

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'E': NEW DELHI**

**BEFORE
SHRI S. RIFAUR RAHMAN, ACCOUNTANT MEMBER
AND
SHRI RAJ KUMAR CHAUHAN, JUDICIAL MEMBER**

ITA No.5013/Del/2025, A.Y. 2015-16

ITA No.5014/Del/2025, A.Y. 2016-17

ITA No.5015/Del/2025, A.Y. 2017-18

Nimbus Projects Limited 1001-1006, 10 th Floor, Narain Manzil, 23, Bara Khamba Road, Connaught Place, Delhi PAN: AAACN0116H	Vs.	Dy. Commissioner of Income Tax, Central Circle-II, Noida
(Appellant)		(Respondent)

Appellant by	Sh. Sh. Gagen R. Khandelwal, Adv. Sh. Jaind Kumar Jaiswal, Adv.
Respondent by	Ms. Ankush Kalra, Sr. DR

Date of Hearing	09/12/2025
Date of Pronouncement	09/01/2026

ORDER

PER RAJ KUMAR CHAUHAN (J.M.):

By this common order, we propose to dispose of ITA Nos. 2013.Del.2025, ITA No. 2014.Del.2025 and ITA No. 2015.Del.2025, as the material facts and grounds are similar and the assessees are also the same. Therefore, in order to avoid multiplicity of decision, these matters are disposed of accordingly. The ITA No. 5014. Del.2025 for A.Y. 2016-17 is taken as the lead case.

- 2.** All these three appeals filed by the assessee against the orders of the DCIT, Central Circle-II, Noida. The impugned order has disposed of the appeals of the assessee vide a common order dated 26.03.2025 wherein the addition made under section 69C of the Income Tax Act, 1961 (in short 'The Act') of the cash payment paid allegedly by the assessee for purchasing goods from M/s. Proform Interiors Private Limited were confirmed.

- 3.** The brief facts as culled out from the proceedings before the authorities below are that M/s. Proform Interiors Private Limited and its related entities, which are primarily engaged in the business of interior designing

and furnishing. The search and seizure operation, under section 132 of the Act was conducted on 9th Feb, 2022 in the case of M/s. Proform Interiors Private Limited as well as the residential premises of its key person, Mr. Gaurav Chopra. In the post-search inquiry it was revealed that the Proform Group was involved in part payments and receipts in cash from its clients, which were not recorded in the books of accounts of the searched entities. The income generated through such unaccounted transactions was not disclosed for taxation. During the course of assessment proceedings, it was ascertained that M/s. Nimbus Projects Ltd. was a client of the Proform Group, having availed interior designing and furnishing services from them. Further, it was discovered that M/s. Nimbus Projects Ltd. had made payments in cash for these services. Since these cash payments were unaccounted, they were treated as unaccounted receipts in the hands of M/s. Proform Interiors Pvt. Ltd. Consequently, the cash payments made by assessee were considered as unexplained expenditure. It is alleged that one typed paper was recovered during the search upon M/s. Proform Group wherein it was revealed that on cash payment was made by the assessee for A.Y. 2015-16 on 24.12.2014 of Rs. 40,00,000/- for A.Y. 2016-17 on 11.05.2015 of Rs. 20,00,000/- and for A.Y. 2017-18 on 06.06.2016 of Rs. 2,00,000/-

respectively. Additionally, certain transactions have been recorded as payments made through cheques by the assessee to the M/s. Proform Interiors Private Limited. On the basis of this information gathered during the investigation, the case of the assessee was selected for scrutiny under section 147 of the Act and consequently, a notice under section 148 of the Act was issued on 30.03.2024, requiring them to file their return of income for the relevant assessment year. Various notices as mentioned in para 4 of the impugned order for the concerned year was issued to which reply were filed by the assessee.

4. In reply, it was stated that the assessee have not entered into any transaction with Proform Interiors Private Ltd. during the year under consideration. However, transaction with them was undertaken during the previous years relevant to the Income Tax assessment years 2017-18, 2018-19. Hence, it is stated that there is no relation between the information available for reopening the case and the inquiry made pursuant to the notice dated 7th January, 2025 issued under section 142(1) of the Act, which cannot be done under the garb of reopening. The AO has noted that, contrary to the stand of the assessee that no transactions were conducted during the year under consideration, a document seized during the search operation is an evidence to show that

the assessee has made a cash payment to Perform Interiors Pvt. Ltd. during the relevant financial year also. It is further noted by the AO that, apart from assessment years 2015-16 and 2016-17, all other payments to Perform Interiors Pvt. Ltd. were made through cheques by the Assessee. Hence, the AO proceeded to add Rs. 20,00,000/- addition under section 69C of the Act.

