

IN THE INCOME TAX APPELLATE TRIBUNAL
“B” BENCH, CHANDIGARH

HYBRID HEARING

**BEFORE HON’BLE SHRI RAJPAL YADAV, VICE PRESIDENT
AND
HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM**

**1. आयकर अपील सं./ ITA No.487/CHANDI/2025
(निर्धारण वर्ष / Assessment Year: 2013-14)**

M/s Singla Builders and Promoters Ltd. Plot No 1265, Sector 82, Industrial Area Rupnagar (Punjab) 140308	बनाम/ Vs.	DCIT / ACIT Central-1 C.R. Building, Sector 17 Chandigarh-160017
स्थायीलेखासं./जीआइआरसं./PAN/GIR No. AAOCS-6503-M		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

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**2. आयकर अपील सं. / ITA No.482/CHANDI/2025
(निर्धारण वर्ष / Assessment Year: 2017-18)**

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**3. आयकर अपील सं. / ITA No.484/CHANDI/2025
(निर्धारण वर्ष / Assessment Year: 2018-19)**

M/s Credo Assets Private Ltd. Plot No 1265-C, Sector 82, Industrial Area Rupnagar (Punjab) 140308	बनाम/ Vs.	DCIT / ACIT Central-1 C.R. Building, Sector 17 Chandigarh-160017
स्थायीलेखासं./जीआइआरसं./PAN/GIR No. AAFCC-6400-L		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थीकीओरसे/ Appellant by	:	Sh. Parikshit Aggarwal (CA) & Smt. Shruti Khandelwal (CA) – Ld. ARs
प्रत्यर्थीकीओरसे/ Respondent by	:	Smt. Kusum Bansal (CIT) & Shri Rajat Kumar Kureel (CIT) – Ld. DRs (Virtual)

Date of Final Hearing	:	27-01-2026
Date of Pronouncement	:	03-02-2026

आदेश / O R D E R

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeals by two separate assesseees have, admittedly, identical facts and issues. First, we take up appeal of M/s Singla Builders & Promoters Ltd., ITA No.487/Chandi/2025 for Assessment Year (AY) 2013-14 which arises out of an order of learned Commissioner of Income Tax (Appeals)-3, Gurgaon [CIT(A)] dated 31-01-2025 in the matter of an assessment framed by Ld. Assessing Officer (AO) u/s 143(3) r.w.s.153A of the Act on 29-11-2022. The grounds of appeal read as under: -

1. That on the facts, circumstances and legal position of the case, Worthy CIT(A), in Appeal No.10498/CIT(A)-3/GGN/2012-13, has erred in passing order dtd.31.01.25 in contravention of provisions of S. 250 of the Income Tax Act, 1961 hereinafter referred to as "Act").

2. That on facts, circumstances and legal position of the case, Worthy CIT(A) has erred in confirming the action of Ld. AO of passing asst. order by illegally assuming jurisdiction u/s 153A and more-so when no incriminating material qua this year was found in search u/s 132 on assessee.

3. That on facts, circumstances and legal position of the case, Worthy CIT(A) has erred in confirming the action of Ld. AO in initiating proceedings u/s 153A even when the jurisdiction condition prescribed in clause (a) under 4th proviso to s. 153A(1), being finding of escaped income represented in the form of asset, was not satisfied.

4. That on facts, circumstances and legal position of the case, Worthy CIT(A) has erred in confirming the action of Ld. AO of passing assessment order beyond the limitation period prescribed u/s 153B since the reference made u/s 142A to the DVO for estimation of construction expense of the appellant was illegal.

5. That on facts, circumstances and legal position of the case, Worthy CIT(A) has erred in confirming the action of Ld. AO of passing assessment order which had been passed on the basis of illegal transfer order u/s 127.

