

आयकर अपीलीय अधिकरण, राँची न्यायपीठ, राँची

**IN THE INCOME TAX APPELLATE TRIBUNAL RANCHI BENCH, RANCHI
BEFORE SHRI GEORGE MATHAN, JM & SHRI RATNESH NANDAN SAHAY, AM**

आयकर अपील सं./ITA Nos.291,293,294/RAN/2017

(A.Y :2009-10, 2011-12 & 2012-13)

M/s Bharat Coking Coal Ltd, Finance Directorate, Koyla Bhawan, Koyla Nagar, P.O.BCCL, Township, Dhanbad-826005	Vs.	ACIT, Circle-1, Dhanbad
स्थायी लेखा सं./PAN No. : AAACB 7934 M		

AND

आयकर अपील सं./ITA Nos.300 & 302/RAN/2017

(A.Y :2009-10 & 2011-12)

ACIT, Circle-1, Dhanbad	Vs.	M/s Bharat Coking Coal Ltd, Finance Directorate, Koyla Bhawan, Koyla Nagar, P.O.BCCL, Township, Dhanbad-826005
स्थायी लेखा सं./PAN No. : ACB 7934 M		

AND

Cross Objection Nos.09 & 11/RAN/2018

(Arising out of ITA Nos.300&302/Ran/2017)

(A.Y :2009-10 & 2011-12)

M/s Bharat Coking Coal Ltd, Finance Directorate, Koyla Bhawan, Koyla Nagar, P.O.BCCL, Township, Dhanbad-826005	Vs.	ACIT, Circle-1, Dhanbad
स्थायी लेखा सं./PAN No. : ACB 7934 M		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

निर्धारिती की ओर से /Assessee by	:	Shri M.K.Chowdhary & Shri Devesh Poddar, Advocates
राजस्व की ओर से /Revenue by	:	Shri Rajib Jain, CIT-DR
सुनवाई की तारीख / Date of Hearing	:	06/01/2026
घोषणा की तारीख/Date of Pronouncement	:	06/01/2026

आदेश / O R D E R

Per Bench :

These are the cross appeals filed by the assessee and revenue against the separate orders passed by the Id.CIT(A), Ranchi/NFAC, Delhi, dated 20.09.2017 & 19.09.2017 for the assessment years 2009-10, 2011-

12 & 2012-13, respectively. The assessee has also filed cross objections arising out of appeals of revenue for A.Y.2009-2010 & 2011-2012.

2. First, we shall take up the appeals of the revenue filed for A.Y.2009-2010 and 2011-2012. Ld. AR, at the outset, filed a chart specifying the issues involved in the appeals of the revenue, which reads as follows :-

Bharat Coking Coal Limited, Dhanbad

PAN: AAACB7934M

Additions disputed in appeal before Hon'ble ITAT - by IT Department

Sl no.	ITA No. Of Departmental Appeal	300/R/17	302/R/17
	Assesemnt year	AY 09-10	AY 11-12
	Under Section	263/143(3)	147/143(3)
1	Unabsorbed depreciation - covered by ITAT order Dt. 31.03.2023 of AY 2008-09 u/s 143(3)		2,30,09,91,962
3	Contractual Expenses unpaid liability disallowed	29,00,32,000	
5	Expense relating to exempt income -disallowance u/s14A - - covered by ITAT order Dt. 18.08.2023 of AY 2013-14 u/s 143(3)		1,32,63,326
	Total Rs.	29,00,32,000	2,31,42,55,288

3. The first issue is with regard to disallowance of unabsorbed depreciation. It was fairly agreed by both the sides that the issue is squarely covered by the coordinate bench of the Tribunal in assessee's own case for the assessment year 2008-2009 in ITA No.298/Ran/2017, order dated 31.03.2023, wherein in para 7, the coordinate bench has held as follows :-

7. Now for the sake of convenience, we first take up the appeal of ITA No. 298/Ran/2017 filed by the revenue. At the time of hearing before this Tribunal, Id. DR submitted that unabsorbed depreciation is allowed to be carried forward for a period of 8 years as per 1996 amendment regarding the provisions of section 32(2) of the Act. Therefore, the Id. CIT(A), Dhanbad erred in allowing the prior period depreciation to the assessee and order passed by the Id. AO needed to be restored. On the other hand, Id. AR submitted that unabsorbed depreciation could be allowed to the assessee to be carried forward

and set off even after 8 years without any limit in accordance with section 32(2) as amended by Finance Act, 2001. The Id. AR in order to support his arguments relied on the decision of the Gujarat High Court in the case of General Motors India Pvt. Ltd. vs DCIT (Guj) (2013) 354 ITR 244 (Guj) wherein, the Hon'ble Gujarat High Court has held that unabsorbed depreciation from AY 1997-98 up to 2001-02 got carried forward to AY 2002-03 and became part of it came to be governed by the provisions of section 32(2) as amended by the Finance Act, 2001 and were available for carry forward and set off against income of subsequent years without any limit. The relevant observations of the Hon'ble Court was as under:

"We are of the considered opinion that any unabsorbed depreciation available to an assessee on 1st day of April 2002 (A.Y. 2002-03) will be dealt with in accordance with the provisions of section 32(2) as amended by Finance Act, 2001. And once the Circular No. 1004 of 2001 clarified that the restriction of 8 years for carry forward and set off of unabsorbed depreciation had been dispensed with, the unabsorbed depreciation from A.Y. 1997-98 upto the A.Y. 2001-02 got carried forward to the assessment year 2002-03 and became part thereof, it came to be governed by the provisions of section 32(2) as amended by Finance Act, 2001 and were available for carry forward and set off against the profits and gains of subsequent years without any limit whatsoever."

8. In the light of the judicial precedents on the issue especially that of the Hon'ble Gujarat High court in the case of General Motors India Pvt. Ltd. (supra), we find that the issue is covered in favour of the assessee, therefore, the ground taken by the revenue is rejected and the order passed by the Id. CIT(A) in respect of instant issue is sustained.

4. We have considered the submissions of the both the sides. As it is noticed that the issue of unabsorbed depreciation has already been adjudicated in the assessee's own case by the coordinate bench of the Tribunal, respectfully following the observations of the coordinate bench of the Tribunal and for the identical reasons, the order of the Id. CIT(A) stands upheld and the issue is held in favour of the assessee and against the revenue.

5. Next issue is with regard to contractual expenses unpaid liability disallowance. It was submitted by the Id. AR that the these were amount in

respect of which the bills had been received but the amount could not be paid during the impugned assessment year and it has been paid in the subsequent year. It was submission that as the bills had been received the assessee had made the provision, the AO disallowed the said provision on the ground that these were only provisions. It was submission that the Ld.CIT(A) has considered these facts and had recognised that the assessee had got the contract work executed and had received the bills and consequently had relied upon the decision of the Hon'ble Supreme Court in the case Bharat Earth Movers reported in 245 ITR 428 (SC) and as the liability had definitely risen the amount had been allowed as expenditure.

6. In reply, the Ld.CIT DR has vehemently opposed the above submissions of the Id. AR. It was submissions the assessee is a company and the assessee is following mercantile system of accounting and, therefore, if at all the assessee could be given the benefit of the expenses in the year of payment. It was submission that this is only a provision and provision cannot be allowed.

7. We have considered the rival submissions. A perusal of the order of the Ld.CIT(A) placed at page 39 of its paper book in para 8.2 and 8.3.3 shows that the Ld.CIT(A) has considered the fact that the bills had been raised and the expenses actually related to the impugned assessment year. The assessee having had the contract executed the liability has been incurred insofar as the bills have been raised on the assessee and as it is noticed that the Ld.CIT(A) has followed the principle laid down by the

Hon'ble Supreme Court of in the case of Bharat Earth Movers, referred to supra, we find no error in order of the Ld.CIT(A) which calls for any interference on this issue. Consequently, the findings of the Ld.CIT(A) on this issue stands confirmed and this ground of revenue stands dismissed.

