

आयकर अपीलीय अधिकरण, विशाखापटणम पीठ, विशाखापटणम

**IN THE INCOME TAX APPELLATE TRIBUNAL
VISA KHAPATNAM "DIVISION" BENCH, VISA KHAPATNAM
(HYBRID HEARING)**

**श्री रवीश सूद ,न्यायिक सदस्य एवं श्री एस बालाकृष्णन,लेखा सदस्य के समक्ष
BEFORE SHRI RAVISH SOOD, HON'BLE JUDICIAL MEMBER**

&

SHRI S BALAKRISHNAN, HON'BLE ACCOUNTANT MEMBER

**आयकर अपीलसं./I.T.A.No.408/VIZ/2025
(निर्धारणवर्ष/ Assessment Year:2015-16)**

DonakalaChenchu Narasimha Rao D.No. 25-11-1688, Ummareddy Gunta Kondagapalem Gate A.K. Nagar Post, Nellore – 524004 Andhra Pradesh [PAN: AHFPD7604K]	Vs.	DCIT – Central Circle – 1 Income Tax Office Lakshmpuram Main Road Guntur – 522006 Andhra Pradesh
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**आयकर अपील सं./I.T.A.No.460/VIZ/2025
(निर्धारण वर्ष/ Assessment Year:2019-20)**

ACIT 1 st Floor, C.R. Buildings Kannavarithota Guntur-522002 Andhra Pradesh	Vs.	Donakala Chenchu Narasimha Rao D.No. 25-11-1688, Ummareddy Gunta Kondagapalem Gate A.K. Nagar Post, Nellore – 524004 Andhra Pradesh [PAN: AHFPD7604K]
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करदाता का प्रतिनिधित्व/ Assessee Represented by	:	Shri M.V. Prasad, CA
राजस्व का प्रतिनिधित्व/ Department Represented by	:	Dr. Aparna Villuri, Sr.AR
सुनवाई समाप्त होने की तिथि/ Date of Conclusion of Hearing	:	27.11.2025
घोषणा की तारीख/Date of Pronouncement	:	05.12.2025

आदेश / O R D E R

PER SHRI S. BALAKRISHNAN, ACCOUNTANT MEMBER:

1. These appeals are filed by the assessee and revenue against different orders of the Learned Commissioner of Income Tax (Appeals), Visakhapatnam-3 [hereinafter in short "Ld.CIT(A)"] vide respective DIN & Order No. as stated below: -

ITA No. (A.Y.)	DIN & Order No.	Dated
ITA No. 408/VIZ/2025 (A.Y. 2015-16)	ITBA/APL/S/250/2025-26/1076298886(1)	19.05.2025
ITA No. 460/VIZ/2025 (A.Y. 2019-20)	ITBA/APL/S/250/2025-26/1076572688(1)	30.05.2025

Since the appeals are belonging to same assessee, therefore, both these appeals are clubbed and heard together and a consolidated order being passed. Firstly, we take up the appeal of the assessee in ITA No. 408/VIZ/2025 for the A.Y. 2015-16 and the facts are culled out therefrom.

ITA No. 408/VIZ/2025 (A.Y. 2015-16)

2. Brief facts of the case are that, assessee filed the return of income for the A.Y. 2015-16 on 20.01.2016 admitting a total income of Rs.31,85,390/-. The assessee is also a Managing Partner in M/s. Sri Lakshmi Constructions. A survey operation under section 133A of the Act was conducted in the business premises of the partnership firm M/s. Sri Lakshmi Constructions on 19.02.2020 and incriminating material in the form of personal diaries, daily cash

payment vouchers, promissory notes and loose sheets and pendrive was found and impounded. Based on the TTD diary contained in Impounded Material, it was noticed that the assessee has paid certain amount of cash on 22.01.2015 for purchasing immovable property. Thereafter, notice under section 148 of the Act was issued on 30.03.2021 and in response assessee filed return of income on 20.04.2021 admitting the income declared in the original return of income. Thereafter, the Ld. AO perusing the information furnished by the assessee, rejected the contentions of the assessee and made an addition of Rs.1,06,48,000/- considering it as on-money payment, as unexplained investment under section 69 of the Act.

3. On being aggrieved by the order of the Ld. AO, assessee carried the matter in appeal before the Ld. CIT(A). The assessee reiterated the similar submissions before the Ld. CIT(A). Ld. CIT(A) considered the addition as substantive and partly allowed the appeal of the assessee.

