



आयकर अपीलीय अधिकरण, राजकोट न्यायपीठ, राजकोट।  
**IN THE INCOME TAX APPELLATE TRIBUNAL, RAJKOT BENCH, RAJKOT**  
**BEFORE DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER**  
**&**  
**SHREE DINESH MOHAN SINHA, JUDICIAL MEMBER**

**आयकर अपील सं./ITA No.121-122/RJT/2023**  
**(Assessment Years: (2013-14 & 2014-15))**

DCIT, Central Circle – 1, Rajkot Amruta Estate, 2nd Floor, MG Road, Rajkot – 360001	Vs.	M/s. Garden Enterprise, Sadhu Vasvani Road, Opp. Shilpan Tower, Rajkot – 360005
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: <b>AALFG5887C</b>		
(Appellant)		(Respondent)

**आयकरअपीलसं./ITA No. 86/RJT/2023**  
**(Assessment Year: (2015-16))**

M/s. Garden Enterprise, Sadhu Vasvani Road, Opp. Shilpan Tower, Rajkot – 360005	Vs.	DCIT, Central Circle – 1, Rajkot Amruta Estate, 2nd Floor, MG Road, Rajkot – 360001
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: <b>AALFG5887C</b>		
(Appellant)		(Respondent)

**आयकरअपीलसं./ITA No. 123/RJT/2023**  
**(Assessment Year: (2015-16))**

DCIT, Central Circle – 1, Rajkot Amruta Estate, 2nd Floor, MG Road, Rajkot – 360001	Vs.	M/s. Garden Enterprise, Sadhu Vasvani Road, Opp. Shilpan Tower, Rajkot – 360005
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: <b>AALFG5887C</b>		
(Appellant)		(Respondent)

**आयकरअपीलसं./ITA No. 87/RJT/2023**  
**(Assessment Year: (2016-17))**

M/s. Garden Enterprise, Sadhu Vasvani Road, Opp. Shilpan Tower, Rajkot – 360005	Vs.	DCIT, Central Circle – 1, Rajkot Amruta Estate, 2nd Floor, MG Road, Rajkot – 360001
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: <b>AALFG5887C</b>		
(Appellant)		(Respondent)

**आयकरअपीलसं./ITA No. 124/RJT/2023**  
**(Assessment Year: (2016-17))**

DCIT, Central Circle – 1, Rajkot Amruta Estate, 2nd Floor, MG Road, Rajkot – 360001	Vs.	M/s. Garden Enterprise, Sadhu Vasvani Road, Opp. Shilpan Tower, Rajkot – 360005
---	-----	---



स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: <b>AALFG5887C</b>		
(Appellant)		(Respondent)

**आयकरअपीलसं./ITA No. 88/RJT/2023**  
**(Assessment Year: (2017-18))**

M/s. Garden Enterprise, Sadhu Vasvani Road, Opp. Shilpan Tower, Rajkot – 360005	Vs.	DCIT, Central Circle – 1, Rajkot Amruta Estate, 2nd Floor, MG Road, Rajkot – 360001
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: <b>AALFG5887C</b>		
(Appellant)		(Respondent)

**आयकरअपीलसं./ITA No.125/RJT/2023**  
**(Assessment Year: (2017-18))**

DCIT, Central Circle – 1, Rajkot Amruta Estate, 2nd Floor, MG Road, Rajkot – 360001	Vs.	M/s. Garden Enterprise, Sadhu Vasvani Road, Opp. Shilpan Tower, Rajkot – 360005
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: <b>AALFG5887C</b>		
(Appellant)		(Respondent)

**आयकरअपीलसं./ITA No.89/RJT/2023**  
**(Assessment Year: (2018-19))**

M/s. Garden Enterprise, Sadhu Vasvani Road, Opp. Shilpan Tower, Rajkot – 360005	Vs.	DCIT, Central Circle – 1, Rajkot Amruta Estate, 2nd Floor, MG Road, Rajkot – 360001
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: <b>AALFG5887C</b>		
(Appellant)		(Respondent)

Appellant by : Shri D. M. Randani, Ld. AR  
Respondent by : Shri Sanjay Punglia, Ld. CIT(DR)  
Date of Hearing : 25/09/2025  
Date of Pronouncement : 22/12/2025

**ORDER**

**Per: Bench:**

This bunch of nine appeals, consisting six cross-appeals filed by the revenue and four appeals by assessee, pertaining to Assessment Years (A.Y.s) 2015-16 to 2017-18, (Assessment Year wise) all are directed against the separate orders passed u/s. 250 of the Income Tax Act, 1961 (herein referred as to “Act”) by the Learned Commissioner of Income-tax (Appeals)-Ahmedabad-11, all dated



28.02.2023, which in turn arose out of separate assessment orders passed by the Assessing Officer.

2. Since, the issues involved in all these appeals are common and identical; therefore, these appeals have been heard together and a consolidated order are being passed for the sake of convenience. We shall take the lead case in ITA No.121/Rjt/2023 for Assessment Year 2013-14 filed by the revenue for deciding these appeals *en-masse*.

3. The grounds of appeal raised by the revenue in ITA 121/Rjt/2023 for AY 2013-14, are as follows.

*"1. In the facts and on the circumstances of the case, the learned Commissioner (Appeals) has erred in deleting the addition of Rs. 8,03,74,500/- made by AO on account of on-money receipts on sale of residential units.*

*2. In the facts and On the circumstances of the case and in law, learned Commissioner (Appeals) has erred in appreciating the facts that during the course of survey, a digital data in the form of Pen Drive was found and having a record of whole transactions i.e. cash/cheque payments, on which the AO has relied upon.*

*3. AO in the facts and on the circumstances of the case and in law, has duly investigated and applied his mind and after satisfying himself framed the assessment on the basis of cogent material and relevant evidence on record.*

*4. In the facts and on the circumstances of the case and in law, learned Commissioner (Appeals) has erred in appreciating the facts that impounded documents have file naming of " TESTING3.xlsx", "Tower A61 ", "Tower B60", "Tower C60", "Tower D59", "Tower E61", "Tower G61" containing a complete summary of all such individual having apartment wise transaction of cash and cheque.*

*5. In the facts and on the circumstances of the case and in law, the Ld. CIT(A) ought to have upheld the order of the A.O.*

*6. It is, therefore, prayed that the order of the Ld. CIT(A) be set aside and that of the A.O. be restored to the above extent."*

4. The facts of the case are stated in brief as follows: The assessee is a Partnership firm engaged in the business of property and development. The original return of income for the year has been filed on 30/07/2013 loss declaring 21,87,375/-. A survey action u/s 133A of the Act has been conducted on 24-25/04/2019 in a case of M/s Silver Infra, Ahmedabad by the ADIT(Inv), Unit-2(2), Ahmedabad. During the survey action, digital data in the form of 'Pen Drive'



has been found and impounded from a partner of the above firm, Shri Keyur Bhalodia. Co-incidentally, Shri Keyur Bhalodia is also a partner in the assessee firm i.e. M/s Garden Enterprise. On verification of the digital data, details regarding 'On-money' transactions of M/s Garden Enterprise have been recovered. The details of the digital data pertaining to the assessee-firm M/s Garden Enterprise are as follows-

Path	File Name	Description
D:\EXTRACTION\PENDRIVE EXTRACTION\MANUAL EXTRACTION\Keyur Balodiya Pendrive 32 GB\PPRESENT DATA\EXCEL FILES	Tower A61.xlsx Tower B60.xlsx Tower C60.xlsx Tower D59.xlsx Tower E61.xlsx Tower F60.xlsx Tower G61.xlsx	Summary of collection of cash/cheque in the scheme of Garden City.
D:\EXTRACTION\PENDRIVE EXTRACTION\MANUAL EXTRACTION\Keyur Balodiya Pendrive 32 GB\PPRESENT DATA\EXCEL FILES	TESTING3.xlsx	Consolidated list of members who booked/purchased units in the scheme of Garden City.

5. The files named as 'Tower A61.xlsx', 'Tower B60.xlsx', 'Tower C60.xlsx', 'Tower D59.xlsx', 'Tower E61.xlsx', 'Tower F60.xlsx', 'Tower G61.xlsx' contained apartment wise specific details like the name of the owner, area of the apartment, rate at which it has been sold and dates on which cheque and cash has been collected etc. A sample sheet (containing details of flat no. 101, Tower A) is reproduced hereunder for reference –

TOWER A : A - 101					
20.11.14					
Name	Reference	Sq. Feet	Rate	Selling Amount.	





SRI RAJUBHAI GANDHI		GC	2190	4520	9900000	
8128617777		EN-119				
					9900000	
Broker :						
Sr. No.	Date	Cheque No.	Bank	Cheque Amt.	Cash Amt.	Total
1	20.11.14/120				2500000	2500000
2	01.02.15/549				2500000	2500000
3	06.05.15/306				1400000	1400000
4	26.05.15/436	54119		1750000		1750000
5	26.05.15/437	14416		1000000		1000000
6	03.06.15/492	14418		750000		750000
7						0
...						0
...						0
Total.....				3500000	6400000	9900000

Further, the file named 'TESTING3.xlsx' contained a summary of all such individual apartment wise sheets. The same is reproduced hereunder for reference

-

DATE	Tower	FLAT NO.	OWNER NAME	SQ. FEET	RATE	SALES AMT.	Recieved Cheque	Received Cash
------	-------	----------	------------	----------	------	------------	-----------------	---------------



20.11.14	A	TA-101	SRI RAJUBHAI GANDHI	2190	4520	9900000	3500000	6400000
03.09.13	A	TA-102	SRI HARISHBHAI PAN	2141	4090	8747000	3500000	5247000
02.08.13	A	TA-201	SMT ANJANABEN CHAPLA	2041	4050	8266000	3500000	4766000
19.08.12	A	TA-202	SRI KIRITBHAI PADALIYA	2217	3976	8816000	3500000	5316000
0	A	TA-203	0	0	0	11100000	0	0
20.03.17	A	TA-204	SRI HASUBHAI KHIMANI	2041	4850	9900000	3500000	4900000
16.09.11	A	TA-301	SRI BHAVESHBHAI VEGADA	2041	3700	7284000	3300000	3984000
04.10.11	A	TA-302	SRI SURESHBHAI G. DHOLAKIYA	2041	3800	7469000	3500000	3969000
26.06.16	A	TA-303	SRI VISHALBHAI RUNGHANI	2041	4911	10025000	3500000	6525000
22.08.16	A	TA-304	SRI JAGDISHBHAI MORZARIYA	2041	4997	10200000	3500000	6700000
06.01.12	A	TA-401	SRI KAMLESHBHAI VIROJA	2041	3650	7192000	3500000	3692000
06.01.12	A	TA-402	SRI KARAMSHIBHAI PATEL	2041	3650	7191000	3500000	3691000
26.01.16	A	TA-403	SRI AMISHBHAI DOSHI	2041	4703	9600000	3500000	6100000
25.05.14	A	TA-404	SRI CHIMANBHAI L. MEHATA	2041	4409	9000000	3500000	5500000
29.06.12	A	TA-501	SRI RIKENBHAI VACHHANI	2041	4011	7861000	3500000	4361000
17.09.11	A	TA-502	DR. R.K.DALSANIYA	2041	3700	7284000	3300000	3984000
29.12.15	A	TA-503	SRI NIKESHBHAI KALARIYA	2041	4655	9500000	3500000	6000000
05.07.12	A	TA-504	SRI RAMESHBHAI BHALODIYA	2041	4005	7839000	3500000	4339000
26.06.12	A	TA-601	SRI VINODBHAI D. GARALA	2041	4040	7914000	3500000	4414000
05.09.11	A	TA-602	SRI ASHVINBHAI PATEL	2041	3700	7284000	3200000	4084000
16.01.16	A	TA-603	SRI DHIRUBHAI DADHANIYA	2041	4850	9900000	3500000	6400000