6. That on facts, circumstances and legal position of the case, Worthy CIT(A) has erred in confirming the addition made by Ld. AO of Rs.75,44,23,825/- u/s 69B on account of alleged investment in construction of real estate projects on the basis of report of DVO even when:

6.1 The report of the DVO was never served on the assessee despite mandatory requirement of S. 142A;

6.2 Thereport of the DVO was time barred and hence no addition on the basis thereof could have been made;

6.3 The report of the DVO is absolutely incorrect and has been framed by him without considering the ground realities, documents furnished and produced before him:

6.4 The DVO has issued the report without confronting the issues and without affording reasonable opportunity of being heard;

6.5 In respect of construction expense of a builder, the addition could not have been made u/s 69B on the basis of report of DVO.

7. That on facts, circumstances and legal position of the case, Worthy CIT(A) has erred in confirming the addition of Rs.1,08,00,000/- made u/s 69A by the Ld. AO on account of alleged unaccounted cash receipts even when:

7.1 No such cash was received by the assessee during the year;

7.2 The basis statement of Mr. Amit Goyal (accountant) stood subsequently retracted;

7.3 Mr. Amit Goyal was never produced for cross-examination despite specific written demand made by the appellant;

7.4 The alleged material in the form of print outs of cash receipt excel sheets never existed and was got prepared by search team from Mr. Amit Goyal by exerting undue pressure on him and this fact has been explained by Mr. Amit Goyal in his retraction letter and most importantly, even during examination of digital records during assessment, even the Ld. AO could not find the soft copy of these printouts in this entire soft data seized from assessee group;

7.5 No corroborative material was found by the department during search or even till conclusion of impugned assessment about receipt of alleged unaccounted cash from customers;

7.6 The assessee furnished enough evidences including affidavits of huge number of customers) and explanation during assessment to establish and corroborate that the amount disclosed in books as sale is the real transaction and the alleged unaccounted cash never existed.

8. That on facts, circumstances and legal position of the case. Worthy CIT(A) has erred in confirming the impugned order passed by Ld. AO u/s 153A when such order is invalid and unlawful since the approval u/s 153D was without due application of mind and was merely ritualistic.

9. That on facts, circumstances and legal position of the case Worthy CIT(A) has erred in confirming the action of Ld. AO of passing assessment order without having DIN.

10. That on facts, circumstances and legal position of the case, the order passed by Ld. AO and then by Worthy CIT(A) deserves to be quashed since the same have been passed without affording reasonable opportunity of being heard.

11. That the appellant craves leave for any addition, deletion or amendment in the grounds of appeal on or before the disposal of the same.

2. As is evident, the assessee has assailed the twin quantum additions on merits as well as the jurisdiction of Ld. AO on legal grounds. The Ld. AR advanced vehement arguments assailing the report of DVO. A case has been made out that reference to DVO was

invalid and the assessment order was null and void for want of limitation. The written submissions have also been filed along with relevant case laws. The Ld. CIT-DRs also vehemently argued the case of the revenue and supported the orders of lower authorities. The case was put up for clarification which was responded to by both the parties. Having heard rival submissions, oral as well as written and upon perusal of case records / case laws, our adjudication would be as under. The assessee being resident corporate assessee is stated to be engaged in developing real estate projects.

Assessment Proceedings

3.1 The impugned assessment has been framed pursuant to search action u/s 132 by the department on the assessee on 21-01-2021. The assessee is flagship concern of the group and it was also covered under search action. The jurisdiction of the assessee's case was transferred to DCIT, Central Circle-1, Chandigarh by Ld. Pr. CIT-1, Chandigarh vide order u/s 127 dated 09-07-2021. The assessee had previously filed regular return of income u/s 139(1) on 30-09-2013 declaring income of Rs.231.56 Lacs. Post search action, a notice u/s 153A was issued to the assessee on 09-02-2022 against which the assessee filed return of income on 11-03-2022 declaring income of Rs.246.43 Lacs. The notices u/s 143(2) and 142(1) were issued in due course of assessment proceedings calling for various details / explanations from the assessee.

3.2 During search, it transpired that the assessee had made substantial investment in projects which were alleged to be not

completely accounted for in its regular books of accounts. Accordingly, the case was referred by Ld. AO to District Valuation Officer (DVO) on 30-03-2022 for estimating the quantum of investments as made by the assessee in its projects during AYs 2012-13 to 2021-22. The report of the DVO was received by Ld. AO which was then confronted to the assessee. The assessee filed its reply on 26-11-2022.