5. With respect to ITA No. 5013.Del.2025 for A.Y. 2015-16, it is the case of the Revenue that the assessee has made substantial cash payment amounting to Rs. 45,00,000/- to M/s. Proform Interiors Pvt. Ltd. i.e. Rs. 40,00,000/- on 24th December, 2014 and Rs. 5,00,000/- on 19th January, 2015. For these years also, after receiving notice under section 148 of the Act dated 30.03.2024, the assessee did not file the return but has filed responses to the notices issued as mentioned in para 4 in tabulation Form. Again they have taken stand that they did not enter into any transaction with proform interior Pvt. Ltd. during the year under consideration and has accepted that the transaction has taken place only in the previous year relevant to A.Ys. 2017-18 and 2018-19. The AO was not convinced by those submissions and by relying on the document recovered during the search, has made addition of Rs. 45,00,000/- under section 69 of the Act.

6. With respect to the ITA No. 5015.Del.2025, A.Y. 2017-18, the assessee is alleged to have made a payment of Rs. 2,00,000/- in cash on 6th June, 2016. In that regard, in reply of various notices issued during the reopening assessment, the assessee has taken stand that the paper seized during the search on Proform Interior Pvt. Ltd., is an extract of the alleged seized paper, and not the complete seized paper. Further, in the seized paper, there is no mention of the period to which it relates and also there is no mention of payment in cash as alleged in show cause notice. Further, there is no mention in the seized paper that the assessee had made huge cash payment to Proform Interiors Pvt. Ltd. Further, the word 'received' is not prefixed by the word 'cash' as alleged by the show cause notice, therefore, the seized document does not represent the details of alleged payment in cash. The AO, however, was of the opinion that the absence of explicit mention of the period or the mode of payment (cash/cheque) in the seized document does not invalidate its evidentiary value, because section 132(4a) of the Act presumes that the document pertains to the assessee (searched person) and the contents are true, unless rebutted with evidence. It was further, observed by the AO that the seized documents do not explicitly mention "cash" payments however, based on the information obtained from the seized material, it has been

determined that cash transaction took place with Proform Interiors Pvt. Ltd. which forms the basis for reopening of the case. In reply to the contention of the assessee that none of the invoices from Proform Interior Pvt. Ltd. matches the details mentioned in seized documents, the Ld. AO was of the opinion that the alleged discrepancies raises concerns about the authenticity of the transactions or invoices and under section 69C, if expenses are not supported by proper documentation they can be deemed non legitimate and treated as unexplained expenditure. Therefore, the burden is on the assessee to demonstrate that the transactions were legitimate and properly accounted for. It was further observed that as per reply of the assessee, the total payment of Rs. 49,00,000/- was made to the said entity but as per the available information, the total transactions were amounted to Rs. 62,00,000/-, as enumerated in para 3 of the assessment order. It is to be noted that only the entry at Srl. No. 1 of Rs. 2,00,000/- is alleged to be in cash whereas all other alleged payments from Srl. No. 2 to 15 are through cheques. The AO however, added the entire amount of Rs. 62,00,000/- under section 69C r.w.s. 115BBE of the Act as unexplained expenditure.

7. Aggrieved by the assessment orders in all the year under consideration, in these appeals, the assessee filed appeal before the Ld. CIT(A) who has

disposed of all appeals for 4 years from 2015-16 to 2018-19 by common order dated 01.08.2025.