09.07.12	A	TA-604	SRI CHANDUBHAI BHALODIYA	2041	4000	7839000	3500000	4339000
24.09.11	A	TA-701	SRI RAJUBHAI MAKAVANA	2041	3662	7214000	3500000	3714000
05.09.11	A	TA-702	SRI NATUBHAI KARDANI	2041	3700	7239000	3690000	3549000
10.09.11	A	TA-703	SRI SAMIRBHAI PATEL	2041	3700	7284000	3500000	3784000
10.07.12	A	TA-704	SRI TEJASHBHAI PAREKH.N.D.	2041	4000	7839000	3800000	4039000
05.09.11	A	TA-801	SRI PRAFULBHAI CHANDRANI	2041	3700	7249000	3000000	4249000
22.11.11	A	TA-802	SRI PANKAJBHAI TRAMBADIYA	2041	3700	7189000	3400000	3789000
04.09.15	A	TA-803	SRI JENISHBHAI MEHTA	2041	4752	9700000	3200000	6500000
28.09.11	A	TA-804	SRI SANJAYBHAI BHUVA	2041	3818	7413000	3200000	4213000
31.05.14	A	TA-901	SRI BHAGAVANJIBHAI -S.P.	2041	3700	7551000	3500000	4051000
05.09.11	A	TA-902	SRI DHARMESHBHAI	2041	3700	7284000	3500000	3784000
08.09.11	A	TA-903	SRI SUMITBHAI KAVTHIYA	2041	3700	7284000	3500000	3784000
08.09.11	A	TA-904	SRI HARESHBHAI GOL	2041	3700	7284000	3500000	3784000
31.05.14	A	TA 1001	SRI KETANBHAI	2041	3700	7551000	3500000	4051000
03.09.11	A	TA 1002	SRI SANDIPBHAI KANERIYA	2041	3700	7284000	3500000	3784000
05.09.11	A	TA 1003	SRI HITENDRABHA ZALAVADIA	2041	3700	7284000	3500000	3784000
13.09.11	A	TA 1004	SRI CHHOTALAL R PAREKH	2041	3700	7284000	3200000	4084000
31.05.14	A	TA 1101	SRI KETANBHAI	2041	3700	7551000	3500000	4051000
03.09.11	A	TA 1102	SRI PRAFULBHAI BHALODIA	2041	3700	7284000	3500000	3784000
26.05.15	A	TA 1103	SRI NIRAJBHAI JAVIYA	2041	4630	9450000	3800000	5650000
26.12.14	A	TA 1104	SRI ATULBHAI D.KALARIYA	2041	4630	9450000	3200000	6250000





31.05.14	A	TA 1201	SRI DINESHBHAI JAVIYA	2041	3700	7551000	3300000	-2749000
31.05.14	A	TA 1202	SRI N.C.PATEL	2041	3600	7099000	3500000	3599000
01.05.15	A	TA 1203	SRI RAJANBHAI KHAKHAR	2041	4586	9360000	3900000	5460000
29.11.14	A	TA 1204	SRI VINODBHAI KORADIYA-SP	2041	4630	9451000	3500000	5951000
31.05.14	A	TA 1301	SRI GAURAVBHAI PATEL	2162	3700	7999000	3700000	4299000
25.10.15	A	TA 1302	SRI ALPESHBHAI PUJARA	2162	4995	10800000	3700000	7100000
05.09.11	A	TA 1303	SRI BHAVESHBHAI KANERIYA	2162	3545	7663500	3600000	4063500
16.01.14	A	TA 1304	SRI DHIRENBHAI	2162	4400	9512500	4000000	5512500
15.01.15	B	TB-101	SRI RAMESHBHAI CHAVDA	1961	4590	9000000	3200000	5800000
21.06.12	B	TB-102	SRI JITUBHAI-PLUMBER	2006	3765	7001000	3100000	3901000
11.09.11	B	TB-201	SRI MIRANIBHAI	2046	3600	7074000	3300000	3774000
12.09.11	B	TB-202	SRI N.N.BHALODIYA	1870	3600	6511000	3000000	3511000
11.05.16	B	TB-203	SRI BHAVESHBHAI VEKARIYA	1870	4973	9300000	3200000	6100000
16.06.16	B	TB-204	SMT.MINAXIBEN THAKKAR	2046		9800000	3100000	6700000
11.09.11	B	TB-301	SRI M.P. KALAVADIYA	1870	3600	6425000	3200000	3225000
10.09.11	B	TB-302	SRI SANJAYBHAI PATEL	1870	3600	6511000	3200000	3311000
23.04.15	B	TB-303	SRI HIRENBHAI DOSHI	1870	4545	8500000	3000000	5500000
16.08.12	B	TB-304	SMT.GITABEN SOJITRA	1870	4050	7276000	3200000	4076000
19.09.11	B	TB-401	SRI ABHAYBHAI PALAN	1870	3600	6450000	3200000	3250000
09.09.11	B	TB-402	SRI LAXMIKANTBHAI PATEL	1870	3600	6510000	3000000	3510000
28.02.14	B	TB-403	SRI NIRAJBHAI L ADHIYA	1870	4437	8297000	3200000	5097000





13.09.11	B	TB-404	SRI CHIMANBHAI PATEL	1870	3600	6511000	3200000	3311000
08.09.11	B	TB-501	SRI SANDIPBHAI PATIRA	1870	3600	6511000	3400000	3111000
12.09.11	B	TB-502	SRI RAJUBHAI AVLANI	1870	3600	6511000	3000000	3511000
19.01.14	B	TB-503	SRI RAJESHBHAI	1870	4331	8100000	3200000	4900000
13.09.11	B	TB-504	SRI HIRENBHAI GANDHI	1870	3600	6511000	3200000	3311000
05.09.11	B	TB-601	SRI JAGDISHBHAI PATEL	1870	3600	6511000	3400000	3111000
13.09.11	B	TB-602	SRI SITANSUBHAI KOTAK	1870	3600	6511000	3200000	3311000
08.09.11	B	TB-603	SRI GOPALBHAI KARIYA	1870	3682	6650000	3000000	3650000
17.06.14	B	TB-604	SRI KALPESHBHAI RAMOLIYA	1870	4438	8300000	3200000	5100000
03.09.11	B	TB-701	SRI VAIBHAVBHAI SANGHVI	1870	3600	6511000	3200000	3311000
03.09.11	B	TB-702	SRI NANJIBHAI BHALODIA	1870	3600	6511000	3200000	3311000
05.09.11	B	TB-703	SRI NIRAVBHAI NIRMAL	1870	3600	6511000	3200000	3311000
08.09.11	B	TB-704	SRI MAHENDRABHAI PATEL	1870	3600	6577000	3200000	3377000
03.09.11	B	TB-801	SRI HARSADBHAI J.KOTAK	1870	3150	5891000	3200000	2691000
03.09.11	B	TB-802	SRI BABUBHAI BHALODIYA	1870	3600	6511000	3200000	3311000
11.09.11	B	TB-803	SRI CHANDUBHAI KANERIYA	1870	3600	6451000	3100000	3351000
02.02.12	B	TB-804	SRI MAGANBHAI MANAVAR	1870	3777	6812000	3200000	3612000
05.09.11	B	TB-901	SRI MAGANBHAI CULCTTA	1870	3600	6441000	0	6441000
05.09.11	B	TB-902	SRI DINESHBHAI PADALIYA	1870	3600	6441000	3700000	2741000
13.09.11	B	TB-903	SRI KEYUR H. DHARSANDIYA	1870	3600	6511000	3200000	3311000
30.03.15	B	TB-904	HARSHADBHAI PATEL-SP.	1870	4332	8100000	3200000	4900000





03.09.11	B	TB 1001	SRI SAILESHBHAI JAVIA	1870	3600	6511000	3200000	3311000
03.09.11	B	TB 1002	SRI MAYANKBHAI MAKADIYA	1870	3600	6511000	3200000	3311000
05.02.14	B	TB 1003	SRI PARESHBHAI-SANATBHAI	1870	4423	8270000	3200000	5070000
10.09.11	B	TB 1004	SRI ARVINDBHAI KALARIA	1870	3600	6511000	3200000	3311000
21.06.12	B	TB 1101	SRI SUNILBHAI VACHHANI	1870	3048	5700000	2900000	2800000
19.09.11	B	TB 1102	SRI DIPAKBHAI SETH	1870	3600	6450000	3200000	3250000
10.12.14	B	TB 1103	SRI KAUSHIKBHAI	1870	4567	8541000	3051000	5490000
07.09.11	B	TB 1104	SRI RAJESHBHAI GHETIYA	1870	3600	6511000	3200000	3311000
24.12.11	B	TB 1201	SRI NILESHBHAI GHANGHA	1870	3600	6511000	3400000	3111000
21.01.12	B	TB 1202	SRI RAMESHBHAI KASUNDR	1870	3600	6451000	3400000	3051000
01.06.14	B	TB 1203	SMT. NAKSHIBEN N. ZAVERI	1870	4401	8230000	3351000	4879000
31.05.14	B	TB 1204	SRI KETANBHAI	1870	3700	6919000	3400000	3519000
31.05.14	B	TB 1301	SRI ATULBHAI- S.P.	1980	3700	7326000	3500000	3826000
31.05.14	B	TB 1302	SRI ATULBHAI- S.P.	1980	3700	7326000	3500000	3826000
12.09.11	B	TB 1303	SRI JIGNESHBHAI KHUNT	1980	3600	6846000	0	6846000
14.09.11	B	TB 1304	SRI MAGANBHAI VACHHANI	1980	3600	6837000	3300000	3537000
08.09.11	C	TC-103	SRI JITENDRA A. AMRUTIYA	1577	3536	5595000	2500000	3095000
08.09.11	C	TC-104	SRI AMUBHAI AMRUTIYA	1577	3536	5595000	2500000	3095000
15.09.11	C	TC-201	SRI NAVINBHAI BHOOT	1441	3600	5095000	2300000	2795000
02.03.15	C	TC-202	SRI BHAVESHBHAI RAMANI	1441	4584	6606000	2500000	4106000
06.07.14	C	TC-203	SMT.LINABEN M.MEHTA	1441	4500	6485000	2600000	3885000