3.3 In its reply, the assessee assailed the jurisdiction of Ld. AO on the ground that AY 2013-14 was beyond six assessment years but within ten assessment years. As per 4th proviso to Sec.153A(1) read with Explanation-2, notice for reassessment for 7th to 10th year preceding the search year could be made only when AO had in his possession any incriminating evidence which revealed that the income valued for Rs.50 Lacs or more was represented in the form of an “asset” that had escaped assessment. The Explanation-2 provide that for the purpose of fourth proviso, the “asset” includes immovable property being land or building or both, shares and securities, loans and advances and unexplained deposits in the bank. The assessee asserted that during search no such document was found which could be categorized in the form of an “asset” as enumerated in Explanation-2 and therefore, the jurisdiction of Ld. AO was vitiated. However, Ld. AO quoted the provisions of Sec.153A to note that various documents were found (marked as Annexure B-14 to B-24) which revealed that income represented in the form of an “asset” had escaped assessment. In the seized documents, cash receipts against sale or advances for flats were found. The seized document was

confronted to the directors of the assessee. Further, definition of “asset” was an inclusive definition and not an exclusive one. The meaning of “asset” therefore, could not be restricted only to the form of assets as mentioned in Explanation-2. Finally, the assessee’s legal objection was rejected.

3.4 The Ld. AO proceed to make addition of unexplained investment u/s 69B on the basis of DVO valuation. It was alleged that the assessee, in the course of developing its real estate projects, was making unaccounted expenditure. For the same, Ld. AO referred to Annexure A-10 which contained cash flow for the month of July, 2020 which was seized from business premises of the assessee. This page was having inflow and outflow columns and the same contained consolidated details of cash transactions of all the assessee group companies including the present assessee. As per this document, cash to the tune of Rs.433.35 Lacs was used for construction by the group companies. The same would reveal that there was involvement of unaccounted investment in the projects by the group companies.

3.5 To ascertain the quantum of unexplained expenditure, the matter was referred to Ld. DVO vide letter dated 30-03-2022 in terms of provisions of Sec.142A for estimating the cost of actual investment in various projects as carried out by the assessee during AYs 2012-13 to 2021-22. As per the valuation report of the DVO, value of investment in ongoing projects during the year under consideration as against the value of investment as declared by the assessee in regular books was tabulated by Ld. AO as under: -

No.	Name of the Project	Letter Ref. No.	Amt. declared by the assessee (Rs.)	Valuation made by DVO (Rs.)
1.	Comfort Green, Civil hospital Road, Guru Teg Bahadur Nagar, Kharar	Letter No. 352 dt. 12.09.2022	7,00,000	56,41,516
2.	Comfort Homes, Civil hospital Road, Guru Teg Bahadur Nagar, Kharar	Letter No. 371 dt. 26.09.2022	75,00,000	2,10,32,900
3.	Housing Park (Phase-1 & Phase-2) Chandigarh-Ambala Highway, Derabassi	Letter No.484 dt. 21.11.2022	22,48,00,000	27,43,91,615
4.	North Valley, Sector – 127 Kharar-Landra Road, SAS Nagar, Mohali	Letter No. 478 dt. 18.11.2022	24,26,00,000	52,52,41,605
5.	SBP Homes-1, Sector 126, Kharar, SAS Nagar, Mohali	Letter No. 500 dt. 23.11.2022	33,57,00,000	37,62,77,389
6.	SBP Homes-2, Sector-126, Kharar, SAS Nagar, Mohali	Letter No.480 dt.18.11.2022	15,30,00,000	15,87,51,790
7.	South City, VIP Road, Zirakpur	Letter No. 482 dt. 19.11.2022	49,02,00,000	84,75,87,010
Total (Rs.)			145,45,00,000	220,89,23,825

The Ld. DVO thus estimated investment of Rs.220.89 Crores in seven projects as against Rs.145.45 Crores as declared by the assessee for this year. On the basis of DVO estimation, Ld. AO made allegation of unaccounted investment for Rs.75.44 Crores and show-caused the assessee for proposed addition. Pertinently, the DVO's report was shared by Ld. AO with the assessee for the first time only on 23-11-2022 along with show-cause notice.

