the Id. A.R. reiterated the arguments as were made before the CIT(A). Regarding non submission of the cash books of family members at the time of search proceedings, he submitted that the son of the assessee was hospitalized at the time of search proceedings and the assessee was under tremendous mental pressure. Hence, not furnishing the cash books at the time of search proceedings cannot be viewed adversely. The Ld. AR also argued that in the absence of any defects, the cash books cannot be ignored. It was further argued that addition of Rs.2,69,459/- was sustained by CIT(A) merely on the basis of general observation about withdrawals without finding any specific defects in the cash books of family members. He, therefore, requested to delete the addition sustained by the CIT(A).

18. We have heard both parties and perused the materials available on record. So far as cash of Rs.15,12,452/- claimed to be belonging to M/s. Ekta Developers and M/s. Legend Developers, there is no reason to disbelieve the cash balance. The cash balance as per cash books of the firms was Rs.15,12,452/- which was not found at the office of the firm during the simultaneous survey actions at their office premiss. Hence, explanation that it was found at the residence of the partner (assessee) is acceptable. In fact, such explanation was accepted in the scrutiny assessment of the firms. Therefore, no adverse view could be taken regarding cash of Rs.15,12,452/-. For remaining cash of Rs.8,87,548/- explained to be as per cash books of various

family members, grievance of the revenue is that these cash books were not available at the time of search proceeding. The assessee explained that due to hospitalization of his son, he was under tremendous mental strained, due to which he could not furnish the cash books of family members. Further, no specific defect was found in the cash books of family members. However, we agree with the CIT(A) that considering the status of the family, the amount of cash withdrawal was not sufficient to meet the household and personal expenses. Therefore, we sustain the addition of Rs.2,69,459/- upheld by the CIT(A) and consequently, appeal of the revenue as well as C.O. of the assessee on this issue are dismissed.

19. Ground Nos. 8 & 9 pertain to deletion of addition made by the AO of Rs.39,53,201/- on account of unexplained jewellery seized during search and seizure action. The AO observed that during search proceedings at the residence of assessee, jewellery and other valuables of Rs.66,89,500/- and Rs.6,28,860/- respectively were found, out of which jewellery of Rs.39,53,201/- was seized. As per AO, though the assessee replied that the jewellery found and seized during search proceeding pertains to his family members but he could not give any evidence like bills etc. in support of above explanation either during search or assessment proceedings. Hence, the AO treated the jewellery seized of Rs.39,53,201/- as unexplained and added the same to the total income of assessee.

20. Before the CIT(A), the assessee submitted copy of letter dated 18.09.2021 filed before the AO explaining the source of jewellery and other valuable as under:

SL. NO. (1)	FAMILY MEMBER (2)	RELATION WITH ASSESSEE (3)	GOLD ORNAMENT TO BE TREATED AS EXPLAINED AS PER INSTRUCTION NO. 1916 DT. 11/5/94 (4)	ORNAMENTS DECLARED IN VDIS, RECEIVED IN WILL AND PURCHASED (GOLD) (5)	HIGHER OF (4) AND (5) (6)	ORNAMENTS DECLARED IN VDIS, RECEIVED IN WILL AND PURCHASED (DIAMONDS) (7)	SILVER UTENSILS/ ARTICLES DECLARED IN VDIS, RECEIVED IN WILL AND PURCHASED (8)
1	KAJORMAL NANGALIA	FATHER	100.000	664.280	664.28	86.80	14000
2	SHAKUMTALA NAGALIA	MOTHER	500.000	917.000	917.00	32.95	14900
3	VIKASH KAJORMAL NANGALIA	ASSESSEE	100.000	0.000	100.00	1.40	0
4	LAVISHKA VIKASH NANGALIA	WIFE	500.000	0.000	500.00	0.00	0
5	MAYASH VIKASH NANGALIA	DAUGHTER	250.000	0.000	250.00	0.00	0
6	YUG VIKSH NNGALIA	SON	100.000	0.000	100.00	0.00	0
GRAND TOTAL OF SOURCE / EXPLANATION			1550.000	1581.280	2531.28	121.15	28900
<u>ORNAMENTS, GOLD & SILVER FOUND DURING SEARCH:</u>							
A	At Residential Premises				1413.080	46.33	14400
B	At Locker				480.648	24.19	3018
GRAND TOTAL OF JEWELLERY ETC. FOUND					1893.728	70.52	17418

20.1 In support of above explanation, assessee furnished to the AO the copies of VDIS Certificates in respect of declarations made by his father and mother under VDIS, 1997 (with copy of jewellery valuation reports as submitted with declarations); copy of 'Will' of late Shri Radheyshyam Nangalia (grandfather of assessee) dated 31.12.1996 bequeathing gold ornament to mother of assessee and the purchase bill with bank statement in respect of jewellery purchased during the year. Copy of above submission and evidences as furnished to the AO were also furnished to the CIT(A).