23.09.13	C	TC-204	SRI UMEDBHAI KALARIYA S.P.	1582	4045	6400000	2500000	3900000
25.02.13	C	TC-301	SRI K. M. JOSHI-KEYUR	1441	4124	5943000	2500000	3443000
23.10.14	C	TC-302	SRI PARESHBHAI MANIYAR	1441	4650	6700000	2800000	3900000
10.03.14	C	TC-303	SRI BAVNJIBHAI DALSANIYA	1441	4372	6300000	2400000	0
12.09.11	C	TC-304	SRI MAHENDRABHAI PATEL	1441	3600	5095000	2500000	2595000
19.03.12	C	TC-401	SRI MAHASUKHBHAI MEHTA	1441	3800	5369000	0	5369000
02.08.14	C	TC-402	SRI HARITBHAI B.PATEL	1441	4406	6350000	2500000	3850000
22.01.12	C	TC-403	SMT JASHVANTIBEN GHETIYA	1441	3600	5163000	2500000	2663000
12.09.11	C	TC-404	SRI KISHORBHAI PANCHASARA	1441	3600	5095000	2500000	2595000
07.09.11	C	TC-501	SMT. PRITIBEN KAKKAD	1441	3600	5095000	2350000	2745000
07.09.11	C	TC-502	SRI SHANTIBHAI NANDHA	1441	3600	5095000	2500000	2595000
07.09.11	C	TC-503	SMT. PRITIBEN KAKKAD	1441	3600	5095000	2500000	2595000
07.09.11	C	TC-504	SRI RITESH B. OZA	1441	3600	5095000	2500000	2595000
29.05.16	C	TC-601	SRI VINODBHAI GAGLANI	1441	4875	7025000	2300000	4725000
07.11.11	C	TC-602	SMT. POONAMBEN	1441	3760	5314000	2500000	2814000
05.02.12	C	TC-603	SRI DILIPBHAI RAMDATTI	1441	3766	5323000	2500000	2823000
08.09.11	C	TC-604	SRI JAYBHAI M. GANDHI	1441	3600	5095000	2500000	2595000
05.09.11	C	TC-701	SRI JAYESHBHAI PADALIYA	1441	3600	5095000	2500000	2595000
18.01.12	C	TC-702	SRI AMARBHAI -SUDANVALA	1441	3751	5302000	2500000	2802000
30.12.11	C	TC-703	SRI MANISHBHAI BUDDHDEV	1441	3800	5383000	2500000	2883000
08.09.11	C	TC-704	SRI SUDHIRBHAI KORADIYA	1441	3600	5095000	2500000	2595000





ITB/AST/S/147/2021 22/103420247111

29.08.15	C	TC-801	SRI DHAVALBHAI VORA	1441	4753	6850000	2500000	4350000
25.11.11	C	TC-802	SMT.GITABEN VACHHANI	1441	3800	5343000	2500000	2843000
13.10.13	C	TC-803	SRI SURESHBHAI TUNDIYA	1441	4129	5950000	2500000	3450000
25.10.13	C	TC-804	SRI JIGISHBHAI J SHAH	1441	4164	6000000	2500000	3500000
12.09.11	C	TC-901	SRI NISHATH BATVIYA	1441	3600	5095000	2350000	2745000
07.09.11	C	TC-902	SMT.CHANDRIKABEN HINDOCHA	1441	3600	5095000	2500000	2595000
29.09.11	C	TC-903	SMT. RASILABEN J. PATEL	1441	3800	5369000	2500000	2869000
05.09.11	C	TC-904	SRI NATUBHAI KANERIA	1441	3600	5095000	2300000	2795000
11.04.16	C	TC 1001	SHRI JAYESHBHAI MANEK	1441	4946	7128000	2500000	4628000
25.06.12	C	TC 1002	SRI NIKHILBHAI UCHAT	1441	4000	5643000	2500000	3143000
12.12.13	C	TC 1003	SRI PRAFULBHAI DETROJA	1441	4171	6011000	2400000	3611000
10.12.13	C	TC 1004	SRI ASHOKBHAI R. BHESDADIA	1441	4233	6100000	2500000	3600000
10.09.11	C	TC 1101	SMT.BHAVNABEN JAVIYA	1441	3600	5095000	2500000	2595000
26.08.13	G	TC 1102	SRI DHIRAJLAL D. SAPARIYA	1441	3817	5500000	2540185	2959815
26.08.13	C	TC 1103	SMT. D.C.MARVANIYA	1441	3817	5500000	2500000	3000000
01.08.15	C	TC 1104	SRI VIPULBHAI DOSHI-SP	1441	4198	6050000	2500000	3550000
14.11.16	C	TC 1201	SRI	1480	5473	8100000	0	8099000
02.04.14	C	TC 1202	SRI PIYUSHBHAI VACHHANI	1480	4449	6585000	2550000	4035000
22.03.14	C	TC 1203	SRI KAMLESHBHAI BHADANI	1480	4392	6500000	2950000	3550000
23.01.14	C	TC 1204	SMT.DINUBALA P.DOSHI	1482	4300	6372000	2600000	3772000
04.09.15	G	TD-104	SRI KANTILAL SOLANKI	1963	0	7000000	2700000	4300000





23.06.16	D	TD-201	SRI DIPAKBHAI KARIYA	1827	4970	9081000	3100000	5981000
03.02.16	D	TD-203	SRI PANKHANIYA	1944	4815	9442000	3525000	5917000
25.06.16	D	TD-204	SRI SAVANBHAI KOTECHA	1827	5035	9200000	3200000	6000000
28.09.13	D	TD-301	SRI BATHIYA SAHEB GP	1827	3886	7100000	2700000	4400000
03.07.16	D	TD-302	SMT.SANGITABEN RAIYANI	1827	4953	9050000	3100000	5950000
22.11.15	D	TD-303	SRI KANTIBHAI TRANGADIYA	1827	4652	8500000	3100000	5400000
01.05.17	D	TD-304	SRI DINESHBHAI KATHARANI	1827	7290	13320000	3600000	9720000
07.09.11	D	TD-401	SRI KETANBHAI VIJAPURA	1827	3818	6976000	3100000	3876000
23.06.16	D	TD-402	SRI DIPAKBHAI KARIYA	1827	4970	9081000	3100000	5981000
31.01.15	D	TD-403	SRI KANTILAL KHANAPARA	1827	4666	8525000	3100000	5425000
31.05.14	D	TD-404	SRI KETANBHAI	1827	3700	6759500	3000000	3759500
22.11.15	D	TD-501	SRI ASHVINBHAI SHAH	1827	4898	8950000	3200000	5750000
25.07.14	D	TD-502	SRI NITINBHAI KAPADI	1827	4500	8221000	2700000	5521000
15.10.13	D	TD-503	KAMLESHBHAI SHASTRIJI	1827	3914	7151000	2700000	4451000
01.12.11	D	TD-504	SMT SHILPABEN R. KATHROTIYA	1827	3800	6667000	3100000	3567000
19.09.13	D	TD-601	SRI DIVYESHBHAI SHAH	1827	4105	7500000	2800000	4700000
30.08.15	D	TD-602	SMT.MINAXIBEN DOSHI	1827	4652	8500000	2700000	5800000
25.01.14	D	TD-603	SRI SURESHBHAI MISTRI	1827	4351	7950000	3100000	4850000
10.09.12	D	TD-604	SRI KANTIBHAI VACCHANI	1827	3775	6307000	3100000	3207000
30.09.11	D	TD-701	SRI VALLABHBHAI PADODARIA	1827	3818	6677000	3100000	3577000
15.05.16	D	TD-702	SRI TARUNBHAI DHINOJA	1827	4926	9000000	2700000	6300000





21.04.15		TD-703	SRI JIMISHBHAI DOSHI	1827	4652	8500000	3100000	5400000
23.03.12		TD-704	SRI VINODBHAI SINDHAV-S.P.	1827	3818	6707000	3100000	3607000
05.10.13		TD-801	SRI HITESHBHAI C. GONDHA	1827	4105	7500000	2800000	4700000
11.10.16		TD-802	SRI DILIPBHAI DHAKAN	1827	4926	9000000	3100000	5900000
31.05.15		TD-803	SRI TEJASHBHAI MEHTA	1827	4625	8450000	3100000	5350000
05.05.13		TD-804	SRI DINESHBHAI PATEL	1827	4431	7547000	2800000	4747000
28.05.13		TD-901	SRI ALPESHBHAI GHETIYA	1827	4064	7425000	3200000	4225000
12.09.16		TD-902	SRI NIKHILBHAI UCHAT	1827	4926	9000000	3100000	5900000
29.05.15		TD-903	SRI JYOTINDRA MEHTA	1827	4652	8500000	3500000	5000000
19.09.11		TD-904	SRI ANISHBHAI KANTESARIYA	1827	3818	6640000	2915000	3725000
15.04.15		TD 1001	SRIASHISHBHAI DADHANIYA	1827	4255	7775000	3300000	4475000
26.09.16		TD 1002	SRI AMITBHAI RACHHADIYA	1827	4926	9000000	3100000	5900000
20.01.14		TD 1003	SRI SURESHBHAI NIMAVAT.	1827	4378	8000000	3100000	4900000
20.09.11		TD 1004	SRI HIRENBHAI KALRIYA	1827	3285	6000900	3100000	2900900
17.01.14		TD 1101	SMT.RONAKBEN	1827	4351	7950000	3100000	4850000
28.03.16		TD 1102	SMT.MAHIMA MANVANI	1827	4926	9000000	3100000	5900000
09.11.15		TD 1103	SRI PARESHBHAI PABARI	1827	4707	8600000	3100000	5500000
15.09.11		TD 1104	SRI ASHVINBHAI TILVA	1827	3818	6707000	2900000	3807000
07.05.16		TD 1201	SHRI JANIBHAI	1827	4953	9050000	3100000	5950000
07.05.16		TD 1202	SHRI JANIBHAI	1827	4953	9050000	3100000	5950000
21.01.15		TD 1203	SRI HIMANSHUBHAI SHAH	1827	4600	8405000	3400000	5005000





ITB/AST/S/147/2021-22/10342024

31.05.14	TD 1204	SRI KETANBHAI	1827	3700	6759500	3100000	3659500
05.12.14	TD 1301	SRI BANKIMBHAI PATEL	1980	4570	9050000	3200000	5850000
30.12.15	TD 1302	SMT.MALTIBEN KOTHARI	1980	4596	9100000	3200000	5900000
05.03.14	TD 1303	SRI RAJESHBHAI DOSI	1980	4091	8100000	3600000	4500000
05.03.14	TD 1304	SRI BHUPATBHAI S.P	1980	4413	8735000	3200000	5535000
0	TE-402	0	0	0	20000000	0	0
21.08.16	TE-502	SRI PANKAJBHAI	3990	4962	19800000	6100000	13100000
21.08.16	TE-602	SRI PANKAJBHAI	3990	4962	19800000	6100000	13700000
01.12.11	TE-701	SRI AAYUSHBHAI	3990	3559	14200000	0	14200000
21.05.14	TE-801	SRI ATULBHAI GANDHI	3990	4523	18200000	7820000	10380000
23.08.16	TE 1102	SRI HITESHBHAI PAREKH	3990	5012	20000000	6800000	13200000
09.01.14	TE 1202	SRI SHASHIBHAI	3990	4365	17566000	6300000	11266000
30.06.14	TE 1302	PARESHBHAI SHAH	4375	4723	20666000	7800000	12866000
24.05.16	TF-102	SHRI BHAVESHBHAI POPAT	3675	4925	18100000	6500000	11600000
16.06.16	TF-201	SRI MITBHAI	4640	4763	22000000	7500000	14500000
18.01.16	TF-202	SRI GIRISHBHAI PATEL	4074	4639	19050000	6900000	12150000
04.07.14	TF-301	SRI HIRENBHAI	3990	4711	18950000	6511000	12439000
04.07.14	TF-302	SRI HIRENBHAI	3990	4711	18950000	6521000	12429000
20.08.15	TF-401	SRI P.R. SAKARVADIYA	3990	4737	19200000	6800000	12400000
13.05.14	TF-402	SRI NACHIKETBHAI MEHTA	3990	4561	18350000	6000000	12350000
19.02.15	TF-501	DR.HIMANSHUBHAI	3990	4636	18500000	6300000	12200000