8. The next issue is in regard to the expenses relating to exempt income disallowed u/s.14A of the Act. It was fairly agreed by the both the sides that the issue was fairly covered by the decision of the coordinate bench of this Tribunal in the assessee's own case for the assessment years 2013-14, 2014-15 in ITA No.303 & 304/Ran/2017, dated 18/08/2023, wherein in para 7 to 9 the coordinate bench of this tribunal has held as follows:-

7. Brief facts are that the assessee has received interest and dividend income from Govt. Securities of Rs. 4,41,67,000/- and claimed the same as exempt u/s 10(34) of the Act. Ld. AO on perusal of the profit and loss accounts and books of accounts came to the conclusion that provisions of Section 14A of the Act r.w. Rule 8D of the Rules were applicable on the assessee and after giving a show cause computed the disallowance at Rs. 27,19,753/- comprising of Rs. 9,11,753/- under Rule 8D(2)(ii) and Rs. 17,32,000/- under Rule 8D(2)(iii) of the Rules.

8. Ld. CIT(A) in the appellate proceedings recorded the finding that assessee's own interest free funds were sufficient to cover investment made in the securities. Ld. CIT(A) noted that the equity fund of the assessee was Rs. 4,657 Cr whereas average investments were only Rs. 34.64 Cr and, therefore, presumption has to be drawn that sufficient fund was available with the assessee and thus, no disallowance is called for under Rule 8D(2) of the Rules. Ld. CIT(A) relied on various decisions to reach the said conclusion namely, in the cases of CIT Vs. HDFC Bank Ltd. reported in [2014] 366 ITR 505 (Bombay), CIT Vs. Hero Cycles Ltd. reported in [2010] 323 ITR 518 (Punjab & Haryana), CIT Vs. Walfort Share & Stock Brokers (P.) Ltd. reported in [2010] 326 ITR 1 (SC) and CIT Vs. Reliance Utilities & Power Ltd. reported in [2009] 313 ITR 340 (Bombay). Considering these facts and the ratio laid down in the various decisions, we are inclined to uphold the order of Ld. CIT(A) wherein it has held that no disallowance is required under rule 8D(2)(ii) by dismissing the ground no. 2 raised by the Revenue.

9. We considered the rival submissions. As it is noticed that the issues was fairly covered by the decision of the coordinate bench of this tribunal in the assessee's own case and as there is no change in the facts, respectfully following the decision of the coordinate bench of this tribunal in the assessee's own case for the assessment years 2013-14 and 2014-15 referred to supra, the findings of the Ld.CIT(A) on this issue stands confirmed and issue is held against the revenue.

10. Consequently, the appeal of the revenue in ITA 300/RAN/2017 for the assessment year 2009-10 wherein the second issue is involved stands dismissed and ITA No.302/RAN/2017 for the assessment year 2011-12 wherein the first issue and the third issue are involved, stands dismissed.

11. Cross Objections filed by the assessee in the revenue's appeal being CO Nos.09&11/RAN/2018 in ITA No.300/2017 and No.302/2017 for the assessment year 2009-10 and 2011-12 respectively are in support of the order of the Id. CIT(A). As we have already dismissed the revenue's appeal, therefore, the cross objections filed by the assessee become infructuous and the same are dismissed as infructuous.



12. Now, we shall take up the appeals of the assessee, wherein the Id. AR has filed a chart specifying the issues involved therein and requested to decide the appeals of the assessee for the years under consideration on issue-wise. The chart reads as follows :-

Bharat Coking Coal Limited, Dhanbad
PAN: AAACB7934M

Details of additions disputed in Assessee's appeal before ITAT, Ranchi

Sl no.	I.T.A. No.	291/R/17	293/R/17	294/R/17
	Assessment Year	AY 09-10	AY 11-12	AY 12-13
	AO order U/s	263/143(3)	143(3)	143(3)
1	Contractual Expenses related to Kustore area (LB Singh)	23,22,00,000	1,33,93,00,000	36,44,00,000
3	Contractual Expenses (details not furnished)	34,76,18,000		
4	Contractual Exp.Barora - Block II liab. disallowed u/s 40(a)(ia) - Settled in VsV Dt. 23.02.2021 & 24.02.2021 - Not pressed			35,88,38,000
6	Grant to School - Adl. Ground Not Admitted by CIT(A)	1,89,01,000	2,87,04,000	1,05,71,000
7	IICM Expenses - Adl. Ground Not Admitted by CIT(A)	1,27,57,000	1,45,02,000	1,51,00,000
8	Directors Salary - Adl. Ground Not Admitted by CIT(A)	74,61,000	1,12,62,000	-
	Total Rs.	61,89,37,000	1,39,37,68,000	74,89,09,000

13. The first issue is in regard to addition made on contractual expenses related to Kustore area (L.B.Singh). It was submitted by the Ld.AR that the issue was in regard to the contractual payments made to Shri LB Singh and his brothers which has been disallowed by the AO on the ground that Shri LB Singh and his brothers have done no work for the assessee. For the assessment year 2011-2012, the disallowance was Rs.133,93,00,000/-. The Bench had issued a direction to the revenue to provide the breakup of the disallowances and how the figures were arrived at in this assessment order. The order sheet noting reads as follows :-

ITA 291/RAN/2017 (Assessment Year: 09-10)	
In the case of M/S BHARAT COOKING COAL LIMITED vs. ACIT CIR-1	
Bench: DB 29 11-Jun-2025 (Wednesday)	<p>Assessee represented by: M.K. Choudhary, with Devesh Poddar, Adv. Department represented by: RINKU SINGH, CIT DR</p> <p>1.Ld. CITDR is directed to have the reconciliation done by the assessing officer in respect of chart 'A' in paper book-4 for the assessment years 2009-10, 2011-12 and 2012-13 insofar as there is variation between the figures as adopted by the assessing officer in respect of the DGT(Inv) report dated 09.01.2024 and the amounts charged to the profit and loss account of the assessee in respect of Kustore area for all the contractors.</p> <p>2. Ld. CITDR is also directed to obtain copies of the returns and assessment orders of Sri L.B. Singh, Kubh Nath Singh and Bharat Singh for the assessment years 2009-10, 2011-12 and 2012-13 from the concerned Assessing Officer. It is informed that three persons are assessed in central circle, Dhanbad.</p> <p>3. Ld. AR is directed to give the break-up of the amount shown as charged to P&L account in Kustore area for contractors in respect of 77 contractors identified in the assessment order page 14 to 16 of A.Y11-12.</p> <p>4. Ld AR is also directed to produce the CAG audit report for the A.Y. 2009-10, 2011-12 and 2012-13 in assessee's case and any specific audit report available in respect of Kustore area for the said three assessment years. Accordingly case is adjourned to 19.08.2025 with a direction to file the above reports/documents on or before the next date of hearing.</p>
	 RATNESH NANDAN SAHAY ACCOUNTANT MEMBER
	 GEORGE MATHAN JUDICIAL MEMBER

14. In respect of the order sheet noting the revenue has filed its written submission in response as follows :-

	भारत सरकार GOVERNMENT OF INDIA कार्यालय अपर आयकर आयुक्त (आई. टी. ए. टी.) OFFICE OF THE ADDL COMMISSIONER OF INCOME TAX (ITAT) केन्द्रीय राजस्व भवन (एनेक्सी), मेन रोड, राँची CENTRAL REVENUE BUILDING (ANNEXE), MAIN ROAD, RANCHI E-mail : itat.ranchi@incometax.gov.in
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F. No. JCIT/ITAT/Ranchi/BCCL/2025-26/ 221-222 Date: 11.08.2025

To
The Assistant Registrar,
ITAT Ranchi Bench,
Ranchi

Sir,

Subject: **Written Submission / Clarification in the case of M/s Bharat Coking Coal Ltd, PAN No. AAACB7934M, ITA No. 291-293-294/RAN/2017, AYs: 2009-10, 2011-12 and 2012-13-rep-reg**

Kindly refer to the above.

2. In pursuance to the ongoing hearing proceedings before the Hon'ble ITAT, Ranchi Bench in the above named assessee, the Hon'ble members of the ITAT, Ranchi Bench has directed to called for written submission and clarification to verify the facts of the case.

3. In this connection, a letter No. JCIT/ITAT/Ranchi/BCCL/2025-26/121-125 dated 11.06-2025 was sent to the Dy/Assistant Commissioner of Income, Circle, Dhanbad to submit the required report within time. The sought report received from the **Assistant Commissioner of Income Tax, Circle-1, Dhanbad** is forwarded herewith in duplicate for your kind perusal and necessary action at your end.