3.6 The assessee, in its reply dated 26-11-2022, pointed out that DVO submitted his incomplete reports on separate projects (without year-wise break up of expenditure) on different dates like 13-09-2022, 26-09-2022 and 10-11-2022. Thereafter, DVO sent his complete report along with year-wise break up only on 22-11-2022 in which he mentioned that the assessee had not submitted complete year-wise expenditure though the assessee had submitted complete expenditure

in its reply. The complete report of the DVO was shared by Ld. AO with the assessee only on 23-11-2022 whereas the provision of sub-section (6) of Sec.142A mandate DVO to furnish final report within 6 months from the end of the month in which a reference was made to DVO. As per these provisions, the report must be given by the DVO within 6 months to the assessee as well as to AO but in this case, the DVO had not given its report to the assessee as statutorily required by law. The complete DVO report was provided to the assessee by Ld. AO only on 23-11-2022 which was beyond the stated period of 6 months which stood expired on 30-09-2022. The complete report of the DVO was dated 22-11-2022 whereas the time limit to furnish such a report already expired on 30-09-2022 which would mean that DVO became *functus officio* on 30-09-2022 and any report or action taken after 30-09-2022 by Ld. DVO would be illegal and void-ab-initio. Therefore, the report of DVO filed after the expiry of limitation period could not be the basis for making proposed addition in the hands of the assessee. The report of DVO u/s 142A was not only a statutory report but it was an order in itself. The power vested in the DVO was *quasi-judicial* in nature and the report tendered by him would be an order. The limitation prescribed under sub-section (6) of Sec.142A was, therefore, statutory time period within which DVO must complete his action / function. Having not done so, his report would be illegal and therefore, the said report could not be considered by Ld. AO to make the assessment on the assessee.

3.7 To support its legal submissions, the attention was drawn to the fact that prior to 2014, there was no time period prescribed u/s 142A to complete the valuation exercise by DVO. However, Finance Act, 2014 revamped Sec.142A and sub-section (6) prescribing limitation period was inserted. The budget memorandum explaining the said legislation provided that the valuation officer was required to estimate the value of the asset, property or investment after taking into account the evidence produced by the assessee and any other evidence in his possession gathered, after giving an opportunity of hearing to the assessee. It was also proposed that valuation officer shall send a copy of estimate to the Assessing Officer and the assessee within a period of 6 months from the end of the month in which the reference was made. The assessing officer, upon receipt of report may, after giving an opportunity of hearing to the assessee, take into account such report in making the assessment or reassessment. It was also proposed to amend Sec.153 and 153B of the Act so as to provide that the time period beginning with the date on which the reference is made to the valuation officer and ending with the date on which his report is received by the Assessing Officer shall be excluded from the time period provided under aforesaid sections for completion of assessment or reassessment. These amendments were to take effect from 01-10-2014. It was thus stated that the legislature specifically laid out emphasis on the limitation period to file report by the DVO. In the present case, the report was never served upon the assessee by DVO and secondly, the report was furnished to AO beyond 6 months from

the end of the month in which the reference was made to DVO. The DVO did not provide any opportunity of hearing and therefore, the same was to be discarded in terms of decision of Hon'ble Supreme Court in the case **Rajesh Kumar & Ors. vs. DCIT (287 ITR 91)**. The assessee also referred to the decision of Hon'ble Gujarat High Court in the case of **Munir Ismail Voraji (82 Taxmann.com 92)**. The assessee also assailed the action of DVO reference by Ld. AO by quoting the decision of Hon'ble Delhi High Court in the case of **Aar Pee Apartments Pvt. Ltd. (319 ITR 276)** and the decision of Hon'ble Gujarat High Court in the case of **Anand Banwarilal Adhukia (75 Taxmann.com 301)**. It was further stated that what could be referred for valuation has to be 'asset', 'property' or 'investment' as contemplated u/s 142A(1). However, for the assessee, amount spent on construction of real estate project would only be an expenditure which do not fall in any of these categories and therefore, such a valuation could not have been referred. It was further contended that DVO's report was only an estimation and it was matter of opinion only which was subject to challenge and therefore, no such addition could be made in the hands of the assessee merely on the basis of DVO's valuation.