26.11.13	F	TF-502	SRI MAHENDRABHAI KHANT	3990	3985	15900000	6800000	9100000
31.01.14	F	TF-601	SMT JAYASHRIBEN VIBHAKAR	3990	4235	16900000	9400000	7500000
06.02.13	F	TF-602	SRI JAYESHBHAI PATEL	3990	4210	16800000	6800000	10000000
25.01.14	F	TF-701	SRI DR CHETAN HANSALIYA	3990	4235	16900000	6800000	10100000
15.11.13	F	TF-702	SRI VISHALBHAI J.MEHTA	3990	4519	17730000	7200000	10530000
07.09.14	F	TF-801	SRI MADHAVJIBHAI PANARA	3990	4699	18899100	6800000	12099100
14.12.13	F	TF-802	SRI LALITKUMAR	3990	4135	16650000	6300000	10350000
23.01.14	F	TF-901	SRI BHAVESHBHAI PAREKH	3990	4460	17945400	6800000	11145400
18.09.11	F	TF-902	SRI RAJUBHAI PATEL	3990	4150	15347000	6870000	8477000
23.01.14	F	TF 1001	SRI RAJESHBHAI PAREKH	3990	4480	18025200	6800000	11225200
31.05.14	F	TF 1002	SRI KETANBHAI	3990	4000	15960000	6700000	7771350
23.01.14	F	TF 1101	SRI DHARMESHBHAI PAREKH	3990	4500	18105000	6800000	11305000
20.10.11	F	TF 1102	SRI HEMANTBHAI	3990	4200	15546000	6800000	8746000
07.06.14	F	TF 1201	SRI DR.CHHAGANBHAI LADANI	3990	4260	17150000	6800000	10350000
20.10.11	F	TF 1202	SRI HEMANTBHAI	3990	4200	15546000	6800000	8746000
31.05.14	F	TF 1301	SRI BUNNYBHAI R. PATEL	4375	4000	17500000	7500000	10000000
20.10.11	F	TF 1302	SRI HEMANTBHAI	4375	4200	16546000	6900000	9646000
21.09.15	G	TG-101	SRI GUNAVANTRAI BHADANI	4671	0	19000000	0	8350000
21.04.15	G	TG-201	SRI SUNILBHAI BARAI	4634	4898	22700000	7600000	15100000
21.12.13	G	TG-202	SRI JAYESHBHAI SHAH	4634	4500	20700000	7200000	13500000
04.02.14	G	TG-301	SRI DHIRUBHAI KANERIYA	4446	4565	20450000	7000000	13450000





19.07.13	G	TG-302	SRI KAMLESHBHAI BHADANI	4446	4453	19800000	9000000	10800000
02.04.13	G	TG-401	SRI JAYESHBHAI B.AMRUTIYA	4446	4251	19050000	7400000	11650000
26.11.13	G	TG-402	SRI MANISHBHAI G.PATEL	4446	4487	19950000	7600000	12350000
01.12.11	G	TG-501	SRI MAYURBHAI KALAVADIYA	4446	4305	18050000	7000000	11050000
01.12.11	G	TG-502	SRI KETANBHAI PATEL	4446	4305	18050000	8000000	10050000
24.10.11	G	TG-601	SRI VALLBHBHAI	4446	4254	18000000	7600000	10400000
21.11.11	G	TG-602	SRI DR.VIRPARIYA SAHEB	4446	4280	17450000	7000000	10450000
02.12.13	G	TG-701	SRI VISHALBHAI SHAH	4446	4667	20750000	7600000	13150000
10.07.12	G	TG-702	SRI KIRTIBHAI M. JASANI	4446	4500	18975000	7600000	11375000
07.10.11	G	TG-801	SRI RAMESHBHAI DHINGANI	4446	4253	18000000	7000000	11000000
05.10.11	G	TG-802	SRI JAYBHAI PATEL	4446	4215	17850000	7400000	10450000
05.12.11	G	TG-901	SRI BATUKBHAI	4446	4400	18425000	7600000	10825000
24.03.14	G	TG-902	SRI HIRENBHAI ZALAVADIYA	4446	4959	22050000	8000000	14050000
24.10.11	G	TG 1001	SMT. JALPABEN V PANDIT	4446	4430	18696000	7600000	11096000
24.10.11	G	TG 1002	SRI KARSANBHAI ADROJA	4446	4430	18696000	7600000	11096000
26.11.12	G	TG 1101	SRI J.K. PATEL	4446	4380	18350000	7000000	11350000
27.09.12	G	TG 1102	SRI RAJUBHAI PATEL	4446	4552	19500000	7000000	12500000
29.06.13	G	TG 1201	SRI ASHWINBHAI BHALODIYA	4446	4655	20700000	7500000	13200000
04.03.13	G	TG 1202	SRI L.M.JAKASANIYA	4446	4656	20850000	7600000	13250000
06.02.14	G	TG 1301	SRI JERAMBHAI	4446	4745	21250000	7000000	14250000
11.01.12	G	TG 1302	SRI BIPINBHAI KALAVDIYA	4446	4088	18175000	7000000	11175000



From the above data, it can be seen that the assessee-firm has received total Rs. 146,65,13,765/- in cash and Rs. 97,48,94,185/- in bank on account for booking / sale of residential units of its Garden City Project.

6. During the post survey proceedings before the ADIT(Inv), Unit-2(2), Ahmedabad, the incriminating evidences from the digital data have been printed in five volumes (Vol. 1 to 5) and confronted to Shri Keyur Bhalodia, who also happens to be a partner of the assessee firm. In response, vide his written reply dated 04-07-2019, he has admitted that certain sheets (as reproduced above) contained details of unaccounted cash transactions of M/s Garden Enterprise which are not recorded in its regular books of accounts. Further, in his reply dated 04/07/2019 before the ADIT, he has elaborated on the relevant pages which pertain to the unaccounted business activities of M/s Garden Enterprise. The relevant portion of his reply is reproduced here under-

M/s Silver Infra,  
Central Bopal, Inductotherm Plot,  
Bopal – Ghuma, BRTS Road,  
Ahmedabad.  
4<sup>th</sup> July, 2019

Asstt. Director of Income-tax (Inv),  
Unit-2(2),  
Ahmedabad.

Sir,  
Sub: Reply of digital data Volume – 1

Kindly refer to the above subject and the discussion that had taken place from time to time during the course of proceedings before your honor. As desired by your honor we are submitting herewith page wise comments on the digital data Volume – 1.

.....

At the outset we have to submit that a survey was also carried out by the Income-tax department on 18.07.2017 at the business premises of the firm of M/s Garden Enterprise and during the course of which Rs. 1,74,70,000 was disclosed on account of profit on trading in land. The firm had paid tax on the same.



The images pertaining to Garden City Project are on page numbers 8 to 10,17 to 21, 25 to 29, 57, 76 to 94, 121 to 130, 132, 134 and 135, 146 to 155

Page No. 8, 9 & 10

This image shows the list of Block No. and maintenance deposit taken against each flat after providing the possession. Further it also shows the amount collected from members for society maintenance deposit. All the amounts are duly recorded in books of accounts.

Page No. 17 to 21

These pages are covered in page numbers 76 to 94

Page No. 25 to 29

The images shows the list of Debit and Credit entries of the transaction made with partners or their relatives with respect to flat sold to them. All entries are accounted for in the regular books of accounts.

Page No. 57

This image shows the list of contractor to whom payment has been made by cheque.

Page No. 76 10 94

The image shows the list of area of the flat as well as sales amount and members from whom cash and cheque received on sale of flats. We have worked out net income from the project by considering total cash receipt from members and total cash expenses not debited in books of accounts. The cash received from members appears on page no 93 of digital data Voume-1 and is also repeated on page no 30 of digital data Volume-2.

The actual cash received from members was 137 crore as appearing on page no 30 of Digital Data Volume-2 and not 146 crores as appearing on page no 93 of

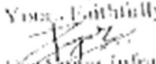




Digital Data Volume-1. We have therefore prepared a reconciliation of the two amounts and the same is given as per Annexure-1 of this reply. The main reason for the reconciliation is that the excess cash received from the members was returned back and additional cash received from members on new booking is added back.

It may not be out of place to mention here that the firm had made payment of Rs.69,59,30,000 to the Landlords in cash. This amount was contributed by the partners in the profit sharing ratio. The partners of the firm had in all introduced cash of Rs.71,55,00,000 in this scheme. The detail of cash introduced by the partners is given as per Annexure-2 of this reply. The jottings of the payments made to landlord appear on page number I of digital data volume-2. Out of total amount of Rs.137 Crore received from members and cash capital contribution received from partners, cash expenses were incurred for payments made to landlord and for construction of the scheme and after considering these expenses and amount of Rs.90.17 Crore was distributed amongst the partners. This also includes initial cash capital introduced by partners for purchase of land. This appears on page numbers 121 to 123 of Digital Data Volume -1 as well as page number I of Digital Data Volume-5. The details of cash expenses appear on page number 6 to 72 of digital data Volume-5 and some cash expenses also appear on page number 99 and 101 of digital data volume-2.

We hope the above information will clear your queries and if any further clarification is needed give me an opportunity.

Thanking You,  
Yours Faithfully,  
  
Amit Kumar Gupta



7. Shri Keyur Bhalodia who is a common partner in both the entities i.e. the surveyed firm as well as the assessee firm has categorically mentioned that "after considering all the expenses (i.e. accounted as well as unaccounted) an amount of Rs. 90.17 Crore was distributed amongst the partners." The partners on behalf of M/s Garden Enterprise have purchased a land situated at Sadhu Vasvani Road, Rajkot from Shri Ilaben Shantilal Ranchh and Shri Ranjanben Jivrajbhai Vagadiya on 05/04/2013. The registered value of this land was Rs. 14,50,00,000/- . From impounded digital data, a sheet containing an account titled "BALANCE SHEET V.C.C. LAND A/c ... Dt. 15.07.2015" has been recovered which is reproduced hereunder -

BALANCE SHEET- V.C.C. LAND A/C.		15.07.2015	
CRADIT		DEBIT	
10000000.00	LAND PURCHASE AMT.	10000000.00	CASH PAID 05.09.2011
5000000.00	LAND PURCHASE AMT.522	5000000.00	CASH PAID 27.09.2011
10000000.00	LAND PURCHASE AMT.	10000000.00	CASH PAID 19.10.2011
10000000.00	LAND PURCHASE AMT.522	10000000.00	CASH PAID 19.11.2011
10000000.00	LAND PURCHASE AMT.	30000000.00	CASH PAID 19.12.2012
5000000.00	LAND PURCHASE AMT.522	30000000.00	CASH PAID 20.12.2012
10000000.00	LAND PURCHASE AMT.	20000000.00	CASH PAID 21.12.2012
5000000.00	LAND PURCHASE AMT.522	20000000.00	CASH PAID 22.12.2012
3700000.00	LAND PURCHASE AMT.522	5000000.00	CASH PAID 12.01.2012
9000000.00	LAND PURCHASE AMT.	10000000.00	CASH PAID 24.02.2012
1300000.00	LAND PURCHASE AMT.	5000000.00	CASH PAID 24.02.2012
91300000.00	LAND PURCHASE AMT.	3700000.00	CASH PAID 22.03.2012
94200000.00	LAND PURCHASE AMT.	430000.00	CASH-LEY OUT
135000000.00	LAND PURCHASE AMT.	45000000.00	CASH PAID FROM KETANBHAI
		1300000.00	CASHPAID20.09.2012-GUNUBHAI
		45000000.00	CASH PAID
		81300000.00	CASH PAID DILIPBHAI
		5000000.00	CHEQUE-RANJANBEN
		3000000.00	CHEQUE-ILABEN
		2000000.00	CHEQUE-ILABEN
		94200000.00	CASHPAID18.03.2013-GUNUBHAI
		135000000.00	CHEQUE-ILABEN & RANJANBEN
840500000.00		840930000.00	