Yours faithfully,

Encl : **As above**

Copy for kind information to:-
(1) The AR of the Assessee


(Khubchand T Pandya)
Joint Commissioner of Income Tax
(Sr.DR), ITAT, Ranchi


Joint Commissioner of Income Tax
(Sr.DR), ITAT, Ranchi

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भारत सरकार

Government of India

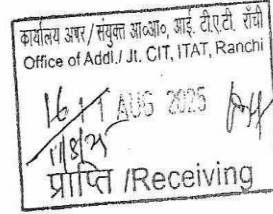
उप/सहायक आयकर आयुक्त द्वा कार्यालय

Office of the Dy./Assistant Commissioner of Income Tax,

अन्वय-1, आयकर भवन, लूबी सर्कुलर रोड, धनबाद-826001

Circle-1, 1st Floor, Aaykar Bhawan, Luby Circular Road, Dhanbad- 826 001.

e-mail: dhanbad.dcit1@incometax.gov.in



F. No. ACIT/Cir-1/DHN/Misc./2025-26/ 143

Dated: 04/08/2025

To
The Joint Commissioner of Income-Tax (ITAT)
Central Revenue Building-ANN
Main road, Ranchi, 834001

Sir,

Sub: - Written submission/ clarification in case of M/s. Bharat Coking Coal Ltd. PAN: - AAACB7934M, ITA No. 291-293-294/RAN/2017, AYs: - 2009-10, 2011-12 and 2012-13- Reg

Ref: - No. JCIT/ITAT/Ranchi/BCCL/2025-26/121-125 dated 11/06/2025

Kindly refer to the above.

First of all, it is important to mention here that as per the DGIT report dt 09/01/2014, it is cleared that there are two types of payments made by M/s Bharat Coking Coal Ltd. (in short "BCCL"): - a) Payment regarding work of capital nature b) Payment regarding work of revenue nature. It is important to note that Payment regarding work of revenue nature will be reflected in Profit & Loss a/c and Payment regarding work of capital nature will be reflected in the Balance sheet. However, undersigned has been provided only Profit & Loss a/c of Kustore Area of BCCL to reconcile the payment of revenue nature and capital nature. Hence, Balance sheet of Kustore Area of BCCL is required for proper reconciliation. However, reconciliations have been made as per available documents. → at 13.93 crore in AY 2011-12.

Clarification and reconciliation for the A.Y. 2011-12: - Clarification has been sought from the AO that from where AO has arrived of figure of Rs. 133.93 crore in the AY 2011-12. In this regard, clarification and reconciliation are being submitted below on the basis of DGIT report and other documents: -

On perusal of records, following information have been gathered: -

L B Singh disclosed in Profit & Loss a/c of his proprietorship concerns from BCCL: - Rs. 69,79,20,526/-
K N Singh disclosed in Profit & Loss a/c of his proprietorship concerns from BCCL: - Rs. 23,27,39,110/-
Bharat Singh disclosed in Profit & Loss a/c of his proprietorship concerns from BCCL: - Rs. 13,75,92,760/-
Total: - Rs. 1,06,82,52,396/-

Further, L B Singh disclosed Cheque in Hand of Rs. 4,16,14,224/- and Cash at Bank of Rs. 68,29,96,171/-, K N Singh disclosed Cheque in Hand of Rs. 99,63,117/- and Cash at Bank of Rs. 20,06,23,746/- and Bharat Singh disclosed Cheque in Hand of Rs. 1,51,63,489 and Cash at Bank Rs. 1,66,47,019/- in their balance sheet respectively.

On analysis of the above-mentioned Cheque in Hand and Cash at Bank, it clearly shows that abnormal and huge amounts in the Balance Sheet as on 31.03.2011 of aforementioned persons have been disclosed. The accumulative value of balance is Rs. 96,70,07,766/-. It should be noted that comprehensive dealings and financial transactions have been made between BCCL and aforementioned persons. Hence, it is held that balance of Rs. 96,70,07,766/- contains short fall amount of Rs. 27,10,47,604 (1,33,93,00,000-1,06,82,52,396) after reconciliation from Profit and loss A/c.

Amount disclosed as received from BCCL in P&L a/c by the above persons: - Rs. 1,06,82,52,396/-

Amount disclosed in B/S as cheque in hand & cash at Bank by the above persons: - Rs. 96,70,07,766/-

Source of figure with documentary evidence: -

i) Profit & loss a/c of L B Singh, K N Singh and Bharat Singh: - Rs. 1,06,82,52,396/-

ii) Balance Sheet of L B Singh, K N Singh and Bharat Singh: - Rs. 27,10,47,604 out of Rs. 96,70,07,766/-

Total value: ₹ Rs. 1,33,93,00,000/-

Reconciliation for AY 2012-13 is being submitted below: -

L B Singh disclosed in Profit & Loss a/c of his proprietorship concerns from BCCL: - Rs. 5,09,96,444/-

K N Singh disclosed in Profit & Loss a/c of his proprietorship concerns from BCCL: - Rs. 12,61,33,244/-

Bharat Singh disclosed in Profit & Loss a/c of his proprietorship concerns from BCCL: - Rs. 4,82,42,577/-

Rs. 22,53,72,265/-

Further, L B Singh disclosed Cheque in Hand of Rs. 29,67,99,788/- and Cash at Bank of Rs. 9,90,811/-, K N Singh disclosed Income tax seizure of Rs 8,99,40,042/- and Cash at Bank of Rs. 17,69,188/- and Bharat Singh disclosed Income tax seizure of Rs 1,30,11,471/- and Cash at Bank of Rs. 44,55,814/- in their balance sheet respectively.

On analysis of the above-mentioned Cheque in Hand, Cash at Bank and Income tax seizure, it clearly shows that abnormal and huge amounts in the Balance Sheet as on 31.03.2012 of aforementioned persons have been disclosed. The accumulative value of balance is Rs. 40,69,67,114/-. It should be noted that comprehensive dealings and financial transactions have been made between BCCL and aforementioned persons. Hence, it is held that balance of Rs. 40,69,67,114/- contains short fall amount of Rs. 13,90,27,735 (36,44,00,000-22,53,72,265) after reconciliation from Profit and loss A/c.

Amount disclosed as received from BCCL in P&L a/c by the above persons: - Rs. 22,53,72,265/-

Amount disclosed in B/S as cheque in hand, Income tax seizure & cash at Bank by the above persons: - Rs. 40,69,67,114/-

Source of figure with documentary evidence: -

i) Profit & loss a/c of L B Singh, K N Singh and Bharat Singh: - Rs. 22,53,72,265/-

ii) Balance Sheet of L B Singh, K N Singh & Bharat Singh: - Rs. 13,90,27,735/- out of Rs. 40,69,67,114/-
Total value: - Rs. 36,44,00,000/-

Reconciliation for AY 2009-10 is being submitted below: -

L B Singh disclosed in Profit & Loss a/c of his proprietorship concerns from BCCL: - Rs. 4,03,54,585/-

K N Singh disclosed in Profit & Loss a/c of his proprietorship concerns from BCCL: - Rs. 1,42,79,657/-

Bharat Singh disclosed in Profit & Loss a/c of his proprietorship concerns from BCCL: - Not available

Rs. 5,46,34,242/-

Further, L B Singh has disclosed Cheque in Hand of Rs. 1,57,06,353/- and Cash at Bank of Rs. 5,36,907/-, K N Singh has disclosed Cheque in Hand of Rs. 65,09,508/- and Cash at Bank of Rs. 2,12,569/-.

However, Information is not available in case of Bharat Singh.

On analysis of the above-mentioned Cheque in Hand and Cash at Bank, it clearly shows that huge amounts in the Balance Sheet as on 31.03.2009 of aforementioned persons have been disclosed. The accumulative value of balance is Rs. 2,29,65,337/-. It should be noted that comprehensive dealings and financial transactions have been made between BCCL and aforementioned persons. Hence, it is held that balance of Rs. 2,29,65,337/- are related to BCCL.

Amount disclosed as received from BCCL in P&L a/c by the above persons: - Rs. 5,46,34,242/-

Amount disclosed in B/S as cheque in hand & cash at Bank by the above persons: - Rs. 2,29,65,337/-

Source of figure with documentary evidence: -

i) Profit & loss a/c of L B Singh and K N Singh: - Rs. 5,46,34,242/-

ii) Balance Sheet of L B Singh and K N Singh: - Rs. 2,29,65,337/-
Total value: - Rs. 7,75,99,579/-

Short fall after reconciliation due to non-availability of records in case of Bharat Singh: - Rs. 15,46,00,421 (23,22,00,000-7,75,99,579).