4. On being aggrieved by the order of the Ld. CIT(A), assessee is in appeal before us by raising the following grounds of appeal: -

“1. The learned CIT (Appeals) has erred in facts and law while passing the order.

2. On the facts and circumstance of the case, the Learned CIT(A) is not justified in sustaining the addition made of Rs.1,06,48,000/- as unexplained investment u/s.69 of the Act under substantive basis.

3. On the facts and circumstances of the case, the Learned CIT(A) erred confirming the addition made even though no relevant material or

any corroborative evidence found during the course of survey proceedings which indicates that the assessee has paid on money over and above the purchase consideration.

4. *On the facts and circumstances of the case, the Learned CIT(A) erred in confirming the addition made by the Assessing Officer is unsustainable since it was made without proving that the Assessee has paid the consideration over and above the document value and would have deleted the addition.*

5. *On the facts and circumstances of the case, the Learned Commissioner of Income Tax (Appeals) is not justified in not appreciating that the reopening the assessment u/s.147 of the I.T.Act without proving that the income assessable to tax has escaped assessment and issue of notice U/s 148 is bad in law.*

6. *On the facts and circumstances of the case, the Learned CIT(A) is not justified in holding that the case laws relied upon by the appellant are not applicable without considering the facts that the facts of the appellant case are similar to that of the facts of cases which were referred to in those relevant cases.*

7. *The appellant may add, alter, modify or substitute any other points to the grounds of appeal at any time before or at the time of hearing of the appeal.”*

5. The only issue emanating from the above grounds is with respect to the sustaining of the addition of Rs.1,06,48,000/- as unexplained investment under section 69 of the Act.

6. Ld. Authorised Representative [hereinafter “Ld.AR”] submitted that the incriminating material based on which the addition is made does not indicate to whom the payment has been made. Further, he also submitted that the cheque portion as mentioned in the incriminating material was made towards purchase of land as the cash portion was made for business purposes and not for the

payment of on-money for the purchase of land. He therefore pleaded that addition made by the Revenue Authorities be deleted.

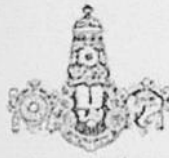
7. On the other hand, Ld. Departmental Representative [hereinafter in short "Ld. DR"] submitted that the cash portion as per the incriminating material is added up with the cheque payments made towards the purchase of the property. Further, the cheque payments made by the assessee for the purchase of property as per the sale deed matches with the details of cheque payment as entered in the TTD diary on 22.01.2015 amounting to Rs.1,27,96,000/-. The contention of the assessee could not be accepted as the amount of Rs.1,22,04,000/- is being added to the amount paid cheque amount to Rs.12,79,6000/-. He therefore pleaded that it is nothing but on-money payment for the purchase of the land and the Ld. AO has rightly added the same while framing the assessment. He pleaded that the order of the Revenue Authorities be upheld.

8. We have heard both the sides and perused the material available on record. It is an admitted fact that the assessee has made investment in land by making payment of Rs.1,27,96,000 by way of cheques, the details of which are available in the sale deed. However, the impounded Material which is extracted below shows the details of cash payment of Rs.1,22,04,0000/- which is added to the details of cheque payments made towards the purchase of land.

January

2015

శ్రీజయనామ సంహిత, ఉత్తరాయణం
శనివారము, మాఘమాసము
గురువారము/THURSDAY



Om Namo Venkatesaya

పం.ప.సం.3-32

సం.సం.11-44

తే.సం.6-24 ల.

22

Sunrise 6-45 a.m.

Sunset 6-05 p.m.

వారాంత గాఢీ చెబునా మరలం దొడ్డివేసలు
మొదల - 11,40,000-00
Bank దొడ్డి - 11,20,000-00 మొదల.

K. Pradeep - 1 Lk cash మొదల

12796000. చెబు-6 Lk మొదల
12204000 cash మొదల
25000000-00

}	D.C.N.R	7000000-	6000000-00
	D.C.N.R	1500000	1900000-00
	D.C.N.R	576000 ✓	1330000
	D.C.N.R	3720000-	8230000
		<u>12796000-</u>	<u>7920397</u>
		<u>3720000-00</u>	

D. Chenchu Narasimha Rao - 9000 Lk దొడ్డి వేసలు -
Astute - S.S - 2000-00-

February 2015

S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28

19. mahAbuddhir mahAvIryo mahAshuktir mahAdhyuthiH |
anirdeshyavapuh shirImAn amey AtuA mahAdbri dhRk |