D:\Extraction\Pendrive Extraction\Manual Extraction\Bimal R Patel 32 GB\  
Present Files\Excel Files\ Garden balance Sheet VCC

It can be seen that the land was actually purchased at a value of Rs. 84,05,00,000/- and not at Rs. 14,50,00,000/- . The above sheet clearly reveals the fact that cash payments of Rs. 69,55,00,000/- have been made on different dates over and above the cheque payments. The sale deed contained only those payments which are made through cheques totalling Rs. 14,50,00,000/- (0.5+0.3+0.2+13.5). As stated



by the Shri Keyur Bhalodia in his reply dated 04/07/2019, the partners have born the cash payment for acquisition of land in their respective partnership ratio in the firm M/s Garden Enterpris. Further, two different sheets have been recovered from the surveyed premise with two different figures of cash receipts on sale / booking of flats collected by the firm. One sheet reflected total cash receipts of Rs.1,46,65,13,765/- whereas another sheet reflected Rs.1,37,78,81,950/ -. Shri Keyur Bhalodia, in one paragraph of his submission dated 04-07-2019, has clarified that the actual cash received was 137 crore as appearing on page 30 of volume 2 and not 146 crore as appearing on page 93 of volume 1. For this, he has submitted a reconciliation sheet along with his reply which is summarized here under-

Particulars	Amount in Rs.
Total cash receipts as per Vol 1 (Page 87 to 93)	1,46,65,13,765
Less : Excess cash returned to members	-16,36,89,000

Add: Cash received from members on new bookings	7,50,57,185
Total Cash receipts as per Vol 2 (Page 23 to 30)	1,37,78,81,950

8. However, on perusal of the reconciliation sheet submitted and its comparison with the individual flat holders' sheets extracted from the impounded digital data, it has been ascertained that the sheet as per page 87 to 93 of volume 1 highlighting cash receipts of Rs.1,46,65,13,765/- was latest whereas the other sheet with cash receipt of Rs.1,37,78,81,950/- was older one. The actual reconciliation as a result of the comparison is then prepared which is as under –





Particulars	Amount in Rs.
Total Cash receipts as per Page 23 to 30 Vol. 2	1,37,78,81,950
Add : Further cash receipt of already booked flats	5,80,95,000
Add : Cash Receipt on account of flats booked afterwards (25/06/2016 to 01/05/2017)	10,55,94,000
Less : Cash returned on receipt of cheques	-7,50,57,185
Total cash receipts as per Page 87 to 93 Vol. 1	1,46,65,13,765

Thus, as per the latest impounded sheet, total cash of Rs. 1,46,65,13,765/- has been received by M/s Garden Enterprise on sale or booking of the flats of its Garden City Project.

Apart from the above, the following sheet from the impounded digital data (Page no. 121 of Volume 1) also highlight a figure close to the cash receipts of 146.65 Cr-



(121)

840,500,000	Land	181,300,000	LAND	859,200,000
10,000,000	Chq Dastavej mate	20,000,000	Distribution	Upto 30.04.2013
		10,000,000	chq <=>	01-05-13
		15,000,000	Distribution	21-08-13
		50,000,000	Distribution	Oct-13
		33,700,000	Distribution	08-11-13
50,000,000	Chq <=>	80,000,000	chq <=>	09-01-14
		50,000,000	Distribution	13-01-14
		50,000,000	Distribution	11-04-14
		50,000,000	Distribution	17-04-14
		100,000,000	Distribution	28-05-14
		100,000,000	Distribution	05-07-14
		50,000,000	Distribution	07-08-14
50,000,000	Chq <=>	80,000,000	chq <=>	20-09-14
		50,000,000	Distribution	20-09-14
		50,000,000	Distribution	25-11-14
		50,000,000	Distribution (Chq)	28-12-14
		50,000,000	Distribution	01-04-15
		50,000,000	Distribution	01-05-15
		50,000,000	Distribution	22-08-15
		50,000,000	Distribution (Chq)	21-09-15
		50,000,000	Flat (6-6)	14-10-15
		50,000,000	Distribution (Chq)	04-02-16
		50,000,000	Distribution (Chq)	26-02-16
		60,000,000	Distribution	16-06-16
		512,009,091	Flats Distribution	Sep-16
		50,000,000	Distribution	24-11-16
		34,400,000	Flats 6-6 Profit	
		31,100,000	Flats Sales Remain	
		13,036,650	Sold Flats na Advice	
		70,000,000	SP Bank	
		-18,300,000	Sold Flats Na Pache Aapvana	
		-5,400,000	DL Stru Fees Remain	
		-10,800,000	DL Extra Site Management	
		1,100,000	RajBank	
		2,200,000	Extra	
		7,500,000	Parking	
		-22500000	Income Tax	
950,500,000		2,034,248,741		
		-1,083,748,741		
<b>TOTAL DIST</b>		<b>1,742,948,741</b>		

The data on the above referred sheet clearly reveals the distributions made in Cash as well as in Cheque. The veracity of the noting made on the above sheet has been confirmed by comparing the cheque distributions mentioned on the above sheet with the data provided by the assessee-firm in its audited books. Following cheque distributions are mentioned on the sheet-





5,00,00,000	Distribution (Chq)	26/12/2014	FY 14-15
5,00,00,000	Distribution (Chq)	21/09/2015	FY 15-16

5,00,00,000	Distribution (Chq)	04/02/2016	FY 15-16
5,00,00,000	Distribution (Chq)	26/02/2016	FY 15-16

Thus, Rs. 5,00,00,000/- have been distributed in FY 14-15 and Rs. 15,00,00,000/- have been distributed in FY 15-16. On perusal of the audited books of the assessee-firm, it has been noted that same amounts have been recorded in the respective years as total drawings from the partner's capital accounts.

Drawings of Rs 5Cr in FY 14-15 as per the audited Balance Sheet

**GARDEN ENTERPRISE**  
OPP. SHILPAN TOWER, SADHU VASVANI ROAD, RAJKOT- 360005.

**SCHEDULES FORMING PART OF THE BALANCE SHEET AS AT 31<sup>ST</sup> MARCH, 2015**

**SCHEDULE "A" : PARTNERS' CAPITAL ACCOUNT** (Amt. in ₹)

Sr. No.	Name of Partners	Profit Sharing Ratio	Balance as on 01.04.14	Introduced during the period	Drawings	Remuneration	Interest on capital	Net Profit for the year	Balance as on 31.03.15
1	Dhirajlal R. Rokad	10.00%	2,12,00,617	50,00,000	50,00,000	-	-	2,05,035	2,14,05,652
2	Dilip S. Ladani	9.00%	1,90,82,627	50,00,000	50,00,000	-	-	1,84,531	1,92,67,158
3	Gunvantra V. Bhadani	8.00%	1,69,59,704	40,00,000	40,00,000	-	-	1,64,028	1,71,23,732
4	Jamnadas P. Patel	10.00%	2,12,01,603	50,00,000	50,00,000	-	-	2,05,035	2,14,06,638
5	Ketankumar G. Shobhana	12.00%	2,44,28,116	70,00,000	60,00,000	-	-	2,46,042	2,56,74,158
6	Keyur P. Bhalodia	11.00%	2,33,20,679	55,00,000	55,00,000	-	-	2,25,538	2,35,46,217
7	Kuldip J. Rathod	5.00%	1,06,00,802	25,00,000	25,00,000	-	-	1,02,517	1,07,03,319
8	Nipulkumar D. Dadhania	8.00%	1,69,60,230	40,00,000	40,00,000	-	-	1,64,028	1,71,24,258
9	Ramesh L. Vachhani	7.00%	1,48,39,742	35,00,000	35,00,000	-	-	1,43,524	1,49,83,266
10	Smitkumar P. Kaneria	8.00%	1,69,61,020	40,00,000	40,00,000	-	-	1,64,028	1,71,25,048
11	Vinesh R. Ghodasara	12.00%	2,34,32,488	80,00,000	60,00,000	-	-	2,46,042	2,56,78,530
<b>Total:</b>		<b>100.00%</b>	<b>20,89,87,628</b>	<b>5,35,00,000</b>	<b>5,05,00,000</b>			<b>20,50,348</b>	<b>21,40,37,976</b>

Page : 25 of 32

Drawings of Rs 15Cr in FY 15-16 as per the audited Balance Sheet



**GARDEN ENTERPRISE**  
OPP. SHILPAN TOWER, SADIHU VASVANI ROAD, RAJKOT- 360005  
SCHEDULES FORMING PART OF THE BALANCE SHEET AS AT 31<sup>ST</sup> MARCH, 2016

(Amnt. in ₹)

I SCHEDULE "A" : PARTNERS' CAPITAL ACCOUNT									
Sr. No.	Name of Partners	Profit Sharing Ratio	Balance as on 01.04.15	Introduced during the period	Drawings	Remuneration	Interest on capital	Net Profit for the year	Balance as on 31.03.16
1	Dhirajlal R. Rokad	10.00%	2,14,05,652	-	1,50,00,000	-	-	61,30,366	1,25,36,019
2	Dillip S. Ladani	9.00%	1,92,67,158	-	1,35,00,000	-	-	55,17,330	1,12,84,488
3	Gunvantrai V. Bhadani	8.00%	1,71,23,732	-	1,20,00,000	-	-	49,04,294	1,00,28,026
4	Jamnadas P. Patel	10.00%	2,14,06,638	-	1,50,00,000	-	-	61,30,367	1,25,37,005
5	Ketankumar G. Shobhana	12.00%	2,56,74,158	-	1,80,00,000	-	-	73,56,441	1,50,30,599
6	Keyur P. Bhalodia	11.00%	2,35,46,217	-	1,65,00,000	-	-	67,43,404	1,37,89,621
7	Kuldip J. Rathod	5.00%	1,07,03,319	-	75,00,000	-	-	30,65,184	62,68,503
8	Nipulkumar D. Dadhanla	8.00%	1,71,24,258	-	1,20,00,000	-	-	49,04,294	1,00,28,552
9	Ramesh L. Vachhani	7.00%	1,49,83,266	-	1,05,00,000	-	-	42,91,257	87,74,523
10	Smitkumar P. Kanerla	8.00%	1,71,25,048	-	1,20,00,000	-	-	49,04,294	1,00,29,342
11	Vinesh R. Ghodasara	12.00%	2,56,78,530	-	1,80,00,000	-	-	73,56,441	1,50,34,971
<b>Total:</b>		<b>100.00%</b>	<b>21,40,37,976</b>	<b>-</b>	<b>15,00,00,000</b>	<b>-</b>	<b>-</b>	<b>6,13,03,672</b>	<b>12,53,41,646</b>