8. Before the Ld. CIT(A), the Ld. AR of the assessee/the appellant has argued that the reopening was bad in law without jurisdiction as there is no information available with the Assessing Officer arising out of search carried out on Proform Interiors Pvt. Ltd.; that the approval under section 151 of the Act is also bad in law because the approval was granted in the mechanical manner without application of mind; that the approval granted under section 148B of the Act by ACIT(A) was also mechanical without application of mind. It was further argued that there was no question of proving source of cash paid because the appellant has been denying payment of cash to Proform Interiors Pvt. Ltd. With regard to the seized document on the basis of which assessment was reopened, it is stated that there is no signature appended of the appellants on the alleged seized document and it is nowhere related to the assessee and therefore the seized document cannot be considered as a valid evidence for making addition on account of alleged cash payment. It is further, argued that an alleged paper prepared by third party cannot be made basis of addition against assessee and reliance was placed on V C Shukla

[1998] 3 SCC 410 (SC), Common Cause (A Registered Society) v. UOI
(2017) 394 ITR 220 (SC).

9. The Ld. CIT(A), while dismissing the appeal, was of the opinion that it is admitted case that the transaction has taken place between the assessee and searched entity and majority of the transactions are recorded in the books of accounts of either the assessee or another entity by the name of M/s. Nimbus Propmart Pvt. Ltd. and said details are provided by the Ld. AR in the reply as tabulated at page 12 of the impugned order extracted below:

Per seized document		Relevant A.Y.	Per bank statements of the appellants		refer pg no of paper book
Payment Received	Amount				
By Recd Dt 24.12.14	4,000,000	2015-16			
By Cheque Recd Dt 19.01.15	500,000	2015-16			
By Recd Dt 11.05.15	2,000,000	2016-17			
By Recd Dt 06.06.16	200,000	2017-18			
By Cheque Recd Dt 01.08.16	1,000,000	2017-18	03.08.2016	1,000,000	25
By Cheque Recd Dt 22.08.16	300,000	2017-18	24.08.2016	300,000	26
By Cheque Recd Dt 10.10.16	500,000	2017-18	14.10.2016	500,000	27
By Cheque Recd Dt. 10.10.16	500,000	2017-18	14.10.2016	500,000	27
By Cheque Recd Dt. 15.11.16	300,000	2017-18	Refer 133(6) reply of Nimbus Propmart dated 30th June, 2025		
By Cheque Recd Dt. 23.11.16	300,000	2017-18	24.11.2016	300,000	28
By cheque recd Dt 02.12.16	500,000	2017-18	Refer 133(6) reply of Nimbus Propmart dated 30th June, 2025		
By cheque recd Dt 02.12.16	300,000	2017-18	03.12.2016	300,000	29
By Cheque Recd Dt 16.12.16	200,000	2017-18	19.12.2016	200,000	29
By Cheque Recd Dt. 19.12.16	500,000	2017-18	21.12.2016	500,000	29
By Cheque Recd Dt. 27.01.17	700,000	2017-18	31.01.2017	700,000	30
By Cheque Recd Dt. 27.01.17	300,000	2017-18	Refer 133(6) reply of Nimbus Propmart dated 30th June, 2025		
By Cheque Recd Dt. 20.02.17	300,000	2017-18	22.02.2017	300,000	31
By Cheque Recd Dt. 28.02.17	300,000	2017-18	02.03.2017	300,000	31
By Cheque Recd Dt. 26.04.17	170,078	2018-19	27.04.2017	170,078	40
	12,870,078			5,070,078	

10. Therefore, the Ld. CIT(A) was of the opinion that the part of the document cannot be considered as true and other part as false, as per convenience of the assessee. Once, the cheque transaction as recorded in the seized document matched with the entries recorded in the books of accounts of the assessee, the onus shifts to the assessee to explain the source of cash payments as well. Hence, the Ld. CIT(A) has upheld the addition made by the AO of Rs. 40,00,000/-, 20,00,000/- and 2,00,000/- on account of cash payment for A.Y. 2015-16, 2016-17 and 2017-18 respectively and the appeal of the assessee were dismissed vide impugned common order.

11. Aggrieved by the impugned order, the assessee is in appeal before us and has raised following grounds of appeal (as a lead case i.e. ITA No. 2014.Del.2025):

“ The following grounds of appeal are independent of, and without prejudice to, one another

The Assessing Officer erred in issuing notice under section 148 of the Act.

The appellants contend that on the facts and in the circumstances of the case and in law, the issue of notice under section 148 is without jurisdiction and hence, the consequent assessment order needs to be quashed.