9. The contention of the Ld.AR is that these cash payments was made for the purpose of business and not for payment of on-money for the investment in land. However, the contention of the Ld.AR could not be accepted due to the fact that the details of the cheque payments has also been entered in the impounded material being the TTD diary on 22.01.2015 below the total payment of Rs.2,50,00,000/-. It cannot be accepted that the payment of cash is for the purpose of business and the payment in cheques is for the purpose of investment in land, without any corroborating evidences. The onus is on the assessee to prove the cash payments has been made for the purposes of business and not for the purposes of investment in land. The assessee has failed to prove that the payments by way of cash are made for the purposes of business and hence the Ld.AO has rightly made an addition of the on-money payment made by the assessee towards purchase of land. The Ld. CIT(A) in Para No. 7.5 has held as follows: -

“7.5. AO in the assessment order made the addition on protective basis in the hands of the appellant, Since in the case of the partnership firm M/s Sri Lakshmi Constructions (of which the appellant is managing partner) addition of Rs. 1,07,50,000/- is made on account of unexplained cash credits and Rs.89,62,515/- was estimated as profit on the turnover. During the appellate proceedings, it was submitted that the additions made by the AO in the hands of the firm M/s Sri Lakshmi Constructions were deleted by the Ld. CIT(A) (Addition of Rs. 1,07,50,000/-) and by Hon'ble ITAT (Addition of Rs. 89,62,515/-). Further appellant submitted AO cannot resort to methodology of telescoping of such amounts in the hands of the appellant against the on money payment for purchase of property. The notion of the AO that the theory of telescoping can be applied in the appellant's case is defective. Further, in view of the facts of the case and the status of the additions made in M/s Sri Lakshmi Constructions, the addition of Rs. 1,06,48,000/- in the appellant's case is decided as

substantive addition. In view of the above discussion, ground of appeal No.2 is partly allowed.”

10. In our view, the Ld. CIT(A) has rightly adjudicated the issue and we find that no interference is required on the decision of the Ld. CIT(A). We therefore dismiss the ground raised by the assessee.

11. In the result, appeal of the assessee is dismissed.

ITA No. 460/VIZ/2025 (A.Y. 2019-20)

12. With respect to the revenue appeal, the facts of the case are, the assessee filed his return of income on 22.03.2020 admitting a total income of Rs.56,27,240/- for the A.Y. 2019-20. A survey operation under section 133A of the Act was conducted in the case of M/s. Sri Lakshmi Constructions on 19.02.2020 and certain incriminating material in the form of personal diaries are impounded. It was observed from the impounded material that the assessee has availed cash loans of Rs.88,87,000/- and introduced the same in the cash book of the partnership firm M/s. Sri Lakshmi Constructions through the ledger account “D.C.Narasimha Rao Current Account”. In the sworn statement deposition under section 131(1) of the Act on 02.03.2020 assessee stated that the assessee has taken unsecured loans from various parties, however, he could not furnish the details of the loan creditors. During the course of assessment proceedings, assessee stated that the investments made in M/s. Sri Lakshmi

Constructions recorded in the books of accounts of the assessee as well as in the firm. The Ld. AO did not believe the version of the assessee and held that the amount of Rs.88,87,000/- as unexplained cash credits under section 68 r.w.s. 115BBE of the Act.

13. On being aggrieved by the order of the Ld. AO, assessee preferred an appeal before the Ld. CIT(A). Ld. CIT(A) on verification of the submissions made by the assessee deleted the addition made by the Ld. AO by allowing the appeal of the assessee.

14. On being aggrieved by the order of the Ld. CIT(A), revenue is in appeal before us by raising following grounds of appeal: -

- “1. The order of the Ld.CIT(A) is erroneous both on the facts and in law.*
- 2. The Ld.CIT(A) erred in deleting the addition of Rs.88,87,000/- made u/s.68 of the I.T.Act. 1961.*
- 3. The Ld.CIT(A) failed to appreciate that mere reflection of an amount as capital investment in a firm does not absolve the assessee from the burden of proving the sources of funds as mandated u/s.68 of the I.T.Act, 1961.*
- 4. The Ld.CIT(A) erred in relying only on the form of capital entry and ignoring the substance that the sources of money left undisclosed.*
- 5. The Ld.CIT(A) erred in allowing relief to the assessee by ignoring the fact that the impounded pen drive was an independent primary source and when the extracts of the said pen drive, the assessee categorically admitted and he never raised an objection with regard to the contents of the said seized pen drive.*