Page : 27 of 32

9. From the aforementioned exercise, it has been confirmed that the noting made on the above referred sheet (page no. 121 of vol. 1) are actual transactions of distributions made to partners of the firm through cash as well as through cheques. The cash distribution entries as per the above sheet are as under -

2,00,00,000	Distribution	Upto 30/04/2013
1,50,00,000	Distribution	21/08/2013
5,00,00,000	Distribution	01/10/2013
3,37,00,000	Distribution	08/11/2013
5,00,00,000	Distribution	13/01/2014
5,00,00,000	Distribution	11/04/2014
5,00,00,000	Distribution	17/04/2014
10,00,00,000	Distribution	26/05/2014
10,00,00,000	Distribution	05/07/2014
5,00,00,000	Distribution	07/08/2014
5,00,00,000	Distribution	20/09/2014
5,00,00,000	Distribution	25/11/2014
5,00,00,000	Distribution	01/04/2015
5,00,00,000	Distribution	01/05/2015





Amount	Description	Date
5,00,00,000	Distribution	22/08/2015
5,00,00,000	Flat (6-6)	14/10/2015
6,00,00,000	Distribution	16/08/2016
51,20,09,091	Flats Distribution	01/09/2016
5,00,00,000	Distribution	24/11/2016
3,44,00,000	Flats 6-6 Profit	
<b>1,47,51,09,091</b>	<b>Total</b>	

The above figure of total cash distribution (Rs. 147.51Cr) is close to the figure of cash receipts (Rs. 146.65Cr) as found on the sheets numbered 87 to 93 of volume 1 as discussed earlier. Thus, the figure of cash receipts of Rs. 146.65Cr also gets corroborated from the cash distribution figures as appearing on the sheet numbered 121 of volume 1. Shri Keyur Bhalodia, in submission dated 04/07/2019 had stated that the cash payments made to the landlords and cash expenses incurred for construction of the scheme have been meted out of total cash (on-money) received from flat holders and cash capital contribution received from the partners, and after considering these, an amount of Rs. 90.17 Cr. was distributed amongst the partner. This statement from Shri Keyur Bhalodia confirms one fact that minimum Rs. 90.17 has been earned in cash (net of all kinds of expenses) by the firm which was then distributed amongst the partners. However, allowance of such unaccounted expenses cannot be granted as no specific details of such expenses have been furnished. Though, Shri Keyur Bhalodiya has submitted certain sheets containing data of cash expenses but no reconciliation as to how much of it is already booked and how much of it is not recorded on books was accompanied with those sheets.

Hon'ble Supreme Court in the case of CIT vs. Best & Co. (P.) Ltd. [1966] 60 ITR 11/AIR 1966 SC 1325, observed that although the burden of proof that a receipt is income lies on the revenue, it is not always so. It was held that the doctrine of shifting onus is applicable to income-tax proceedings and when sufficient



evidence, either direct or circumstantial, is disclosed by the revenue, adverse inference can be drawn against the assessee, if the assessee has suppressed documents or evidence, for its failure to place before the department the material which is exclusively within his knowledge and keeping.

Thus, it would be inappropriate to grant benefit of those expenses to the assessee for which no specific details are submitted. Further, even if the expenses would have been claimed, the same were needed to be disallowed in view of section 37, section 40(a)(ia), section 40A(3) of the Act which specifically prohibit allowance of such expenses which are either incurred in cash or where no TDS is made. Further, the assessee has not provided any documentary proof (i.e. invoice) in support of genuineness of such expenses incurred. It is also pertinent to mention that in absence of complete details of the third parties to whom payments were made there is loss to revenue which requires disallowance of such expenses, if claimed. In view of the above facts and findings, a notice u/s 148 of the Income-tax Act has been issued on 30/03/2021 with approval of competent authority. In response to the notice, a return of income has been filed on 11/05/2021 declaring loss of Rs. 21,87,375/- . Notice u/s 143(2) of the Act was issued on 03/06/2021 and the reason / satisfaction recorded for re-opening has been supplied to the assessee. Then, notice u/s 142(1) has been issued seeking details and explanations from the assessee. The impounded documents containing the information relating to the assessee firm along with the submissions of Shri Keyur Bhalodiya before the investigating authority have also been supplied to the assessee in view of natural justice.

10. As seen above, the impounded digital data contained specific and self-explaining details regarding payments received in cash against each flat sold by M/s Garden Enterprise. On reconciliation of all the individual sheets along with the summary sheet it is ascertained that between FY 2011-12 to FY 2018-19, the assessee-firm has received total Rs.146,65,13,765/- in cash and Rs.97,48,94,185/-





in bank on account for booking / sale of residential units of its Garden City Project. Therefore, in questionnaire issued u/s 142(1) dated 03/06/2021, the assessee has been requested to explain whether the cash receipts as appearing on the impounded incriminating document are reflected / accounted for in its regular books of account or not and if all these transactions are reflected in regular books of account then to submit necessary documentary evidences to substantiate the same.



In response to the questionnaire, the assessee has submitted part of the details on the same day but did not comment anything on the specific queries raised pertaining to the cash receipts (on-money) as revealed from the impounded digital data and its contents.

On 07/06/2021, an objection against re-opening has been received from the Authorised Representative of the assessee. The objection has been duly disposed of and conveyed to the assessee.

11. The AO has also dealt with assessee's arguments as follows:

Argument of the assessee in its reply	Remarks
<p>..it is submitted that an action u/s. 133A of the Act was carried out 24-25.04.2019 by the authorised officer in the case of M/s. Silver Infra, Ahmedabad and during the course of search various documents in the form of digital data were found and impounded. It would be pertinent to mention here that whatever documents found and seized was from the premises of M/s. Silver Infra, Ahmedabad and not from the premises of the assessee. M/s. Silver Infra, Ahmedabad is a separate entity and the assessee has no concern with M/s. Silver Infra, Ahmedabad except one of the partner of the assessee firm happens to be partner of M/s. Silver</p>	<p>In this very argument, it is mentioned that Shri Keyur Bhalodia is a common partner in M/s Silver Infra and in M/s Garden Enterprise.</p> <p>Therefore, though M/s Silver Infra is not directly associated with M/s Garden Enterprise but both the firms have one partner in common and that common partner has himself (after due application of mind) admitted the fact that M/s Garden Enterprise has accepted on-money on sale of flats.</p> <p>Further, documents pertaining assessee firm</p>



<p>Infra, Ahmedabad.</p>	<p>were also impounded during the course of survey at the premise of M/s Classic Network Pvt Ltd. on 26/09/2018 as part of Operation Star Alliance. In explanation to the said document, Shri Dilip Ladani stated that the partners of assessee firm used to share the financial position of the firm at regular intervals among the partners. Therefore, the impounding of the impugned data from Shri Keyur Bhalodia is not a mere co-incidence. The statement of Shri Dilip Ladani is as under</p> <p>Q2 I am showing you the Amcure of the details seized from the business premises of Sridhal Kanerija - from the desk top of Mr. Hreshtha, containing from the page no. 1 to 5 during the search proceedings on 26/09/2018, please explain the same page wise.</p> <p>A2 Sir, I have seen the amcure thoroughly and want to explain its pages as under :</p> <p>* Page no. 1, 2 &amp; 5 contain the details related to the firm Garden Enterprise &amp; project Garden City, along with the ledger account of Digbha(Inyell) and Kelambur. There are two groups in this project-group-A &amp; group-B. Ketarkumar Girdharbhar Shethana leads A-group having 1. Vinesh Rajal Ghodasara 2. Keyur Prabhulal Bhalodia, 3. Gunvrat Vhujal Bhadan, 4. Rameshbhai Lavjibhai Vadhvani. B- group lead by mr- Dipkhar S. Ladani having 1. Jomnadas Parshurambhar Patil, 2. Chinajal Rayybhair Rikard, 3. Srikumar Purshotambhai Kanerija, 4. Nipul Kumar Chirajal Dodhaniya, 5. Kuldip Jaysinh Rathod etc. Page no. 1, 2 &amp; 5 are related to Garden City Project managed by Garden Enterprise, which includes accounted and unaccounted transactions made in cash. The cash portion received from customers of the Garden City project which is over and above the registration value of the flat. This page no 1 clearly shows cash receipts for the booking of flats having flat no. E-701, G-101, D-702 etc. This page also includes the cash receipts and cash distribution between all the partners of A &amp; B groups. All the cash received for this project which is over and above the registered value of the documents distributed to the partners. To maintain the transparency of the cash receipt between the partners, details of cash receipt given to all partners. After collecting certain amount in cash, the amount is distributed between the partners of the firm.</p> <div style="display: flex; justify-content: space-around; align-items: center;"> <div style="text-align: center;">               Signature of the Officer with Name and Designation         </div> <div style="text-align: center;">               Signature of the Deponent         </div> </div>
<p>It is submitted that it is settled principle that additions cannot be made towards undisclosed income on account of on-money receipts only on the basis of admission of the partner, instead it should be based on the basis of corroborative documentary evidences found during the search. No any incriminating documents have been found from the premises of the assessee during the course of survey/search proceedings.</p> <p>It would be pertinent to mention here that whatever documents found and seized was from the premises of M/s. Silver Infra,</p>	<p>It is pertinent to mention that the reliance is not solely placed on the admission of the co-partner. The other corroborating details like number of flats, number of towers, name of flat holders and the receipts through banking channel from each flat holder are also exactly matching with those of the assessee firm. This cannot be a mere co-incidence. When the cheque amount mentioned in the impugned seized document tallies with that of audited books of accounts, then the cash transaction mentioned in the same document cannot be denied.</p>





<p>Ahmedabad and not from the premises of the assessee. M/s. Silver Infra, Ahmedabad is a separate entity and the assessee has no concern with M/s. Silver Infra, Ahmedabad except one of the partner of the assessee firm happens to be partner of M/s. Silver Infra, Ahmedabad. In support of the aforesaid contention there are various judicial pronouncements in favour of the assessee.</p>	<p>Thus, though the data is recovered during the survey proceeding at M/s Silver Infra, Ahmedabad, the content of the impugned data has been verified and confirmed by a partner who also holds partnership stake in the assessee firm i.e. M/s Garden Enterprise and, <b>most importantly</b>, the fact that all the details mentioned in the impugned data are also matching with those of assessee firm cannot be overlooked.</p>
<p>As submitted vide earlier submission 07.06.2021, it is easily discernible that in the case of the assessee, you have proceeded predominantly on the basis of information received and analysing impounded digital data Page No. 76 to 94. It is allegedly mentioned that the assessee received 'on money (cash)' of Rs. 1,46,65,13,765/- on sale of units as the project of 'Garden city'. The sole basis of alleged finding is digital data, in the form of excel files (Volume 1) Page No.s 76 to 86 &amp; 87 to 94) and concluded that the assessee has received on money to the tune of Rs. 8,23,75,500/- during the year under consideration.</p> <p><b>In this connection, the assessee denies to have received any 'on money' on sale of flats to the tune of Rs. 1,46,65,13,765/- allegedly mentioned in the reasons recorded/questionnaire for the year under consideration over and above the amount stated in the sale deed(s). Whatever payment received is by way of banking channel and the assessee firm has reflected cheque receipts during the year in the books of account. The contention of the assessee can be verified from the audit report filed for the year under consideration. Further, no credible evidence have been brought on record to establish that the assessee is in receipt of 'on money'. It may also be noted here that no search was conducted in the case of the assessee and that the</b></p>	<p>As narrated above, the admission of Shri Keyur Bhalodia, who is a co-partner of both the firms M/s Silver Infra &amp; M/s Garden Enterprise, is sufficient to substantiate the credibility and relevance of the impugned data.</p> <p>Apart from that, it should also be noted that premises of the partners of the assessee-firm have been covered as part of a search operation named '<b>Star Alliance</b>'. During post search inquiries, Shri Dilip Ladani (one of the partners of M/s Garden Enterprise) has also admitted in his statement before the investigating authority that the Garden City Project managed by the assessee firm has made unaccounted transactions in cash and that the cash portion has been received from the customers of the project which is over and above the registration value of the flats.</p> <p>The statement of Shri Dilip Ladani is produced below -</p>



impounded digital data was not found from the assessee. The alleged findings that the assessee firm received any 'on money' on sale of flats to the tune of Rs. 1,46,65,13,765/- are not supported by any material on record. Nothing has been brought on record i.e. cogent material/evidence against the assessee to prove that assessee received 'on money' on sale of units in the project 'Garden City' in cash over and above the consideration shown in the sale deeds.