3.8 The assessee also questioned the methodology of DVO on merits. It was submitted that without incriminating material supporting the impugned expenditure, no addition could be made solely on the basis of DVO's report. The DVO valued the construction at CPWD rates which were approx. 30% higher than the prevailing market rates.

Though the assessee furnished the relevant bills and other details, Ld. DVO completely ignored the same and adopted standard rates which were way higher than the actual rates without considering the fact that standard rates may vary as per construction quality of the building and the standard rates may not be applicable in the instant case. The Ld. DVO only provided allowance of 9% for personal supervision as against 15% permissible under law. Further, the assessee was engaged in this line of business for over a decade and it could procure the material way cheaper than the other buyers. To further support its argument, the assessee furnished its own valuation report which valued the cost of the projects as Rs.156.55 Crores whereas the assessee reflected cost of Rs.145.45 Crores and differential was within permissible margins only. The assessee accordingly assailed the valuation of DVO on merits.

3.9 The Ld. AO observed that report of DVO was received before expiry of period of limitation for completion of assessment proceedings in the case of the assessee. This report was in the nature of technical opinion of an expert person and cognizance of the same could be taken in framing the assessment. The valuation report contains technical details and expert opinion on the fair cost of construction of the projects being constructed by the assessee. One could not ignore this report as it gives proper insight of the fair value of asset. Even if the copy of the report was not served by Ld. DVO to the assessee, it would not preclude AO to take cognizance of the said report while framing the assessment. There was no bar on utilizing the contents of

the valuation report while framing the assessment. The copy of report was provided by Ld. AO to the assessee by adhering to principle of natural justice and the report was duly confronted to the assessee and opportunity was granted to the assessee to offer his explanation with supporting documentary evidences. The legal objection of the assessee was thus rejected by Ld. AO. Further, DVO had taken into account all the information and records as provided by the assessee. The method adopted by DVO was suitable method of valuation. The Ld. AO also justified reference to DVO.

3.10 The Ld. AO further observed that the assessee's valuer did not make any comment on the report of Ld. DVO regarding discrepancy found in respect of measurement or quantity of material. The DVO was a qualified person u/s 142A to ascertain the value of the investment made and the valuation was done in conformity with the method specified in CBDT guidelines for valuation of immovable properties. The DVO prepared his report after making requisite local enquiries / inspection and after considering all the technical submissions of the assessee.

3.11 The other arguments as taken by the assessee were also rejected and finally, Ld. AO made addition of alleged unaccounted expenditure in project for Rs.75.44 Crores u/s 69B r.w.s. 115BBE of the Act while finalizing the assessment.

3.12 The Ld. AO made another addition of unaccounted cash receipt. The same was on the basis of incriminating document as found during search. A sample thereof (Annexure B-14) having cash

column has been extracted on Page-30 of the assessment order. To support the proposed addition, Ld. AO referred to the statement of one Shri Amit Goyal (Accountant) from whom statement on oath was recorded. He admitted that the document contained the payments received by the assessee-group and he also acknowledged receipt of on-money by the group against sale transactions. These transactions were found recorded digitally which was kept in pen-drive and documents were extract of that pen-drive. The comparison of seized lists (Annexure B-14 to B-24) with other evidences on record established that the cash payment at both the places exactly matched with each other and accordingly, Ld. AO made allegation of cash receipt by the assessee group on sale of flats to the buyers. Post search proceedings, to support the findings, summon u/s 131(1A) were issued to one of the buyer Smt. Justeen and her statement was recorded u/s 131(1A) wherein she made admission of cash payment of Rs.3 Lacs to the assessee. On the basis of this statement, Ld. AO concluded that the assessee-group was in the habit of accepting cash against sales made by it. Accordingly, the assessee was show-caused on 14-03-2022 and 22-11-2022.