6. *The Ld.CIT(A) erred in allowing relief to the assessee that it had never questioned the validity of the impounded material during the course of scrutiny proceedings, before Assessing Officer and it is only an afterthought.*

7. *Reliance is placed on the judgment of Hon'ble Supreme Court in the case of Pr.CIT Vs NRA Iron & Steel Pvt.Ltd (SC,2019) 412 ITR 161/262 wherein it was held that the AO is entitled to look beyond the form and assess the substance of a transaction.Further, the AO was justified in not confining to mere form of 'capital', but rather scrutinizing the unexplained sources of Rs.88,87,000/-.*

8. *The Ld.CIT(A) erred in not considering the fact that the addition of Rs.88,87,000/- was made on the basis of information was found and seized material marked as Sandisk pen-drive (64GB) vide in Annexure SLC/A/20, were the amount availed in the cash book of the partnership firm M/s.Sri Lakshmi Constructions under the description 'DCNarasimha Rao Current A/c.*

9. *The Ld.CIT(A) erred in not considering the fact that the assessee Sri D.C.Narasimha Rao advance cash amounts to the firm for the purpose of business and same is being debited in the current account of the assessee in individual status.*

10. *The Ld.CIT(A) erred in not considering the fact that the assessee agreed for the addition of Rs.88,87,000/-, the assessee has stated that the cash loans were availed from different persons for business adjustments and that he is not in a position to furnish further details of the lenders.*

Hence, the assessee not in a position to furnish the details of the loan creditors.

11. *The Ld.CIT(A) erred in deleting the addition made u/s.68 by holding that the addition u/s.68 is possible only if the sources for such expenses is not established by the assessee and in the present case, the assessee had established the sources of cash is from the business purpose and also sufficient opening balance was available for the relevant daysof transaction.*

12. *Reliance is further placed on the judgment of Hon'ble Supreme Court in the case ofCIT Vs. P.Mohanakala (2007) 291 ITR 278 (SC) wherein it was held that "even if amounts are routed through banking channels, the assessee must prove identity, genuineness and creditworthiness".*

13. *The CIT(A) has erred in not considering the information contained in the electronic record reproduces or is derived from such information fed into the computer in the ordinary course of the said activities in this case, the mobile. Reference is invited to the decision of Hon'ble Supreme Court in the case of Ambalal Sarabhai Enterprise Ltd Vs. KS Infra space LLP Limited and Another in Civil Appeal No(s).9346 of 2019 dated 6th January, 2020, wherein pertaining to whatsapp evidence, the Hon'ble Supreme Court observed that "The WhatsApp messages, which are virtual verbal communications, are matters of evidence with regard to their meaning and its contents to be proved during trial by evidence_ in _chief and cross-examination. The e-mails and WhatsApp messages will have to be read and understood cumulatively to decipher whether there was a concluded contract or not". In this case, there is a virtual verbal communication and the same is matter of evidence, as in case of evidence derived from mobile and by completion of transaction, a concluded contract and electronic evidences derived from laptop subsumes the same with conviction.*

14. *The Ld.CIT(A) is not justified in allowing relief without applying the decision of Chuharmalv.CIT [1988] 38 Taxman 190/172 ITR 250 (SC), the apex court upheld the finding of J.S.Parkerv.V.B.Palekar [1974] 94 ITR 616 (Bom.) it was held that though the income tax authorities are not strictly bound by the rigors of technical rules of evidence, they are not precluded from invoking the principles contained in the Evidence Act whenever the occasion demands. Although the decision was rendered in the context of Section 110 of the Evidence Act.*

15. *The Ld.CIT(A) erred by not considering the fact that the Indian Evidence Act of 1872 defines "evidence" as: "all statements which the court permits or requires to be made before it by witnesses, in relation to matters of fact under inquiry; these are termed oral evidence and all documents, including electronic records, produced for the court's inspection."*

16. *Any other ground that may be urged at the time of hearing."*

15. The only issue emanating from the above grounds is with respect to the deletion of the addition of Rs.88,87,000/- by the Ld. CIT(A). On this issue, Ld.Departmental Representative [hereinafter in short "Ld. DR"] submitted that

Ld. CIT(A) erred in deleting the addition made under section 68 of the Act amounting to Rs.88,87,000/- stating that the amounts have been recorded in the books of accounts of the assessee as well as in the firm M/s. Sri Lakshmi Constructions. He further submitted that the Ld. CIT(A) has also wrongly observed that there were no unsecured loans recorded in the books of accounts. He therefore pleaded that the order of the Ld. AO be restored.