Q2 I am showing you the Annexure of the details seized from the business premises of Sanjibhai Kanerjiya - from the desk top of Mr. Hirenkhar, containing from five page no. 1 to 5 during the search proceedings on 20.06.2021, please explain the same pagewise

A2 Sir, I have seen the annexure thoroughly and want to explain its pages as under:

\* Page no. 1, 2 & 5 contain the details related to the firm Garden Enterprise & project Garden City, along with the ledger account of (Diphalajyessal) and Kelambhar. There are two groups in this project-group-A & group B. Xatar Kumar Garcharhai Shetthana leads A-group having 1. Vinash Rabhal Ghodasara 2. Keyur Pushhalal Bhaleddy, 3. Gumanrai Yajji Bhedari, 4. Rameshbhai Laxjibhai Vachhani. B- group lead by Mr. Dipbhai S. Ladani having 1. Jannadas Purshottambhai Patel, 2. Chiranjali Rajjibhai Rokad, 3. Sridkumar Purshottambhai Kanerjiya, 4. Nipal Kumar Olicajji Dadhariya, 5. Kuldip Jayash Rathod etc. Page no. 1, 2 & 5 are related to Garden City Project managed by Garden Enterprise, which includes accounted and unaccounted transactions made in cash. The cash portion received from customers of the Garden City project which is over and above the registered value of the flat. This page no. 1 clearly shows cash receipts for the booking of flats having flat no. E-701, G-101, D-202 etc. This page also includes the cash receipts and cash distribution between all the partners of A & B groups. All the cash received for this project which is over and above the registered value of the document distributed to the partners. To maintain the transparency of the cash receipt between the partners, details of cash receipt given to the all partners. After collecting certain amount in cash, the amount is distributed between the partners of the firm

Signature of the Officer with Name and Designation

Signature of the Department

Thus, not only one but two partners of the assessee-firm, on different occasions, have admitted before the authorities that the firm has received cash (on-money) from the flat holders over and above the registered value of these flats and that the same is not accounted for in its regular books.

Hon'ble Supreme Court in the case of **CIT vs. Best & Co. (P.) Ltd. [1966] 60 ITR 11/AIR 1966 SC 1325**, observed that although the burden of proof that a receipt is income lies on the revenue, it is not always so. It was held that the doctrine of shifting onus is applicable to income-tax proceedings and when sufficient evidence, either direct or circumstantial, is disclosed by the revenue, adverse inference can be drawn against the assessee, if he has suppressed documents or evidence, for his failure to place before the department the material which is exclusively within his knowledge and keeping.

Further, Vide notice dated 12.06.2021, your honour has required to showcause as to why the cash receipts (on money) received against the sale of the flats to the tune of Rs. 8,03,74,500/- for the year under consideration should not be added

In this argument the assessee is arguing that the impugned digital data which is used for quantification of the unaccounted cash receipts is a dumb document in the form of rough noting and jottings only. This is a baseless and misleading argument.





<p>to the total returned income.</p> <p>In this context, it is humbly submitted that your honour has reconciled the digital data impounded during the survey proceedings at the premises of M/s. Silver Infra and quantified the yearwise 'on money' receipts. The crucial issue as to whether the impugned digital data / 'Excel' sheet forms a dumb document or not. The department has failed to corroborate the impugned seized documents indicating assessee's alleged on money receipt over and above the sale price itself. It is nowhere clear as to whether it is an alleged document forming part of the books of account maintained in the regular course of business by the assessee. All it contains therefore is rough notings and jottings only.</p>	<p>In the show cause notice itself it has been mentioned (beneath the table where year wise unaccounted cash receipts are quantified) that</p> <p><i>"The impounded digital data has already been provided to you in view of natural justice. To arrive at the above stated figures following documents from the impounded digital data have been referred -</i></p> <p><i>Excel sheets titled "TESTING3", "Tower A61", "Tower B60", "Tower C60", "Tower D59", "Tower E61", "Tower G61"."</i></p> <p>A glance at these sheets would reveal that these are not in the form of rough noting and jotting. Rather, the sheets are made very logically. The sheets contain very specific details in respect of all the units of the Garden City Project. The details include the carpet area, name of the owner, payment received through bank, payment received through cash of every single unit of the project, date of receipt of cash and cheque, date of booking etc. Such a well maintained and organised data cannot be termed as rough noting and jottings and certainly not a dumb document.</p> <p>Interesting thing to note is that all the details mentioned on the sheets are exactly matching with those already offered by the assessee in its books except for the cash receipts.</p>
<p>Reliance is placed on the following judicial pronouncements:</p> <p>Nishan Constructions Vs. ACIT ITA No.1502/Ahd/2015; after considering the hon'ble apex court's landmark decision in Common Cause, Vs. Union of India (2017) 77 taxmann.com 245 (SC) and CBI Vs. V. C. Shukla (1998) 3 SCC 410 (SC) holds that</p>	<p>In this part of the reply, the assessee has quoted judicial pronouncements in support of its contention that no addition can be made on the basis of deaf and dumb documents.</p> <p>However, the foregoing remarks make it very</p>



<p>such loose sheets deserves to be treated as a <b>dumb documents</b> only since not revealing full details about the dates containing lack of further particulars and therefore, ought not to be made basis of an addition.</p>	<p>clear that the data relied upon in the present case is very specific and self explanatory in nature and it contains all the relevant details that are necessary for linking it with the assessee-firm and quantification of the unaccounted on-money receipts.</p>
<p>Similar other judicial precedents ACIT Vs. Layer Exports P.Ltd., (2017) [184 TTJ 469] (Mumbai) &amp; ITO Vs. Kranti Impex Pvt. Ltd., ITA No.1229/Mum/2013, dt.28-02-2018 (<b>dealing with a seized document seized not either bearing the taxpayer's name or signature</b>).</p>	<p>In the instant case, the documents have been impounded from the premise of the partner of the assessee firm itself. Complete details maintained in a systematic manner are found noted on these documents. Moreover, the partner of the assessee firm has himself admitted it, leaving no scope for any doubt whatsoever regarding the relevance of these impounded documents to the assessee firm. Under these circumstances, the reliance placed on all the judicial pronouncements can only be treated as misplaced as the pronouncements can well be differentiated from the present case considering the peculiar facts of the case under consideration.</p>
<p>Shri Neeraj Goyal Vs. ACIT, ITA No.5951/Del/2017, dt.21-03-2018, (Del) (2012) 23 taxmann.com 269] Nagarjuna Construction Co. Ltd., Vs. DCIT, CIT Vs. S.M.Agarwal, [293 ITR 43], CIT Vs. Shri Girish Chaudhary (2008) 296 ITR 619 (Del) also echo the very principle.</p>	
<p><b>DCIT Vs. Rajendra Kumar Sancheti (ITAT Jaipur) 42 Taxworld 152 dated 27.03.2009</b> <b>ITA 1309/JP/2018 &amp; 5 Ors appeals_ Mangi Lal Kandoi Vs DCIT</b> Addition cannot be made on the basis of seized paper which is not prepared by the assessee and which appears to be a <b>deaf and dumb document</b>.</p>	
<p><b>Mahaan Foods Ltd. Vs. DCIT (ITAT Delhi) (2009) 27 DTR 185</b> In the absence of any other evidence found during the course of search or brought on record by the Assessing Officer to show that the expenditure found noted on seized documents was actually incurred by the assessee, the same cannot be added to the undisclosed income of the assessee. No inference could be drawn against the assessee much less any inference of unexplained expenses on the basis of a <b>dumb document</b> found at the residence of its director as there is no proof to show that the amount mentioned in the said document was paid by the company.</p>	
<p><b>Moolchand Kumawat &amp; Sons Vs. DCIT (Ajmer) ITAT Jaipur Bench 42 Taxworld 241</b></p>	





in M.A. No. 93/JP/2008 arising out of ITSSA No. 24/JP/2005 order dated 20.02.2009 Addition cannot be made on the basis of a **dumb document** or on the basis of entries found recorded on a paper seized during search without conducting any enquiry from the concerned party.

(iv) Assistant Commissioner of Income Tax Vs. Satya Pal Wassan (2007) 295 ITR 9 AT 352 (Jabalpur) ITA 1309/JP/2018 & 5 Ors appeals\_ Mangi Lal Kandoi Vs DCIT A documents found during the course of a search must be a speaking one and without any second interpretation, must reflect all the details about the transaction of the assessee in the relevant Assessment Year. Any gap in the various components for the charge of tax must be filled up by the Assessing Officer through investigation and correlation with the other material found either during the course of the search or on investigation. Without this no addition can be made on the basis of a loose sheet.

(v) It was held in the following cases that addition could not be made on the basis of uncorroborated noting on loose sheets and papers (1) S.P. Goyal VS. DCIT (2002) 77 TTJ 1 (Mum) (2) Chandra Mohan Mehta Vs. ACIT (1999) 65 TTJ 327 (Pune) (3) Bansal Strips Pvt. Ltd. Vs ACIT (2006) 100 TTJ 665 (Del) (4) Kishan Chand Sobhraj Mal (1991) 42 TTJ 423 (JP) (5) CIT Vs. Naresh Khattar (HUF) (2003) 261 ITR 664 (Del) (6) Lal Chand Agarwal vs ACIT 21 TW 213 (ITAT Jaipur) (7) CIT Vs. S.M. Agarwal (2007) 293 ITR 43 (Del) (8) CIT Vs. Girish Choudhary (2008) 296 ITR 619 (Del) (9) Jayanti Lal Patel Vs. ACIT (1998) 233 ITR 588 (Raj) (10) Rakesh Goyal Vs. ACIT (2004) 87 TTJ 151 (Del) (11) ITO Vs. Manna Lal Jhalani 22 TW 551 (ITAT Jaipur) ITA 1309/JP/2018 & 5 Ors appeals\_ Mangi Lal Kandoi Vs DCIT (12) Hissaria Brother Vs. ACIT 22 TW 684 (ITAT Jaipur) (13)



DCIT Vs. Countrywide Buildestate Pvt Ltd. (2012) 48 TW 50 (Jaipur ITAT) order dated 29.06.2012 ITA No. 961/JP/2011	
It is submitted that the ratio of the aforesaid cases is fully applicable to the facts of the case. In the case of the assessee additions should not be made on the basis of a mute paper without conducting any enquiry and without any corroborating material.	In the preceding remark, it is already established that none of the cases relied upon by the assessee are applicable on the facts of the present case.  Further, the impounded digital data contains very specific and self explanatory details. The corroborating details like number of flats, number of towers, name of flat holders and the receipts through banking channel from each flat holder are exactly matching with those of M/s Garden Enterprise. This cannot be a mere co-incidence and when the addition is proposed after analysing all these matching details it cannot be said that the additions are being made without any enquiry.