The appellants further, contend that on the facts and in the circumstances of the case and in law, the notice issued under section

148 is barred by limitation and hence, the consequent assessment order is bad in law and ought to be quashed.

The appellants further, contend that on the facts and in the circumstances of the case and in law, there is no information available with the Assessing Officer arising out of search carried out on Proform Interiors Private Limited which suggests that income chargeable to tax has escaped assessment and therefore, the notice issued under section 148 is bad in law and hence, the consequent assessment order needs to be quashed.

The appellants further, contend that on the facts and in the circumstances of the case and in law, the Assessing Officer failed to bring on record as to how is the income, which has allegedly escaped assessment, represented in the form of (i) an asset; or (ii) expenditure in respect of a transaction or in relation to an event or occasion; or (iii) an entry or entries in the books of account, and therefore, the notice issued under section 148 is bad in law and hence, the consequent assessment order needs to be quashed.

1. The specified authority under section 151 erred in not granting an appropriate approval as required under section 151 of the Act.

The appellants contend that on the facts and in the circumstances of the case and in law, the approval granted by the authority under section 151 of the Act is mechanical and without application of mind, and therefore, the notice issued under section 148 by the Assessing Officer is bad in law and hence, the consequent assessment order needs to be quashed.

2. The authority under section 148B erred in not granting appropriate approval as required under section 148B of the Act.

The appellants contend that on the facts and in the circumstances of the case and in law, the approval granted by the authority under section 148B of the Act is mechanical and without application of mind and hence, the consequent assessment order is bad in law and needs to be quashed.

3. The CIT(A) erred in upholding the addition made by the Assessing Officer of Rs 20,00,000 under section 69C of the Act, being alleged payment in cash made to Proform Interiors Private Limited.

The appellants contend that on the facts and in the circumstances of the case and in law, the CIT(A) ought not to have upheld the impugned addition of Rs 20,00,000 inasmuch as he has not appreciated the facts of the case in its entirety as the appellants have not made any payment to Proform Interiors Private Limited, whether by cheque or in cash, during the year under reference and hence, the impugned addition of Rs 20,00,000 is not warranted and needs to be deleted.

The appellants further, contend that on the facts and in the circumstances of the case and in law, the CIT(A) ought not to have upheld the impugned addition inasmuch as no positive evidence is brought on record by the Assessing Officer and the impugned addition is made only on the basis of assumptions and presumptions; hence, the impugned sustenance of Rs 20,00,000 is bad in law and needs to be deleted.

The appellants crave leave to add to, alter or amend the aforesated grounds of appeal.”

12. We have heard the ld. AR for the assessee and the Ld. DR for the revenue.

13. The ld. AR argued that the Assessing Officer has relied on an alleged document which is not related to the assessee, and a document prepared by third person cannot be relied upon against the assessee. Further, no statement of said 3rd person has been recorded to verify the contents of the document, hence, the same is not admissible in evidence. The ld. AR has referred para 5.1 of the assessment order, stating that the assessing officer has wrongly assumed about the cash

payment received by the assessee in the assessment years 2015-16, 2016-17 from the searched entity. It is further argued that the reply given by the assessee to the notice u/s 133(6) of the Act, dated 24.06.2025 submitted before the Ld. CIT(A), has not been properly considered by the Ld. Appellate Authority. It is further submitted that the impugned order and the seized document also relate to transactions pertaining to Nimbus Propmart Limited and the said entity has duly explained to the Ld. CIT(A) stating that they (Nimbus Propmart Ltd.) have paid Rs. 16,00,000/- to perform interiors during the year under consideration. Hence, the assessee was entitled to relief of Rs. 16,00,000/- from the addition, in view of submissions of Nimbus Propmart Ltd. It is further argued that in page 12 of the ld. CIT(A) order, the Ld. CIT(A) has restricted the addition for assessment year 2017-18 only to Rs. 2,00,000/- as against the addition of Rs. 62,00,000/- by the AO which shows that the addition made by the Assessing Officer in other preceding years was also not legally justified, as the same has been based on a dumb document which cannot be relied upon as evidence. It is further argued that the department has not challenged the restriction of the addition only to Rs. 2,00,000/- by the Ld. CIT(A) and the said facts goes against the revenue.