3.13 In response to show-cause notice of Ld.AO, the assessee filed its reply on 26-11-2022 which has been extracted in the assessment order. It was pointed out that Shri Amit Goyal was lowly placed employee in the hierarchy of accounts department. He retracted from his statement within 7 days of completion of search. A copy of detailed retraction was filed along with the reply. It was

explained that during search, head of department (HOD) was not available at the premises of the company and only the employees were present. The statement was recorded from a lowly placed employee as against the fact that only HOD or the core management only knows about each and every fact about the company and not such low-key placed employee. Pertinently, one of the directors was present in the same premises during search proceedings but the investigation team chose not to question him about this issue. He was not even confronted with Shri Amit Goyal or his statement during the search or post-search investigation. Therefore, this statement was not reliable piece of evidence to make proposed addition. The mere statement was not incriminating material in itself which could give jurisdiction to AO to make addition solely on the basis of statement of the employee as held in various judicial decisions. It was also asserted that the statement was recorded under great mental pressure and stress and the statement was retracted by way of an affidavit to DDIT (inv.). The assessee filed his retraction letter along with affidavit and categorically denied having accepted any unaccounted cash towards sale of properties. It was also contended that documents being print out of excel data never existed. The confession would need corroboration as per the decision in **Pullangode Rubber Produce Co. Ltd. (91 ITR 18)** holding that though admission is an important piece of evidence but it could not be said to be conclusive one and the maker thereof could show that it was incorrect. Further, a retracted statement would have no

evidentiary value and the same could not be used in the assessment. The assessee also demanded cross-examination of Shri Amit Goyal in case of proposed addition. In further support of its claim, the assessee furnished affidavit from many customers stating that they paid consideration through banking mode only.

3.14 However, aforesaid submissions of the assessee did not find favor with Ld. AO who observed that the statement could not be neglected. Shri Amit Goyal was the main person looking after the accounts of the company. The assessee or its directors could not substantiate that the said statement was not true. The statement was coupled with incriminating physical documents. The statement recorded u/s 132(4) would have evidentiary value in terms of settled judicial decisions. In the present case, corroborative evidence in the form of physical print out of sheets was found and seized. The retraction was held to be mere an after-thought. The medical record of Shri Amit Goyal nowhere proved that he was not in right state of mind while tendering his statement. In reply to various questions put forth by the department, he categorically gave description of each and every transaction as mentioned in the document including identity of the persons whose names were mentioned and the purpose of the transactions. He was well aware, in control and completely fit to state correct facts during the course of his statement. Another argument of cross-examination was rejected on the ground that all the relevant findings of statement and corroborating facts were duly brought to the notice of assessee-company. The assessee was provided with all the

relevant material on record and findings of the said record and evidences. The presumption of Sec.292C r.w.s. 132(4A) would arise against the assessee. The affidavits as submitted from the buyers would not render any assistance to the case of the assessee. The addition so made on the basis of Annexure B-21 aggregated to Rs.103 Lacs.

3.15 The Ld. AO, in para 5.10 of the assessment order, referred to Annexure B-19 which pertained to 'Gateway of Dreams' project which was being carried out by another entity by the name M/s Dream City Pvt. Ltd. This entity was incorporated on 18-09-2017. However, there were transactions of cash receipts prior to period of incorporation of the said company. The assessee-company was the only entity of the group which was active during the period as mentioned in Annexure B-19. It was common practice of the business that before the launch of the project, advance bookings would be accepted by the real estate builders. The assessee was accordingly show-caused. The assessee opposed the same on the ground that this project was started by another group entity during AY 2018-19 and not in AY 2013-14. When the project was not in existence, there was no possibility of cash receipts against this project. However, Ld. AO rejected the same. Finally, cash component of Rs.5 Lacs as mentioned in Annexure B-19 was added u/s 69A r.w.s. 115BBE of the Act.

3.16 Finally, impugned additions of Rs.75.44 Crores and Rs.1.08 Crores was made in the hands of the assessee in the

assessment order which was subjected to assessee's further challenge before Ld. CIT(A). The Ld. CIT(A), vide order dated 19-02-2024 confirmed the assessment ex-parte qua the assessee. Upon further appeal, Tribunal in ITA No.183/Chd/2024 order dated 11-03-2024, remanded the matter back to Ld. CIT(A) for fresh adjudication in accordance with law. Pursuant to the same, Ld. CIT(A) has passed an order on 31-03-2025 which is in further challenge before us. The outcome of this second round first appeal order is as under.