12. Finally, the AO has concluded as follows:

*“Therefore, there is no hesitation in believing that the firm has collected on-money of Rs. 1,46,65,13,765/- (at least) in form of cash over and above the payments received in cheque and mentioned in the respective registered sale deeds. This on-money collection is spread across FYs 2011-12 to 2018-19. The on-money receipt pertaining to the year under consideration has been derived by sorting every single cash receipt date wise. The reference is taken from the individual flat holder sheets titled as "Tower A61", "Tower B60", "Tower C60", "Tower D59", "Tower E61", "Tower G61". Further, wherever the exact date is not mentioned on the respective sheet, the date of sale of respective flat has been considered. Accordingly, the quantum of on-money receipts attributable to the year under consideration has been calculated at Rs. 8,03,74,500/-.*

*In view of the above, Rs. 8,03,74,500/- is assessed as unaccounted income from business activities for the year under consideration and the total income reported by the Assessee-firm in its return filed in response to notice u/s 148 of the Act is enhanced to that extent. Further, since the assessee-firm has concealed the particulars of its income, penalty proceedings u/s 271(1)(c) of the Act are also being initiated separately.*

13. On appeal, Ld. CIT(A) partly deleted the addition, observing as follows:

*“6.8 In view of above factual and legal matrix and looking to nature of business carried out by appellant, it is reasonable to estimate net profit on undisclosed on-money receipt rather than taxing entire on money as taxable income of appellant. It is settled law that on-money receipt as advance will be taxed in the year in which the sale consideration is recognised by the appellant in the books of account. It is also important to note that in case of unrecorded sales, the profit margin remains higher than the recorded sales. The year wise income under the head Business is arrived accordingly and detailed hereunder:-*





A.Y	On-Money	Profit as per books	Estimated Profit %	Income
2015-16	11,45,93,500	2.51%	8%	91,67,480
2016-17	83,72,16,100	10.41%	11.41%	9,55,16,611
2017-18	42,47,23,000	11.17%	12.17%	5,17,06,375
2018-19	8,97,20,815	21.14%	22.14%	1,98,68,100
<b>Total</b>	<b>1,46,62,53,415</b>			<b>17,62,58,566</b>

6.8.1 In the nutshell, the details of addition made and addition confirmed is as under:-

A.Y.	Addition made in the assessment order	Addition confirmed
2013-14	8,03,74,500	--
2014-15	39,04,61,300	--
2015-16	53,33,11,600	91,67,480
2016-17	13,06,09,450	9,55,16,611
2017-18	7,03,71,000	5,17,06,375
2018-19	2,96,78,815	1,98,68,100
2019-20	2,40,000	--

6.9 Considering above facts, the AO is directed to tax undisclosed income as per tabular chart herein above on year-to-year basis and also relief would be provided accordingly.

6.10 In view of the above discussion and legal matrix of the case, the AO is directed to delete the addition made for A.Y.2013-14. Thus, the ground of appeal no. 2 is partly allowed.”

14. Aggrieved, by the order of the learned CIT(A), the revenue as well as assessee is in appeal before us.

15. We have heard the rival contentions, perused the material on record and duly considered facts of the case in the light of the applicable legal position. Learned CIT-DR for the revenue submitted the following written submission on technical issue.

“The Id AR has taken an argument that the proceedings-initiated u/s.147 of the Act for A.Y 2013-14 to 2016-17 are bad in law. In this regard, reliance is placed on the facts of the case as discussed in the assessment order and also reasons for initiating proceedings u/s.147 of the Act as elaborated in para 14 to 17 of the assessment order wherein it is very clear that the AO has followed due procedure of law in compliance with the Supreme Court’s decision in the matter of GKN Driveshafts. The stand of the AO has been confirmed by the Id CIT(A) at para 5.1 to 5.3 of his order. The Id AR has taken another argument that the proceedings-initiated u/s.153C of the Act for A.Y.2017-18 and 2018-19 are bad in law. In this regard, reliance is placed on the facts of the case as discussed in the assessment order. The AO has initiated action u/s.153C for the reasons elaborately discussed at para 1 to para 3 of his order



*and which has been sustained by the Id. CIT(A) also. An important fact which is worth noticing for A.Y 2017-18 and 2018-19 is that the case were under scrutiny as per normal provision of Act and thereafter in consequences to search and abetment of the assessment, proceedings u/s.153C were validly initiated as per law.*

16. On the other hand, learned Counsel for the assessee submitted that reasons recorded by the assessing officer and approval and satisfaction note are defective. Therefore assessment order should be quashed.

17. We note that the AO received information from the Investigation wing, Ahmedabad regarding the outcome of Survey action u/s.133A of the Act conducted in the case of M/s. Silver Infra, Ahmedabad. During the survey, digital data in the form of 'Pen Drive' has been found and impounded from a partner of the firm M/s. Silver Infra, Shri Keyur Bhalodia and co-incidentally, Shri Keyur Bhalodia is also a partner in the appellant firm i.e. M/s. Garden Enterprise. As seen from the said impugned digital data contained specific and self-explaining details regarding payments received in cash against each flat sold by M/s. Garden Enterprise. On reconciliation of all the individual sheets along with the summary sheet, it is ascertained that the appellant firm has received total Rs.146,65,13,765/- in cash for booking/sale of residential units of its Garden City Project. The appellant's case was accordingly reopened by issue of notice u/s.148 of the Act. We find from the assessment order that the AO had reasons to escaped assessment and the reopening was done after proper application of mind. In the case of Navratna Developers and Organisers Pvt. Ltd. for A.Y.2000-01, the Hon'ble jurisdictional ITAT in its order ITA No 2143/Ahd/09 and CO No. 145/A/09 dated 27/08/2014, upheld reopening proceedings, holding that it is settled law that at the stage of issue of notice u/s. 148, the only question is whether there was relevant material on the basis of which a reasonable person could have formed the requisite belief. Whether that material would conclusively prove escapement of income is not the concern at that stage. It is a settled law that at the time of issuing notice u/s 148 of the Act, the AO simply has to be satisfied





and should have "reasons to believe" that income has escaped assessment. The investigation of whether it has actually escaped assessment or not can only be done once the assessment proceedings are reopened. Further, we have also gone through the record and find that the AO has followed due procedure while reopening the assessment proceedings. It is further observed that after filing of return of income in response to notice u/s.148 of the Act by the appellant, the AO had provided the copy of reason of reopening to the appellant. Further, after receiving objection against reopening from the appellant, the AO had duly disposed of and conveyed to the appellant. The AO had also offered opportunities of being heard to the appellant by issuing various statutory notices including show cause notice, as is narrated in the re-assessment order. Therefore, approval and satisfaction note are in accordance with law, hence we dismiss the technical grounds raised by the assessee in these appeals.

18. Now coming on the merits of the case, learned CIT-DR for the revenue invited our attention towards the findings of the learned CIT(A), which is reproduced below, for ready reference.

*“6.8.1 In the nutshell, the details of addition made and addition confirmed is as under:-*

A.Y.	Addition made in the assessment order	Addition confirmed
2013-14	8,03,74,500	--
2014-15	39,04,61,300	--
2015-16	53,33,11,600	91,67,480
2016-17	13,06,09,450	9,55,16,611
2017-18	7,03,71,000	5,17,06,375
2018-19	2,96,78,815	1,98,68,100
2019-20	2,40,000	--

*6.9 Considering above facts, the AO is directed to tax undisclosed income as per tabular chart herein above on year-to-year basis and also relief would be provided accordingly.*

*6.10 In view of the above discussion and legal matrix of the case, the AO is directed to delete the addition made for A.Y.2013-14. Thus, the ground of appeal no. 2 is partly allowed.”*



Learned DR for the revenue pointed out that during the appellate proceedings, the learned CIT(A) has just received the above profit chart from the assessee and confirmed the estimated addition in the hands of the assessee. The learned CIT(A) did not rebut and reject the various findings of the assessing officer given in the assessment order. The assessing officer arrived at the findings with corroborative evidences, therefore, ld.CIT(A) did not discuss, the findings of the assessing officer that why the findings of the assessing officer are not correct. Therefore, the matter may be remitted back to the file of the learned CIT(A) with the direction to deal with the findings of the assessing officer, which is based on corroborative evidences.

19. On the other hand, learned Counsel for the assessee relied on the findings of the learned CIT(A), and argued that only profit element is to be taxed in the hands of the assessee, and even the profit element taxed by the learned CIT(A) is on higher side, which should be reduced further, and for that learned Counsel relied on the various case law, as mentioned in the legal compilation.

20. On merit, we considered submission of both the parties. We find that assessing officer, vide his assessment order para No.6 to para No. 29, ( page No. 16 to 42), has analysed the seized material with corroborative evidences by making the various diagrams. The assessing officer also pasted the seized material in the assessment order itself. The assessing officer discussed the entire seized material with help of corroborative evidences and statements which have not been dealt with by the learned CIT(A). The assessee has also not submitted a chart showing reconciliation of on money received prior to commencement of the project from the partners, on money received from customers prior to commencement of the project and on money received after commencement of the project. The learned CIT(A) just took the submission from the assessee and case law, and sustain the estimated addition, which is not acceptable, as the assessing officer made a detailed finding, showing corroborative evidences, along with





statements, which have not been rebutted or rejected by the learned CIT(A). Therefore, order passed by the learned CIT (A) is not in accordance with the mandatory provisions of section 250(6) of the Act, hence, such order is liable to be rejected. The overwhelming number of documentary evidences found by search team, which was corroborated by the assessing officer. The Id CIT(A) has not discussed any of these documents mentioned in the assessment order. The Id CIT(A) has not made any adverse finding in any of these documents mentioned in the assessment order by the assessing officer. The Ld.CIT(A) ought to have examined all these details and documents and refuted / rejected them, with a cogent adverse findings and discernable line of reasoning, in order to arrive at his own conclusion, which the learned CIT(A) failed to do so. Therefore, these all appeals of the assessee, as well as revenue needs to be restored back to the file of the Id.CIT(A) with the direction of the learned CIT(A) to deal with the findings of the assessing officer after taking appropriate remand report from the assessing officer, if any, and to examine the reconciliation of on money from partners and customers and then adjudicate the issue in accordance with law.

21. In the result, all appeals of assessee and revenue are allowed for statistical purposes, in above terms.

**Order is pronounced in the open court on 22/12/2025**

**Sd/-**  
**(Dr. Arjun Lal Saini)**  
**Accountant Member**

Rajkot

Date: 22/12/2025

**Copy of the Order forwarded to**

1. The Assessee
2. The Respondent
3. The CIT(A)
4. Pr. CIT
5. DR/AR, ITAT, Rajkot
6. Guard File

// True Copy //

**Sd/-**  
**(Dinesh Mohan Sinha)**  
**Judicial Member**

By order

Assistant Registrar/Sr. PS/PS  
ITAT, Rajkot