13.1 The Ld. DR on the other hand argued that the Revenue has not filed appeal against the restriction of the addition for A.Y. 2017-18 due to low tax effect. With respect to the addition made on account of alleged cash receipt by the searched entity from the assessee, it is argued that the related document is not a dumb document because the entries made in respect of year 2017-18 starting from 01.08.2016 to 26.04.2017 are deemed to be admitted because the said transactions are found recorded in the books/ bank account of the appellant or Nimbus Propmart Ltd. Hence, the cash transactions mentioned on the same document where the cheque transactions are mentioned, has to be considered as correct because the document cannot be read in part and the whole document has to be read and the entries made in cheque as well as in cash, therefore, has to be believed on the basis of preponderance of probabilities. It is further argued that the cheque transactions recorded in the seized document, match with the entries recorded in the books of accounts of the assessee and the onus was shifted to the assessee to explain the source of cash payment which assessee has failed. Hence, the Ld. DR submitted that the addition made by the assessing officer and confirmed by the Ld. CIT(A) for all the concerned assessment years are legally and factually justified, and

the appeal is devoid of merit and is liable to be dismissed. It is further argued that the reliance placed by the Ld. AR on the judgement of Supreme Court in *Common Cause (A Registered Society) v. Union of India*, [2017] 77 taxmann.com 245 (SC), is misplaced because the said case pertains to the registration of FIR. The said judgment was decided on that premises whereas in the present case, the burden of proof is required to be determined on the basis of preponderance of probabilities and the Ld. DR relied upon the case of *Sumati Dayal vs Commissioner Of Income-Tax, Bangalore* 1995 AIR 2109, 1995 SCC SUPL. (2) 453.

14. We have considered the rival submission and examined the record.
The question for determination is whether that the seized document relied upon by the revenue is a dumb document as argued by the Assessee or a reliable evidence as argued by the Revenue, if so its effects?
15. The Ld. AR, on behalf of the assessee, has relied on the case of Hon'ble Supreme Court in *Common Cause (A Registered Society) v. Union of India* (supra) wherein it was held that "*loose sheets of paper are wholly irrelevant as evidence, being not admissible u/s 34, so as to constitute*

evidence with respect to the transaction mentioned therein being of no evidentiary value". The entire prosecution based on such entries, which led to the investigation was quashed by the Hon'ble Supreme Court. It is therefore argued by the Ld. AR that the seized document relied by the revenue is not admissible as evidence, as it is a document prepared by a 3rd party having no concern with the assessee.

16. The Ld. DR on the other hand argued that under the Income Tax Act, the burden of proof is not beyond reasonable doubt as in a criminal case, hence, the case relied by the assessee is not relevant because under the income Tax Act the adjudicating authorities are required to consider the material/documents on the basis of preponderance of probabilities and has relied the case of the Hon'ble Supreme Court in *Sumati Dayal vs Commissioner Of Income-Tax, Bangalore 1995 AIR 2109*, wherein para 5 it was held as under:

"5. It is no doubt true that in all cases in which a receipt is sought to be taxed as income, the burden lies on the Department to prove that it is within the taxing provision and if a receipt is in the nature of income, the burden of proving that it is not taxable because it falls within exemption provided by the Act lies upon the assessee. [See :Parimisetti Seetharamamma (supra) at P. 5361. But, in view of Section 68 of the Act, where any sum is found credited in the books of the assessee for any previous year the same may be charged to income tax as the income of the assessee of that previous year if the explanation offered by the assessee about the nature and source thereof

*is, in the opinion of the Assessing Officer, not satisfactory. In such case there is, *prima facie*, evidence against the assessee, viz., the receipt of money, and if he fails to rebut, the said evidence being unrebutted, can be used against him by holding that it was a receipt of an income nature. While considering the explanation of the assessee the Department cannot, however, act unreasonably. (See : Sreelekha Banerjee (*supra*) at p. 120).*

17. The Ld. DR further relied upon the case of *Swati Bajaj* [2022] 139 taxmann.com 352 (Calcutta) wherein para 69 it was held as under: -