Profit & Loss a/c and Balance Sheet of L B Singh, K N Singh and Bharat Singh for the FY 2010-11, 2011-12 and 2008-09 relevant to AY 2011-12, 2012-13 and 2009-10 are attached/enclosed in support of the aforesaid data except FY 2008-09 relevant to AY 2009-10 in case of Bharat Singh.

Encl. As stated above

Yours faithfully



(Pankaj Kumar Prasad)

Assistant Commissioner of Income Tax,

Circl-1, Dhanbad

(58)

All Sapee India Electricals, Hi-Tech Engineers L.B.Ele.Mech.Ent.
Manta Ent., Singh Elec. Works, Suman Ent.
Prop:-Shri Lal Bahadur Singh
Shimla Bahol Colliery, Jharia
Profit & Loss A/c For The Year Ended 31.3.2011

<u>PARTICULARS</u>	<u>AMOUNT</u>	<u>PARTICULARS</u>	<u>AMOUNT</u>
To Material & Labour	19,495,000.00	By Received From BCCL	697,920,526.00
To Salary & Bonus	635,550.00	By Intt. Received	8,212,792.00
To General Exp.	98,374.00		
To Printing & Stationery	36,915.00		
To Travelling & Conveyance	296,190.00		
To Audit Fee	25,000.00		
To Bank charges	306,446.00		
To Accounting Charges	36,000.00		
To Consultancy Charges	15,500.00		
To Staff Welfare	59,583.00		
To Puja Exp.	28,760.00		
To Net Profit	685,100,000.00		
	<u>706,133,318.00</u>		<u>706,133,318.00</u>

As per our attached Report of even date
For D.N. SINHA & CO.
Chartered Accountants

D.N. SINHA
Proprietor

19/3/12

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All Seapec India Electricals, Hi-Tech Engineers L.B.Ele.Mech.Ent.
 Manta Ent, Singh Elec. Works, Suman Ent.
 Prop:-Shri Lal Bahadur Singh
 Shimla Bahal Colliery, Jharia
Balance Sheet as on 31st.March'2011

LIABILITIES	AMOUNT	AMOUNT	ASSETS	AMOUNT	AMOUNT
Capital Account			Land & Building		21,191,000.00
Shri Lal Bibhari Singh	145,873,917.00		F. Deposit		5,709,000.00
Add-Gift from Brother	8,300,000.00		N.S.C. BF		100,000.00
Add- Income Tax Refund	34,390.00		Init. Receivable on N.S.C.		37,591.00
Add- Income During The Year			Shares & Mutual Fund		9,635,975.00
Net Profit	685,100,000.00	839,308,307.00	Cheque In Hand		41,614,224.00
Less:-Drawing			T.D.S.		13,012,895.00
Personal Use	453,028.00		Cash at Bank		
Gift to Brother	57,500,000.00	57,955,028.00	B.O.I. ENA Branch, CP A/c 174	139,750.19	
		781,353,279.00	B.O.I. ENA Branch, SB A/c 17205	694,093.89	
Sundry Creditors		2,963,598.00	U.C.O. Bank C/a 20150	30,781.80	
As per list Enclosed			U.C.O. Bank C/a 20133	235,417.57	
Outstanding Liabilities			U.B.I., Dhan, A/c 21024	5,373.00	
Liabilities for Exp.		56,000.00	Bank of Punjab ENA Branch A/c No. 009	147,450.42	
			B.O.I. Ena 00603	8,191.73	
			B.O.I. C/A 039	57,859.79	
			B.O.I. C/A 038	101,716.89	
			B.O.I. C/A 006010	11,467,196.17	
			B.O.I. C/A 01426	7,737.00	
			B.O.I. C/A 00159	12,267,966.27	
			B.O.I. C/A 000333	59,963,797.00	
			B.O.I. C/A 0007	1,542,091.53	
			B.O.I. C/A 028	(10,803.00)	
			B.O.I. C/A 0012	3,796,623.49	
			I.C.I.C.I Bank 30858	10,817,678.00	
			B.O.I. C/A 0032	13,430.68	
			Bank of India 0092	4,935.00	
			Bank of India 0093	4,935.00	
			Bank of India 0052	4,935.00	
			Bank of India 0053	4,935.00	
			Other Bank Accounts	581,699,080.00	682,996,171.33
			Cash in Hand		84,020.47
		<u>784,372,877.00</u>			<u>784,372,877.00</u>

As per our attached Report of even date
For D.N. SINHA & CO.,
Chartered Accountants

19/3/11
D.N. SINHA
Proprietor

Poonam Entp., Prabha Entp., Priya Entp.
 Prop.- Sri. Kumbh Nath Singh
 Jharia, Dhanbad.
 Profit & Loss A/c for the year ended 31.03.2011

PARTICULARS	AMOUNT	PARTICULARS	AMOUNT
To Material Purchased	9,042,473.00	By Received from BCCL	732,735,110.00
To Salary & Bonus	455,000.00	By Intt. Received	752,900.00
To Travelling & Conveyance Expenses	258,960.00		
To Labour Payment	167,525,697.00		
To Bank Charges	9,434.00		
To Printing & Stationery	16,500.00		
To General Expenses	78,250.00		
To Accounting Charges	36,000.00		
To Audit Fee	25,000.00		
To Consultancy Charges	18,000.00		
To Staff Welfare	18,960.00		
To Puja Exp.	12,500.00		
To Net Profit	55,995,236.00		
	233,492,010.00		233,492,010.00

As per our attached Report of even date
 For D.N. SINHA & CO.
 Chartered Accountants

D.N. SINHA
 Proprietor

Vivek Entp., Pioneer engl, Glimmer ent, Apex Entp. A k Ent Abhisec Entp., Jufolech Meet, Kollable Enger.
 Prop:- Shri Bharat Singh
 Shimla Bahal Colliery, Bharin
 Profit & Loss A/c For The Year Ended 31.3.2011

PARTICULARS	AMOUNT	PARTICULARS	AMOUNT
To Material Purchases	10,804,163.00	By Received from B.C.C.L.	137,592,760.00
To Labour Payment	113,208,564.00	By Intd. Received	1,283,993.00
To Salary & Bonus	377,000.00		
To General Exp.	59,048.00		
To Printing & Stationery	16,747.00		
To Travelling & Conveyance	294,430.00		
To Audit Fee	25,000.00		
To Bank charges	11,531.00		
To Accounting Charges	36,000.00		
To Consultancy Charges	18,000.00		
To Staff Welfare	21,674.00		
To Puja Exp.	4,536.00		
To Net Profit	14,700,000.00		
	<u>139,576,693.00</u>		<u>139,576,693.00</u>

As per our attached Report of a/c on date
 For D.N. SINHA & CO. P.
 Chartered Accountants

D.N. Sinha
 Proprietor

Peonam Entp., Prabha Entp., Priya Entp.

Prop. By: Anandh Nath Singh

Itanagar, Dhanbad.

Profit & Loss A/c for the year ended 31.03.2011

PARTICULARS	AMOUNT	PARTICULARS	AMOUNT
To Material Purchased	8,180,013.00	By Received from BCCI	126,173,114.00
To Salaries & Bonus	305,000.00	By Intt. Received	1,577,583.00
To Travelling & Conveyance Expenses	265,000.00		
To Labour Payment	118,683,997.00		
To Bank Charges	12,137.00		
To Printing & Stationery	12,650.00		
To General Expenses	68,950.00		
Accounting Charges	36,000.00		
To Audit Fee	25,000.00		
To Consultancy Charges	18,000.00		
To Staff Welfare	14,850.00		
To Paga Exp.	9,500.00		
To Net Profit	1,500,000.00		
	<u>127,711,127.00</u>		<u>127,711,127.00</u>

As per our attached Report of even date
For D.N. SINHA & CO.
Chartered Accountants