16. Per contra, Ld. Authorised Representative [hereinafter “Ld.AR”] submitted that the Ld. CIT(A) has verified the firm’s books of accounts along with the personal cash book and the assessee’s current account in the firm’s books and has concluded that on comparison of the records the entries in the assessee’s books match precisely with those of the firm’s books both in amount and date. He therefore pleaded that since the amounts has been entered into books of accounts, addition cannot be made under section 68 of the Act and therefore the Ld. CIT(A) has rightly deleted the addition. He fully supported the order of the Ld. CIT(A).

17. We have heard both the sides and perused the material available on record. The only issue in the instant case is with respect to the entries in the D.C.Narasimha Rao Current Account on different dates accumulating to Rs.88,87,000/- were availed by the assessee as unsecured loans from third parties. Ld. CIT(A) has verified each of the transactions found in the

impounded material and compared it with the books of accounts maintained by the assessee on individual basis as well as in the hands of the partnership firm.

The Ld. CIT(A) has thus concluded in Para No. 7.4.7 and 7.4.8 as below: -

“7.4.7. Revisiting the material submitted by the appellant, the entries found in the impounded material are recorded in the personal cash book of the appellant and the sources for debits in cash book were attributable to the withdrawals majorly from the firm's current account and certain minor cash withdrawals from the bank account of the appellant. The matching entries in the books of M/s. SLC strengthens the appellant's contentions that the cash funds have been moved to and fro between him and the firm. The entries in the impounded material duly find place in the books of account of the appellant and also find corresponding matching entries in the books of M/s. SLC. From the perusal of the Balance sheet of the appellant, it is noticed that there were no unsecured loans of Rs.88,87,000/- recorded therein. However, AO held the said amount as unexplained cash credits assessable u/s. 68 of the Act in the hands of the appellant. This stand taken by the AO is not in accordance with the provisions of Section 68 of the Act.

7.4.8. In view of the above discussion, it is concluded that the cash entries found in the impounded document are duly accounted by the appellant in his books as well as in the books of the partnership firm M/s. SLC. As the transactions were properly recorded, sources thereon were explained, impugned entries in impounded material in no manner can be considered as unsecured loans from third parties. Accordingly, the addition of Rs.88,87,000/- made as unexplained cash credits u/s. 68 of the Act is not sustainable and is hereby deleted. Accordingly, grounds of appeal no. 3, 4, 5, 6 and 7 are allowed.”

18. We notice that the Ld. CIT(A) has in detail analysed the cash deposits as entered into the firms account and the amount recorded in the personal cash book of the assessee and has concluded that there were no unsecured loans of Rs.88,87,000/-. We concur with the findings of the Ld. CIT(A) and therefore

find no infirmity in his order, thereby dismissing the grounds raised by the revenue.

19. In the result, appeal of the revenue is dismissed.

20. To sum-up, appeal of the assessee as well as the appeal of the revenue are dismissed.

Order pronounced in the open court on 05th December, 2025.

Sd/-
(रवीश सूद)

(RAVISH SOOD)

न्यायिक सदस्य/JUDICIAL MEMBER

Dated: 05.12.2025
Giridhar, Sr.PS

Sd/-

(एस बालाकृष्णन)

(S. BALAKRISHNAN)

लेखा सदस्य/ACCOUNTANT MEMBER

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

1. निर्धारिती/ The Assessee : **Donakala Chenchu Narasimha Rao**
D.No. 25-11-1688, Ummareddy Gunta
Kondayapalem Gate, A.K. Nagar Post, Nellore – 524004
Andhra Pradesh
2. राजस्व/ The Revenue : **(i) DCIT – Central Circle – 1**
Income Tax Office, Lakshmipuram Main Road
Guntur – 522006, Andhra Pradesh
(ii) ACIT
1st Floor, C.R. Buildings
Kannavarithota, Guntur-522002, Andhra Pradesh
3. The Principal Commissioner of Income Tax
4. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, विशाखापटणम /DR,ITAT, Visakhapatnam
5. The Commissioner of Income Tax
6. गार्डफ़ाईल / Guard file

आदेशानुसार / BY ORDER

Sr. Private Secretary
ITAT, Visakhapatnam