*“69. Thus, the legal principle which can be culled out from the above decision is that to prove the allegations, against the assessee, can be inferred by a logical process of reasoning from the totality of the attending facts and ITAT NO. 06 OF 2022 AND ETC. BATCH circumstances surrounding the allegations/charges made and levelled and when direct evidence is not available, it is the duty of the Court to take note of the immediate and proximate facts and circumstances surrounding the events on which the charges/allegations are founded so as to reach a reasonable conclusion and **the test would be what inferential process that a reasonable/prudent man would apply to arrive at a conclusion.** Further proximity and time and prior meeting of minds is also a very important factor especially when the income tax department has been able to point out that there has been an unnatural rise in the price of the scrips of very little known companies. Furthermore, in all the cases, there were minimum of two brokers who have been involved in the transaction. It would be very difficult to gather direct proof of the meeting of minds of those brokers or sub-brokers or middlemen or entry operators and therefore, the test to be applied is the test of preponderance of probabilities to ascertain as to whether there has been violation of the provisions of the Income Tax Act. In such a circumstance, the conclusion has to be gathered from various circumstances like the volume from trade, period of persistence in trading in the particular scrips, particulars of buy and sell orders and the volume thereof and proximity of time between the two which are relevant factors. Therefore, in our considered view the methodology adopted by the department cannot be faulted.”*

18. We now proceed to examine the assessment order as well as impugned order to consider the above submissions and the reliability of the seized document. We are extracting para 5, 5.1 and 5.2 as under:

“As per the assessee’s submission, it has been explicitly stated that no transactions were conducted with Proform Interiors during the year under consideration. However, a document seized during the search operation serves as concrete evidence that the assessee made cash payments to this entity during the relevant financial year.

5.1 This contradiction suggests that the assessee is deliberately concealing the cash transactions. The reasoning behind this assertion appears to be that, apart from Assessment Years 2015-16 and 2016-17, all other payments to Proform Interiors were made through cheques. By claiming that no transactions occurred in the year under review, the assessee is seemingly attempting to distance themselves from the cash transactions specifically.

5.2 This deliberate non-disclosure indicates an intentional effort to suppress the fact that payments were indeed made in cash. Such an omission raises serious doubts about the genuineness of the assessee’s claims and suggests that they are unwilling to acknowledge these cash payments, possibly to avoid tax implications or scrutiny under the provisions of the Income-tax Act.

In view of the above and as per the findings of search, it is established that the assessee has made payment to the said entity amounting to Rs. 20,00,000/- and therefore an amount of Rs. 20,00,000/- is hereby added to the total income of the assessee u/s 69C of the Act.

[Add: Addition of Rs. 20,00,000/- u/s 69C of the Act]

Penalty proceedings u/s 271(1)(c) of the Act are being initiated separately.”

19. We have also examined the impugned order passed by Ld. CIT(A) and to arrive the decision on the question before us, we deem it necessary to extract page 11 to 14 of the CIT(A) order as under:

"It shall be important to analyze the transactions as mentioned in the seized documents viz a viz the transactions in the books of accounts of the assessee concern and the information received in response to enquiry from Nimbus Propmart Limited. The details of transactions as provided by the AR in the reply filed are tabulated below for easy understanding:

Per seized document		Relevant A.Y.	Per bank statements of the appellants		refer pg no of paper book
Payment Received	Amount				
By Recd Dt 24.12.14	4,000,000	2015-16			
By Cheque Recd Dt 19.01.15	500,000	2015-16			
By Recd Dt 11.05.15	2,000,000	2016-17			
By Recd Dt 06.06.16	200,000	2017-18			
By Cheque Recd Dt 01.08.16	1,000,000	2017-18	03.08.2016	1,000,000	25
By Cheque Recd Dt 22.08.16	300,000	2017-18	24.08.2016	300,000	26
By Cheque Recd Dt 10.10.16	500,000	2017-18	14.10.2016	500,000	27
By Cheque Recd Dt 10.10.16	500,000	2017-18	14.10.2016	500,000	27
By Cheque Recd Dt 15.11.16	300,000	2017-18			
By Cheque Recd Dt 23.11.16	300,000	2017-18	24.11.2016	300,000	28
By cheque recd Dt 02.12.16	500,000	2017-18			
By cheque recd Dt 02.12.16	300,000	2017-18	03.12.2016	300,000	29
By Cheque Recd Dt 16.12.16	200,000	2017-18	19.12.2016	200,000	29
By Cheque Recd Dt 19.12.16	500,000	2017-18	21.12.2016	500,000	29
By Cheque Recd Dt 27.01.17	700,000	2017-18	31.01.2017	700,000	30
By Cheque Recd Dt 27.01.17	300,000	2017-18			
By Cheque Recd Dt 20.02.17	300,000	2017-18	22.02.2017	300,000	31
By Cheque Recd Dt 28.02.17	300,000	2017-18	02.03.2017	300,000	31
By Cheque Recd Dt 26.04.17	170,078	2018-19	27.04.2017	170,078	40
	12,870,078				
				5,070,078	