20.2 After considering above explanation and evidences furnished by the assessee, the CIT(A) observed that the addition was made by the A.O. without referring to above details filed by the assessee and that the AO simply held

that no evidence such as bills etc. have been furnished. However, the AO has not discussed as to how the claim of assessee regarding jewellery declared under VDIS and also jewellery received through ancestral Will of grandfather is not satisfactory. After perusing the above reconciliation and evidences furnished by the assessee, the CIT(A) recorded a finding that the total gold jewellery considering CBDT Instruction No. 1916 dated 11.05.1994 and VDIS declaration comes to 2531.280 grams as against which, gold jewellery found during search is 1893.728 grams. Similarly, total quantity of diamond jewellery and silver articles as per VDIS declaration, Will and purchase bill comes to 121.15 Ct. and 28,900 grams respectively as against 7.52 Ct. and 17,418 grams respectively found during search. Considering all these facts and evidences, the CIT(A) held that the assessee had reasonably explained the source of jewellery found during search and deleted the addition made by the AO.

21. Before us, the Id. CIT-DR supported the addition made by the AO by arguing that explanation and evidences such as VDIS certificate, Will of grandfather and purchase bills submitted by the assessee before the AO and CIT(A) were not made available by at the time of search proceeding. However, he could not point out any defect in the explanation and evidences furnished by the assessee as above, which are also placed on page Nos. 45 to 53 of paper book filed before us.

22. On other hand, the Ld. AR reiterated the same arguments as were made before the CIT(A). The Ld. AR also relied on the judgment of Hon'ble Gujarat High Court in the case of CIT vs. Ratanlal Vyaparilal Jain, 339 ITR 351 (Guj) to contend that the jewellery as per CBDT Instruction no. 1916 dated 11.05.1994 has to be considered as explained in assessment proceeding also. Regarding non-submission of the above evidences at the time of search proceedings, Ld. AR again submitted that the assessee was under tremendous mental pressure because of hospitalization of his son at the time of search proceeding.

23. We have heard both parties and perused that materials available on record. We have also deliberated the decision relied upon by Ld. AR. Declaration of jewellery by the father and mother of the assessee under VDIS-1997 is evident from the VDIS certificates. The mother of assessee also received jewellery from Will of her father-in-law grand-father of assessee, which is evident from copy of Will dated 31.12.1996. Further, assessee has also furnished the bill of purchase of jewellery of Rs.2,10,525/-. After considering all these evidences and explanation of assessee, we agree with the CIT(A) that the assessee has duly explained the jewellery found during the search. We, therefore, find no reason to interfere with the finding of the CIT(A), which we confirm. Accordingly, these grounds are dismissed.

24. In the result, appeal of revenue and CO of assessee are dismissed.

25. In combine result, both appeals of revenue and assessee's CO are dismissed.

Order pronounced in accordance with Rule 34 of ITAT Rules, 1963
on 31/10/2025 in the open court.

Sd/-
(DINESH MOHAN SINHA)
न्यायिक सदस्य/JUDICIAL MEMBER

Sd/-
(BIJAYANANDA PRUSETH)
लेखा सदस्य/ ACCOUNTANT MEMBER

सूरत /Surat

दिनांक/ Date: 31/10/2025

Dkp Outsourcing Sr.P.S*

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

- **अपीलार्थी/** The Appellant
- **प्रत्यर्थी/** The Respondent
- **आयकर आयुक्त/** CIT
- **आयकर आयुक्त (अपील)/** The CIT(A)
- **विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, सूरत/** DR, ITAT, SURAT
- **गार्ड फाईल/** Guard File

By order/आदेश से,

// True Copy //

सहायक पंजीकार
आयकर अपीलीय अधिकरण, सूरत