(D.N. SINHA)
Proprietor

Poonam Entp., Prabha Entp., Priya Entp. Prop:- Sri. Kumbh Nath Singh Jharia, Dhanbad. Balance Sheet as on 31st March' 2012					
LIABILITIES	AMOUNT	AMOUNT	ASSETS	AMOUNT	AMOUNT
Capital Account As Per Last Balance Sheet	172,021,561.00		Land		60,237,484.00
Add:- Income During The Year			T.D.S. B/F		7,537,966.00
Net Profit	1,560,000.00	173,521,561.00	Other Investment		838,700.00
			Income Tax Seizer		89,940,042.00
			Security Deposit with BCCL		293,124.00
			Shares in Companies(Unquoted)		100,606.00
Less:- Drawing			Cash at Bank		
Gift to Brother	57,700,000.00		B.O.I.,CA A/c 146	4,850.00	
L.I.C.	76,336.00	57,776,336.00	B.O.I.,SB A/c 16753	2,647.00	
			B.O.I. Bank C/a 113	13,227.00	
			B.O.I.,CA A/c 106	9,762.00	
			B.O.I. A/c 029	2,319.00	
			B.O.I. A/c 036	19,012.00	
			B.O.I. A/c 201	10,150.00	
			B.O.I. A/c 202	10,150.00	
			B.O.I. A/c 0000110	3,553.00	
			B.O.I. A/c 0000114	10,350.00	
			B.O.I. A/c 000035	11,486.00	
			B.O.I. A/c 200	10,150.00	
			B.O.I. A/c 203	10,150.00	
			B.O.I. A/c 145	4,850.00	
			B.O.I. A/c 39019	14,006.00	
			B.O.I.,CA A/c 147	4,850.00	
			B.O.I.,CA A/c 1675	440.00	
			B.O.I.,SB A/c 29166	12,925.90	
			B.O.I.,SB A/c 069	1,602,319.00	
			B.O.I. A/c 26276	11,992.00	1,769,188.00
			Cash In Hand		165,177.00
					160,891,681.00
					160,891,681.00

As per our attached Report of even date
For D.N. SINHA & CO.
Chartered Accountants

(D.N. SINHA)
Proprietor

Vivek Entp., Pioneer cugi, Glimmer ent, Apex Entp, A k Ent Abhisek Entp., Infotech Elect, Reliable Engec,
 Prop:- Shri Bharat Singh
 Shimla Bahal Colliery, Jharia
 Profit & Loss A/c For The Year Ended 31.3.2013

PARTICULARS	AMOUNT	PARTICULARS	AMOUNT
To Material Purchases	15,198,836.00	By Received from BCCI	48,242,577.00
To Labour Payment	31,085,491.00	By Intt, Received	51,698.00
To Salary & Bonus	403,500.00		
To General Exp.	60,023.00		
To Printing & Stationery	12,841.00		
To Travelling & Conveyance	405,670.00		
To Audit Fee	25,000.00		
To Bank charges	8,027.00		
To Accounting Charges	36,000.00		
To Consultancy Charges	18,000.00		
To Staff Welfare	32,612.00		
To Puja Exp.	7,675.00		
To Net Profit	1,000,000.00		
	<u>48,293,675.00</u>		<u>48,293,675.00</u>

As per our attached Report of even date
 For D.N. SINHA & CO.
 Chartered Accountants

D.N. SINHA
 Proprietor

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All Seapac India Electricals, Hi-Tech Engineers L.B.Elec. Mech. Ent.
 Mamta Ent., Singh Elec. Works, Suman Ent.
 Prop:- Shri Lal Bahadur Singh
 Shri Bahal Colliery, Jharia
 Balance Sheet as on 31st March 2009

CHARTERED
 H. L. G. NAGAR, DHANBAD
 SARDAR PATEL NAGAR, DHANBAD
 Ph: 2202254 FAX: 2203349

A S S E T S

AMOUNT	CURRENT Yr.	PREVIOUS Yr.
1,437,203.35	100,000.00	17,711.00
125,588.00	15,704,353.00	100,000.00
2,047,295.00		
31,502.00		
9,351.00		
10,032.00		
3,660,971.35		
108,000.00		
880,012.00		
988,012.00		
2,672,959.35		
245,145.00		
10,000.00		
8,000.00		
15,897,872.00		
16,835,976.35		
0.00		
16,835,976.35		

L I A B I L I T I E S

AMOUNT	CURRENT Yr.	PREVIOUS Yr.
1,437,203.35	100,000.00	17,711.00
125,588.00	15,704,353.00	100,000.00
2,047,295.00		
31,502.00		
9,351.00		
10,032.00		
3,660,971.35		
108,000.00		
880,012.00		
988,012.00		
2,672,959.35		
245,145.00		
10,000.00		
8,000.00		
15,897,872.00		
16,835,976.35		
0.00		
16,835,976.35		

Net Profit

Net Profit	2,047,295.00	
Int. on S/A	31,502.00	
Int. on N.S.C.	9,351.00	
Int. From I.Tax Dept	10,032.00	
	3,660,971.35	

Int. on N.S.C.

Int. on N.S.C.	9,351.00	
Int. From I.Tax Dept	10,032.00	
	3,660,971.35	

Int. on S/A

Int. on S/A	31,502.00	
Int. on N.S.C.	9,351.00	
Int. From I.Tax Dept	10,032.00	
	3,660,971.35	

Int. From I.Tax Dept

Int. From I.Tax Dept	10,032.00	
	3,660,971.35	

Personal Use

Personal Use	108,000.00	
	880,012.00	
	988,012.00	

Drawings

Drawings	108,000.00	
	880,012.00	
	988,012.00	

Creators (As Per List attached)

Creators (As Per List attached)	245,145.00	
	10,000.00	
	8,000.00	
	15,897,872.00	
	16,835,976.35	
	0.00	
	16,835,976.35	

Outstanding Liabilities

Outstanding Liabilities	10,000.00	
	8,000.00	
	15,897,872.00	
	16,835,976.35	
	0.00	
	16,835,976.35	

Exp. in Exp.

Exp. in Exp.	10,000.00	
	8,000.00	
	15,897,872.00	
	16,835,976.35	
	0.00	
	16,835,976.35	

Cash in Hand

Cash in Hand	16,835,976.35	
	0.00	
	16,835,976.35	

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483
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Poonam Entp., Prabha Entp., Priya Entp.
Prop:- Sri. Kumbh Nath Singh
Jharia, Dhanbad.
Profit & Loss A/c for the year ended 31.03.2009

PARTICULARS		AMOUNT	PARTICULARS	AMOUNT	AMOUNT
Opening Stock			By Gross Contract Received		14,279,657.00
Material Purchased		95,460.00			
Staff Salary		1,408,734.00			
Travelling & Conveyance Expenses		288,000.00			
Labour Payment		51,460.00			
Bank Charges		11,505,076.00			
Printing & Stationery		8,068.00			
General Expenses		4,519.00			
Accounting Charges		125,057.00			
Audit Fee		48,000.00			
Tuja Exp.		5,000.00			
Tonsultancy Charges		1,615.00			
Staff Welfare Exp.		8,705.00			
		6,716.00			
Net Profit		723,007.00			
		14,279,657.00			14,279,657.00

Poonam Entp., Prabha Entp., Priya Entp.
Prop:- Sri. Kumbh Nath Singh

Computation Of Income For The Asst. Year 2009-2010

Net Profit	723,007.00
Int. on S/a	53.00
	723,060.00
Tax Thereon	121,918
Edu. Cess @ 3%	3,658
Sec. T.D.S.	125,576
	315,944
Refundable	190,368

As per our attached Report of even date
For D.N. SINHA & CO.
Chartered Accountants

(D.N. SINHA)
Proprietor

(77) (409)

Poonam Entp., Prabha Entp., Priya Entp.
Prop:- Sri. Kumbh Nath Singh
Jherla, Dhanbad.
Balance Sheet as on 31 st. March 2009

LIABILITIES		ASSETS	
Account	AMOUNT	AMOUNT	AMOUNT
1. Last Balance Sheet	448,831.00	Security Deposit with B.C.C.L.	190,754.00
Income During The Year		Cheque In Hand	6,508,508.00
2. Profit	723,007.00	Cash at Bank	
3. Loss	53.00	B.O.I. CA A/c 170	4,637.98
	1,171,891.00	B.O.I. SB A/c 19753	1,818.18
4. Drawing		B.O.I. Bank C/a 013	88,792.00
Personal Use	78,000.00	B.O.I. ENA A/c 16823	117,321.00
D.S.	815,944.00		212,569.16
5. Balance			
By Chequers (No. Part List attached)			
6. By Liabilities			
7. Loss	5,000.00	Cash In Hand	227,367.84
8. Drawing Exp.	4,000.00		
9. Loss	5,000,002.00		
	6,048,002.00		
	7,140,199.00		
			7,140,199.00