From the perusal of the above table, it is made out that majority of the transactions are recorded in the books of accounts of either the assessee or another entity by the name of M/s. Nimbus Propmart Limited. The recording of the cheque entries in the seized document is mostly 1 to 3 days earlier than the actual transaction recorded in the books/bank account of appellant or Nimbus Propmart Limited. The reason for the said difference appears to be the time taken by the banking authorities for clearance of the cheques. The cheque amounts under question are exactly matching as per the seized document and as per the bank account of the appellant and reply of Nimbus Propmart Limited.

Apart from the cheque transactions, there is cash payment of Rs. 40 lacs during AY 2015-16, Rs. 20 lacs during AY 2016-17 and Rs. 2 lacs during AY

2017-18. The assessee has denied the payment of cash. It is important to emphasize here that the cash transactions are also mentioned on the same document where the cheque transactions are mentioned. It cannot be a case where the part of the document can be considered as true and other part false as per the convenience of the assessee. Once, the cheque transactions recorded in the seized document match with the entries recorded in the books of accounts of the assessee, the onus shifts to the assessee to explain the source of cash payments as well.

The AO has relied upon the seized material wherein, the payment of cash totaling to Rs. 62 lacs made by the assessee spread over three assessment years i.e. AY 2015-16 to AY 2017-18 has been referred to. The AO treated the cash payment as unexplained cash and added the same to the total income of the assessee, Though the Alt has been denying the payment of cash, but the same seized document carries confirmed payments of cheque made by the assessee. The AO apart from the addition with respect to the cheque payments has also made addition with respect to the unexplained cash payments made by the assessee. The cash payments of Rs. 62 lacs are part of record as per the seized document. Subsequent denial of a transaction which is clearly made out from the seized document cannot be taken as ground for providing any relief to the assessee.

Judicial Pronouncements

The Hon'ble Supreme Court in the case of CIT vs. Smt. P. K. Noorjahan reported at [1999] 237 ITR 570 has held that if, the assessee's explanation regarding the source of investment is not found to be satisfactory, the AO has the discretion to treat such investment as assessee's income.

Further, the Hon'ble High Court of Madras in the case of Thiru S. Shyam Kumar vs. ACIT reported at [2018] 99 taxmann.com 39 has held as under:

Unexplained investment (On-money payment) A search was conducted in business premises of assessee wherein certain loose slips were recovered, which showed several entries pertaining to cash and cheque transactions in respect of purchase of a property-Assessee accepted in his statement that slip represented on-money payment made for purchase of property in question Later on, assessee retracted from his statement and

claimed that loose slips were only dumb slips Tribunal however, rejected claim of assessee and confirmed addition-Whether since notings in loose slips were clear, retraction made by assessee after period of two years was rightly rejected as an afterthought-Held, yes Whether thus, impugned order could not be interfered-Held, yes"

The Hon'ble Karnataka High Court in the case of C. Ramakrishna vs. Deputy Commissioner of Income-tax reported in [2023] 154 taxmann.com 40 (Karnataka), held as under:

Section 69A of the Income-tax Act, 1961 Unexplained money (Illustrations) Assessment year 2009-10-Assessing Officer made additions in hands of assessee on basis of seized loose papers which revealed money transaction between assessee and others relating to a property It was noted that transaction of payment with respect to relevant assessment year was confirmed Whether since lower authorities had concurrently recorded findings of fact against assessee, appeal was to be dismissed-Held, yes [Para 5] [In favour of revenue]

The Hon'ble High Court of Jharkhand in the case of Mahabir Prasad Rungta vs. Commissioner of Income-tax (Appeals), Ranchi reported at [2014] 43 taxmann.com 328 (Jharkhand), held as under:

Pursuant to a search of assessee's premises, Assessing Officer made an addition on ground of undisclosed Income on basis of loose sheets seized during search Whether loose sheets seized during search sometimes contain valuable information and thus those are to be regarded as 'documents' within meaning of section 1588(b)-Held, yes Whether there is presumption raised under section 132(4A) regarding documents seized and in light of such presumption, assessee ought to have produced other documents to disprove entries made in loose sheets Held, yes Whether since assessee had not adduced any rebuttal evidence to show that entries made in diary/loose sheets were not income in hands of assessee, addition upheld by Commissioner (Appeals) and Tribunal were justified-Held, yes"

From the above judgments, it is clear that once there is adequate documentary proof available showing the payment of cash, the said

unaccounted cash needs to be brought to tax. From the above discussion, it is apparent that the transactions recorded by the assessee in the books of accounts and the transactions recorded in the books of accounts of Nimbus Propmart Limited cannot be added to income of the assessee. The transactions made in cash for which the assessee has not been able to explain the source have been rightly added by the AO to the income of the assessee. Accordingly, addition is sustained to the extent of Rs. 40 lacs being paid in cash by the assessee during AY 2015-16, Rs. 20 lacs being paid in cash by the assessee during AY 2016-17 and Rs. 2 lacs being paid in cash by the assessee during AY 2017-18. Accordingly, this ground for AY 2015-16 & 2017-18 is partly allowed, for AY 2016-17 is dismissed and for AY 2018-19 is allowed.

4.6 Ground of Appeal No. 6 is regarding charging of interest u/s 2348 and 234C of the Income Tax Act, 1961 which is consequential in nature. The AO shall charge the interest as per law.

5. In the result, the Appeal for AY 2015-16 & 2017-18 is partly allowed, Appeal for AY 2016-17 is dismissed and the Appeal for AY 2018-19 is allowed.”

20. On perusal of the impugned order as well as the assessment order, it become evident that the material as discussed by the Ld. Lower Authority and the reasoning given therein are such which is based on correct appreciation of facts while following the settled legal precedents. It is an undisputed fact that the seized document is containing entries of cash payment as well as payment through cheques. Payment through cheques which are relevant to the assessment year 2017-18 are found recorded in the books of account of either assessee or concern (Nimbus Propmart Ltd.). Therefore, we agree with the argument of the ld. DR for revenue that the seized document is to be read as a whole and not in parts and the assessee cannot be allowed to

blow hot and cold in the same breadth. Hence, the entries in cash as well as in cheques in the seized document are to be considered correct and the burden of proof in the Income Tax cases as held in Sumati Dayal (supra) and Swati Bajaj (supra) would be what inferential process a reasonable/ prudent man would apply to arrive at a conclusion on a *prima facie* appreciation of the material. Hence, the seized document relied by revenue is held not to be a dumb document but a piece of admissible evidence. The question posed by us in para 14 (supra) is decided accordingly in favour of revenue. Therefore, we find no legal or factual infirmity in the conclusion arrived by the Ld. Lower Authorities including the Ld. CIT(A) in the impugned order. Hence, we confirm the impugned order and the addition made therein in all the concerned assessment years.

21. Since, the appellant has argued its case with respect to the addition, on merit only, the other grounds raised in the appeal are disposed of as not pressed. The appeal of the assessee is accordingly dismissed.

**ITA No. 5013/Del/2025, A.Y. 2015-16 & ITA No. 5015/Del/2025,
A.Y. 2017-18**

22. In view of the finding returned in ITA No. 5013/Del/2025 & 5015/Del/2025 since, the facts and issues are identical and the notices issued on same date, the findings returned in ITA No. 5014/Del./2025, (A.Y. 2016-17) shall mutatis mutandis apply to these appeals also. The appeals of the assessee are dismissed in above terms.

Order pronounced in open Court on 09 January, 2026

Sd/-

(S. RIFAUROUZ RAHMAN)
ACCOUNTANT MEMBER

Dated:09/01/2026

Binita, Sr. PS

Sd/-

(RAJ KUMAR CHAUHAN)
JUDICIAL MEMBER

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT/PCIT
4. CIT(Appeals)
5. Sr. DR: ITAT

ASSISTANT REGISTRAR
ITAT, NEW DELHI