As per our attached Report of even date
For D.N. SINHA & CO.
Chartered Accountants

D.N. SINHA
Proprietor

15. It was submitted by the Ld. AR that as per the written submissions and clarifications issued by the revenue, the revenue is unable to exactly quantify the amounts, insofar as for the assessment year 2011-12, the reconciliation itself fall short of approximately Rs.69 crore, for the assessment year 2012-13 the reconciliation shortfall is nearly of

Rs.27crores and for the assessment year 2009-10 the shortfall is nearly Rs.15 crores. It was also submitted by the Ld. AR that as per the reconciliation provided by the revenue, the revenue has considered the total receipts disclosed by Shri L B Singh and his brothers and their P & L account as also the cheque in hand disclosed in their balance sheet and cash in bank disclosed by them in their balance sheet. This is for the assessment year 2011-2012 and for the assessment year 2012-13 they have included even income tax seizure amount. It was the submission that the assessee has made payment to L B Singh and his brothers on the basis of the tender and the contract awarded to Shri L B Singh and his brothers and on the basis of the bills raised by them as also the quantity of work which was verified by the assessee's company. It was submission that just because there was a search on Shri L B Singh and his brothers and they had filed a settlement application wherein they have disclosed 98% income for the assessment year 2011-12 and 78.43% for the assessment year 2012-13, the AO has treated the payments made by the assessee to Shri L B Singh and his brothers as not for the purpose of business. However for all the other previous years, the profit disclosed by them at around 5% has been accepted.

16. The Ld AR to clarify the issue as to from where did the Ld AO get the figures of the impugned additions made for disallowance of contractual payment to L.B Singh & his brothers, drew our attention to the report of the investigation unit which was received by the Ld AO copy of which is reproduced as below:-

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Government of India **(Confidential)**
 Office of the Commissioner of Income Tax, Dhanbad.
 Aaykar Bhawan, Luby Circular Road, Dhanbad. 826001. Tel.:0326-2311175

F.No.: CIT/DHN/BCCL/2013-14/ 4294

Dated: Dhanbad, the 09th January'2013

To
 The DY. Commissioner of Income Tax
 Circle-1, Dhanbad

Sir,
 Sub- Illegal payment by M/s BCCL, Dhanbad to contractors- reg.

I am directed to enclose herewith a letter received from Director General Of Income Tax (Investigation), Patna. Vide letter no.DGIT(Inv)/ Pat/SI-96/LBS/2013-14 dated 9th January'2014 for needful.

Further, I am directed to request you to take appropriate action keeping in view the content and the spirit of letter enclosed immediately, in this regard and progress report should be submitted at the earliest.

Encl : As above

Yours faithfully

K.K.Sinha

(K.K.Sinha)

Income Tax officer (Tech)

For :- Commissioner of Income Tax , Dhanbad

F.No.: CIT/DHN/BCCL/2013-14/

Dated: Dhanbad, the 09th January'2013

Copy to JCIT, Range-1 Dhanbad for close monitoring in order to ensure that the content of the letter is acted upon in letter and spirit.

(K.K.Sinha)

Income Tax officer (Tech)

For :- Commissioner of Income Tax , Dhanbad

Certified to be True Copy .

11/03/13
 (CHANDRA NATH DAS)
 Assistant Commissioner of Income Tax
 Circle-1 Dhanbad

35 33

CONFIDENTIAL



GOVERNMENT OF INDIA
DIRECTOR GENERAL OF INCOME TAX (INV.)
CENTRAL REVENUE BUILDING (3RD FLOOR)
BIR CHAND PATEL MARG, PATNA-800 001

F. No. DGIT(Inv.)/Pat/S1-96/L.B.S./2013-14/

January 9th 2014

To
The Chief Commissioner of Income Tax-I
Patna.

Sub: Illegal payments by M/s BCCL, Dhanbad, to contractors -reg.

Ref :-D.O. F. No. DGIT(Inv)/Pat/S1-96/L.B.S. dated 3rd January 2014

*not limited to
17017
shared to
CFI and DIT
w/1 for
immediate
action*

Please refer to the above as well as my discussions with you on 08.01.2014 when the Commissioner of Income Tax-II, Patna, holding charge of CIT, Dhanbad, and the Commissioner of Income Tax, Central, Patna were also present in respect of payments made by M/s Bharat Cooking Coal Ltd, Dhanbad, a subsidiary of Coal India Ltd, to Sri Lal Babu Singh, a so-called contractor, during the financial years 2006-07 to 2011-2012.

2 It may be recalled that search and seizure operation under section 132(1) of the Act was carried out in the case of Sri Lal Babu Singh on November 23, 2011. In the course of search operations, cash in the form of deposits in the bank accounts of Rs. 75.78 crs and Fixed Deposits of Rs. 17.40 crs were found and seized.

artified to be True Copy Post-search investigations in this group of case have clearly revealed a modus operandi of systematic and fraudulent withdrawal of funds from M/s BCCL, Dhanbad, by Sri Lal Babu Singh, allegedly in connivance with the officials of the Coal PSU in the guise of non-existent contract work operated through a maze of 130 concerns. Scrutiny of bank accounts in the name of these 130 concerns has revealed that the entire receipt from the M/s BCCL, Dhanbad, was through cheques. From these accounts, cash has been withdrawn in round figure for deposits in the savings accounts in the names the concerns controlled by Sri

*11/13/15
LANDESHI
it Commissioner of Income Tax
Circle-1 Dhanbad*

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Lal Babu Singh and also towards Fixed Deposits. However, a large number of cash withdrawal have remained unexplained.

4. In the course of search operation, no shred of evidences or books of account have been found indicating the actual payment of expenses e contractor towards such contract works. Sri Lal Babu Singh and the group have not been able to produce any evidence to this effect even in the course of subsequent assessment proceedings as well. Though some of the concerns/persons of the group have filed their returns of income enclosing some TDS certificates issued by the M/s BCCL, no justification for the claim of expenses which are mostly outstanding at the end of the year, could be produced by them. Attempts to collect complete details of payment made by the M/s BCCL to Sri Lal Babu Singh has been stone walled by the officials of on one pretext or other e.g. records seized by CBI, lack of manpower and so on. It has also been gathered that M/s BCCL, Dhanbad has granted such largesse in similar fashion not only to Sri Lal Babu Singh but to several other contractors.

5. Partial and sketchy details of payments obtained/provided by the M/s BCCL, Dhanbad indicate the following payments made with respect to the Kustore Mines to Sri Lal Babu Singh and other contractors.

(Rs. in Crores)

Financial Year	Payments reg. works of capital nature	Payments reg. works of revenue nature	Total
2006-07	Rs 0.1281	Rs 12.32	Rs 12.44
2007-08	Rs 0.1808	Rs 14.84	Rs 15.02
2008-09	Rs 4.8182	Rs 18.41	Rs 23.22
2009-10	Rs 45.28	Rs 15.64	Rs 60.92
2010-11	Rs 90.72	Rs 43.21	Rs 133.93
2011-12	Rs 8.42	Rs 28.02	Rs 36.44
TOTAL:	Rs 149.53	Rs 132.44	Rs 281.97

Significantly, these payment details are in respect of only one mine and details of payment in respect of two other mines; Altusha and Shimla Bahal Collieries, though specifically called for, have not been provided by M/s BCCL. Further verification of bank account also revealed that majority of payments have been made towards the fag end or on the last working day of a financial year.

Certified to be True Copy

11/03/13
CHANDRA NATH DAS
Assistant Commissioner of Income Tax
Circle-1 Dhanbad

6. Consequent to the search operation, Sri Lal Babu Singh and his two brothers have filed their returns of income. Subsequently, they have also filed petitions before the Settlement Commission, Kolkata. Examination of returns of income, as well as their settlement petitions, reveal that the searched group has disclosed abnormally high rate of profit for two assessment years 2011-12 and

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2012-13. Such profits are not possible in this line of business. Further, profit margin of nearly 100% indicates that no work of contractual nature, as claimed, had been carried out by the group and that the sums only represent fraudulent withdrawal from M/s BCCL. An extract of such examination in the case of Sri Lal Babu Singh is as under :-

Assessment Years	Additional Income disclosed in 153A/139 return	Additional Income disclosed before the Commission.	Additional tax payable on the additional income disclosed	Additional Interest payable on the additional tax payable resulting from additional disclosure of income before the commission	Rate of profit
	(Rs.)	(Rs.)	(Rs.)	(Rs.)	
2006-07	Nil	6,70,646/-	2,25,739/-	1,28,635/-	5.37%
2007-08	Nil	7,53,396/-	2,53,593/-	1,29,556/-	5.98%
2008-09	50,00,000/-	8,35,019/-	2,83,823/-	2,80,535/-	5.62%
2009-10	2,00,00,000/-	9,30,049/-	3,16,124/-	1,09,366/-	5.07%
2010-11	10,00,00,000/-	87,49,913/-	27,03,723/-	5,77,972/-	6.20%
2011-12	68,50,00,000/-	52,93,400/-	14,43,959/-	Nil	98.16%
2012-13	4,00,00,000/-	17,52,843/-	5,27,729/-	Nil	78.43%
Total	85,00,00,000/-	1,89,85,266/-	57,54,326/-	12,26,064/-	

7. Reluctance on the part of M/s BCCL, a PSU, to submit complete information in respect of payments made to Sri Lal Babu Singh and similar other contractors calls for a detailed examination of nature and purpose of these payments. Being a central PSU, tendering processes are governed by well laid down guidelines of Central Vigilance Commission. Their accounts are subject to audit by CAG, Government of India, besides tax audit under section 44AB of Income-tax Act, 1961. Admissibility and claim of any expenses in their return of income has to strictly comply with the provisions of section 37(1) of Income-tax Act, 1961 which lays down that "any expenditurelaid out or expended wholly and exclusively for the purposes of business" shall be allowed in computing the income. It may not be out of place to note here that every year M/s BCCL, incurs expenses of over Rs. 700 crs under the head "contractual expenses".

8. In order to verify the claim of these payments claimed as expenditure in the returns of income, it would be imperative to examine the process and persons

verified to be True Copy
11/03/15
ANDRANATH DAS
1. Comptroller of Income Tax
2. Section-1 Attached

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concerned in the work allotment, certification of completion of work involved as per schedule and thus allowing the payment thereafter as per the financial norms of a central PSU. The main persons/officials involved in this whole process are;

- a. the Works Manager
- b. the Accounts Manager
- c. the Statutory/Tax Auditor

9. In view of the aforesaid, it would be appropriate to put the claim of expenses of M/s BCCL to strict proof on the suggested lined of investigation in close co-ordination with the Assessing officer of Sri Lal Babu Singh group of cases which has been centralized with DCIT (Central), Dhanbad. Close supervision of the CIT, Dhanbad would be necessary, details of which were discussed during the meeting under reference, to prevent possible leakage of revenue on this account. Necessary proceedings under provisions of the Income-tax Act, 1961 may be initiated wherever required. Result of enquiries and taxes realized may be communicated to this office for records.

Yours faithfully;

Sd/-

(Ujjwal Choudhary)
Director General Income-tax
(Investigation), Patna.

Memo No. DGIT(Inv.)/Pat/S1-96/L.B.S#2013-14/77-79

January 9th 2014

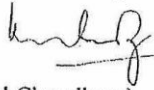
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Certified to be True Copy (i)
11/13/14
CHANDRA NATH DAS
Assistant Commissioner of Income Tax
Circle-4 Dhanbad

The Member (Investigation), CBDT, North Block, New Delhi for kind information.

(ii) The Zonal Member, CBDT, North Block, New Delhi for kind information.

(iii) The CIT-II, Patna presently holding the charge of CIT, Dhanbad for necessary action.

 9/01/14

(Ujjwal Choudhary)
Director General Income-tax
(Investigation), Patna.

17. It was further submitted by the Ld AR of the assessee that the assessing officer has simply relied upon the report of the investigation unit and has made the disallowance/addition in the hands of the assessee even without verifying and reconciling the actual payment figures.

18. It was submission by the Ld.AR that admittedly proceedings are going on in the case of Shri L B Singh and his brothers. No proceeding whatsoever have been initiated against the assessee's company nor its employees. It was submission that the contract payments made by the assessee is liable to allowed. It was also the submission that the disallowances made by the AO are purely arbitrary figures and have no relation to the amounts actually paid by the assessee to Shri L B Singh as is evident from the reconciliation provided by the department. It was submission that the addition as made by the AO in respect of contractual expenses related to Kustore area is liable to be deleted.

19. In reply, Id. CIT-DR submitted that he was to file further written submission. Ld.CIT-DR also drew our attention to page 24 to 49 of the order of the Id. CIT(A) which are the findings of the Id. CIT(A) for A.Y.2011-2012 in para 3.3 to 3.3.27. It was the submission that the payment made by the assessee company to Shri L.B Singh and his brothers were not for the business purpose of the assessee. It was the submission that the paper work which is claimed to be available with the assessee has not been fully shown. It was the submission that these payments by the assessee company to Shri L.B.Singh and his brothers being not for the purpose of business, the disallowance has been rightly made by the AO and confirmed by the Id. CIT(A).It was further submitted that the issue under examination is allowability of alleged business expenditure claimed by M/s BCCL. In the assessment proceedings as well as during the appellate proceedings numerous instances have been called out by the AO as well as the CIT(A)

that no negligible work has been done by Shri LB Singh and group to whom contract charges running into hundreds of crores were paid. In the assessment proceedings of Shri LB Singh and group either entire money received from BCCL has been offered as income and the portion of receipts from BCCL which has not been offered for tax has been added by the AO and confirmed by the Id. CIT(A). The order of the Id. CIT(A) on the facts has finalized the issue and no further fact finding whatsoever has been done on these issues. In appellate order of Shri L B Singh and group it has been clearly held that they are in receipt of money in the guise contract receipt from M/s BCCL against which no work whatsoever has been done. The assessee's company has not been able to substantiate the work done except paper compliance and Shri L B Singh Group has expressed its inability to furnish any evidence whatsoever of having done any work for M/s BCCL. On the pretext that the documentary evidences of any work done by them has been lost in a fire incident. Based on the order of the AO and CIT(A) and findings in the case of assessment of Shri L B Singh & group and the appellate order, Id. CIT-DR strongly and vehemently requested the Bench to dismiss the appeal of the assessee particularly on the issue of making payment of contractual expenses in respect of Shri L B Singh Group.

20. We have considered the rival submissions. A perusal of the order of the Id. CIT(A) more specifically at para 3.3 of the order of the Id. CIT(A), the Id. CIT(A) has very categorically brought out the issues raised by the AO, which would be worthwhile to extract the same here as below :-

[3.3] I have considered the submissions of the appellant and have perused the assessment order as well as the Remand Report/ counter comments of the appellant. I find that the main ground on which the disallowance of expenses was made by the Ld.AO were:

- a. that Sri Lal Bahadur Singh was a contractor of BCCL (as revealed by the documents/evidences gathered during the course of search operation in his case u/s 132 and as admitted by him.*
- b. that no evidence of carrying any contract work was found during the course of search operation in the case of Sri Lal Bahadur Singh.*
- c. that Sri Lal Bahadur Singh, post search owned up the businesses of several persons.*
- d. that Sri Lal Bahadur Singh admitted that these persons were his conduits and that he was the beneficial owner of all these businesses (see 12 to 17 of the assessment order).*
- e. that there were 101 such entities (24+77) which had received contract payments from BCCL.*
- f. that Sri L. B Singh had received the monies in his bank account, however no books of accounts were maintained by either him or any of the concerns whose businesses he had owned up.*
- g. that Sri L. B Singh filed an application before the settlement Commission.*
- h. that majority of the payments were made to the group entities (of which he was the beneficial owner) at the fag end of the FY.*
- i. that for the AY 2011-12, before the Settlement Commission, Sri L B Singh offered an income of Rs. 68,50,00,000/- out of receipts of Rs.69,79,20,526/- u/s 153A/139 which was 98.16% of the total receipts.*
- j. that Sri LB Singh made additional disclosure of Rs. 52,93,400/-before the Settlement Commission.*
- k. that the appellant had owned up the businesses of Sri Abhay Pratap Singh, Mitilesh Singh, Nirbhay Pratap Singh, Om Prakash Singh, Pawan Singh.*
- 1. that Sri Lal Bahadur Singh also owned up the business of Smt Laxmi Devi who had receipts of Rs. 23,27,93,110/- from BCCL.*

- m. that the total business owned up by Sri Lal Bahadur Singh was:*
- a. Lal Bahadur Singh - Rs. 85,00,00,000/- (see page 18 of AO)*
 - b. Sri Bharat Singh - Rs. 13,75,92,760/- (see page 17 of AO)*
 - c. Smt. Laxmi Devi -Rs. 23,27,93,110/- (see page 17 of AO)*
 - d. Sri K.N Singh -Rs. 8,35,90,586/- (see page 20 of AO)*
 - e. Sri Bharat Singh –Rs. 1,70,02,000/- (see page 22 of AO)*

21. A perusal of the reasons as extracted by the Id.CIT(A), being the reasons the AO has made the addition, shows that all this is on account of a search on Shri Lal Bahadur Singh & group and the report of the investigation unit. The claim is that Shri L.B.Singh is unable to prove that he did any work. Shri L.B.Singh had no evidence. Shri L.B.Singh has subsidiaries. Shri L.B.Singh has gone to the settlement commission. There is no allegation that the assessee is party to this manipulation, if there is any. Why Shri L.B.Singh is not able to prove his work or why Shri L.B.Singh for reasons known to him decided not to prove his contractual work in AY 2011-12 & 2012-13 is best known to Shri L.B.Singh. The assessee is a public sector undertaking. The assessee has followed the Government prescribed protocols for tendering the mining process. All procedural requirements in regard to the tendering has been complied with. The payments have been made after verification. There is no allegation by any authority that there any culpable action by the assessee company to assist Shri L.B.Singh and his brothers in respect of the alleged fraud or manipulation. The assessee is in possession of the bills of work done by the contractor and the verifications thereon as done by the assessee's staff as also the contracts. The payments have been made by the assessee to Shri L.B.Singh and his brothers for the execution of the contract which was

awarded through the tendering process. Such tendering process has not been brought into question by any of the authority including the revenue. It must be mentioned here that the assessee company is a public sector undertaking company books of which is also audited by CAG and also other Government agency. There is no allegation of any non-business expenditure having incurred in respect of the assessee company and especially in regard to the payment to Shri L.B.Singh and his brother or his associated companies.

22. Coming to the case of Shri L.B.Singh and his brothers, the revenue has taxed the entire contract receipts of Shri L.B.Singh as his income under the head business income. In short, the revenue recognizing that Shri L.B.Singh and his brothers has done business. Once it is held to be business income of Shri L.B.Singh and his brothers, it no more lies to turn around and say that the assessee's payment to Shri L.B.Singh and his associates are not for the purpose of business.

23. It would be worthwhile to mention here that the comparative figures in respect of expenses charged to the profit and loss account of the assessee company in regard to the Kustore area, which reads as follows :-

M/s BHARAT COKING COAL LIMITED, Dhanbad				
Comparative figures of DGIT Report & Expenses charged in P & L A/c of Kustore area				
Asstt. year	As per DGIT (Inv.) Report Dt. 09.01.2014			Charged to P & L A/c in Kustore Area for all contractors
	Payment for work of Capital in nature	Payment for work of Revenue in nature	Total	
2007-08	12,81,000/-	12,32,00,000/-	12,44,00,000/-	5,14,16,000
2008-09	18,08,000/-	14,84,00,000/-	15,02,00,000/-	17,99,74,000
2009-10	4,81,82,000/-	18,41,00,000/-	23,22,00,000/-	10,73,18,000
2010-11	45,28,00,000/-	15,64,00,000/-	60,92,00,000/-	10,34,92,000
2011-12	90,72,00,000/-	43,21,00,000/-	133,93,00,000/-	28,86,14,000
2012-13	8,42,00,000/-	28,02,00,000/-	36,44,00,000/-	42,03,00,000
Total	1,49,53,00,000/-	1,32,44,00,000/-	2,81,97,00,000/-	1,15,11,14,000

24. For the assessment year 2009-2010, the addition made by the AO is to an extent of Rs.23,22,00,000/- whereas the total contract payment of the contractors in the Kustore area by the assessee is only Rs.10,73,18,000/-. Similarly in the assessment year 2011-2012 the addition is Rs.1,33,93,00,000/- whereas the total contract is only Rs.28,86,14,000/- and for the assessment year 2012-2013 the addition is Rs.36,44,00,000/- whereas the total contract with all the contractors is only Rs.42,03,00,000/- Though it has been claimed by the revenue that Shri L.B.Singh and his associates were operating not only in Kustore area but in other area also and, therefore, these figures should not be considered independently. The fact that the addition made on account of the alleged non-business related payment to Shri L.B.Singh and his associates are admittedly far higher than the payments actually made. This also clearly shows that this is not a disallowance of an expenditure which is done by the AO but this an addition that has been made by the AO. It would also be worthwhile to mention here that as per the proceedings against Shri L.B.Singh by CBI, the allegation is only of Rs.1.23 crores. This could be the reasons as to why the reconciliation itself are not coming out from the side of the revenue. In any case, as nothing has been found to show that the assessee has made the payments which are not for the purpose of business, the addition as made by the AO and as confirmed by the Id. CIT(A) under the head contractual expenses related to Kustore area, stands deleted. Consequently, this issue is held in favour of the assessee.

25. The next issue is in regard to contractual expenses (details not furnished). It was fairly conceded by both the sides that the assessee has not been able to provide the details before the AO and it was admitted that this issue could be restored to the file AO and the assessee would be able to show all the details of the expenses. Consequently, this issue is restored to the file of the AO for re-adjudication after granting the assessee adequate opportunity of being heard. This ground of assessee is partly allowed for statistical purposes.

26. The next issue is in regard to contractual expenses Barora. It has been admitted by the Ld. AR that the assessee has opted for Vivad Se Vishwas and consequently is not pressing the issue. This ground of appeal of the assessee is dismissed as not pressed.

27. The next issue is regard to the grant to the school, IICM expenses and the director's salary. These admittedly were not originally claimed when computing the total income of the assessee but has been claimed by filing additional ground before the Ld.CIT(A) which was not admitted by the Ld.CIT(A). It was the submission that these expenses had been missed to be claimed and the AO may be directed to allow the same in view of the decision of the Hon'ble Supreme Court in the case of Goetze (India) Ltd., reported in [2006] 284 ITR 323 (SC).

28. The Ld.CIT DR submitted that revised returns have not been filed. It was submission that the Ld. CIT(A) was right in disallowing the claim in view of the decision of the Hon'ble Supreme Court in the case of Goetze (India) Ltd. as also the provisions of Rule 46A of IT Rules.

29. We have considered the rival submissions. As it is noticed that these claims were not made in the regular course but has been made in the form of additional ground. Applying the principle laid down by the Hon'ble Supreme Court in the case of Goetze (India) Ltd., referred to supra. The AO is directed to allow the assessee's claim for the said expenses. Thus, this issue is held in favour of the assessee.

30. Consequently, the appeal of the assessee in ITA No.291/RAN/2017 (AY: 2009-10) stands partly allowed for statistical purposes. The appeal of the assessee in ITA No.293/RAN/2107 (AY 2011-12) stands allowed and the appeal of the assessee in ITA No.294/RAN/2017(AY:2012-13) stands partly allowed.

31. In the result, both appeals of revenue and the cross objections of the assessee are dismissed and appeals of assessee in ITA No.291/Ran/2017 is partly allowed for statistical purposes and ITA No.293/Ran/2017 is allowed and ITA No.294/Ran/2017 is partly allowed, whereas the cross objections filed by the assessee are dismissed.

Order dictated and pronounced in the open court on 06/01/2026.

Sd/-

(RATNESH NANDAN SAHAY)

लेखा सदस्य / ACCOUNTANT MEMBER

Sd/-

(GEORGE MATHAN)

न्यायिक सदस्य / JUDICIAL MEMBER

राँची Ranchi; दिनांक Dated 06/01/2026

Prakash Kumar Mishra, Sr.P.S.

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

1. अपीलार्थी / The Appellant- .
2. प्रत्यर्थी / The Respondent-
3. आयकर आयुक्त(अपील) / The CIT(A),
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, राँची / DR, ITAT, Ranchi
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

**(Senior Private
Secretary)**

आयकर अपीलीय अधिकरण, राँची / ITAT, Ranchi