Appellate Proceedings

4.1 The assessee filed detailed written submissions on merits as well as on legal grounds which are already extracted in the impugned order. The assessee raised various legal grounds viz. no valid reference to DVO, no valid approval u/s 153D and no incriminating material found for the year under consideration. It was, *inter-alia*, argued that normal block period due to search was AYs 2015-16 to 2021-22. However, Ld. AO initiated proceedings for earlier years u/s 153A despite the fact that there was no alleged escaped income represented in the form of an "asset" and therefore, assumption of jurisdiction for this year was illegal. It was further contended that when the assessment was getting time barred on 31-03-2022, Ld. AO made reference u/s 142A to DVO to carry out valuation of construction of various projects of the group during the entire block period. The construction cost for the assessee being a builder would be revenue expenditure and it is not an 'asset' or 'property' or 'investment' for the assessee and therefore, the reference in itself was illegal and beyond

the purview of Sec.142A. An identical reference was sought to be made by Ld. DDIT (inv.) u/s 132(9D) after the conclusion of search. The assessee raised similar objection which was accepted by Ld. DDIT and the valuation exercise was dropped and the proceedings were aborted. The assessee further contended that valuer never provided draft report to the assessee and never served final report on the assessee. He only served copy to Ld. AO who provided complete copy of DVO report to the assessee only on 23-11-2022. The statutory mandate of sub-section (6) of Sec.142A was not complied with in the present case and the report of DVO was to be discarded since DVO became *functus officio* on 30-09-2022.

4.2 In support of the above contention, it was reiterated that inspection of few of the projects was carried out even after 30-09-2022 as tabulated below: -

Company & Project Name	Date under which reference received	Date of Notice	Date of reply	Date of inspection	Date of Report	No. of days between date of reference and date of report	No. of days between date of inspection and date of report
Comfort Green, Civil Hospital Road, Guru Teg Bahadur Nagar, Kharar	30-03-2022	05-05-2022 26-07-2022 08-08-2022 16-08-2022	05-09-2022 01-08-2022 08-09-2022 08-09-2022 05-09-2022	22-08-2022	12-09-2022	166	21
Comfort Homes, Civil Hospital Road, Guru Teg Bahadur Nagar, Kharar.	30-03-2022	26-07-2022 08-08-2022 16-08-2022	08-09-2022	18-08-2022	26-09-2022	180	39
Exotic Floors, Chandigarh, Kurali Road, Kharar	30-03-2022	26-07-2022 08-08-2022	01-08-2022 05-09-2022	14-11-2022	19-11-2022	234	5

Housing Park, (Phase 1 &Phase 2) Chandigarh Ambala Highway, Derabassi	30-03-2022	26-07-2022 08-08-2022	01-08-2022 05-09-2022	15-11-2022	21-11-2022	236	6
Noor City, KhararRoad, Kharar	30-03-2022	26-07-2022 08-08-2022	01-08-2022 05-09-2022 08-09-2022	07-09-2022	09-11-2022	224	63
Noor Villas-2, KhararKurali Road, Kharar	30-03-2022	05-05-2022 26-07-2022 08-08-2022	01-08-2022 05-09-2022 08-09-2022	02-09-2022	13-10-2022	197	41
North Valley, Sector-127, Kharar- Landra Road, SAS Nagar, Mohali	30-03-2022	05-05-2022 26-07-2022 08-08-2022	01-08-2022 05-08-2022 08-09-2022	01-09-2022	18-11-2022	233	78
SBP Homes-1, Sector 126, Kharar, SAS Nagar, Mohali	30-03-2022	05-05-2022 26-07-2022 08-08-2022	01-08- 202205-09- 2022	19-10-2022	23-11-2022	238	35
SBP Homes-2, Sector 126, Kharar, SAS Nagar, Mohali	30-03-2022	26-07-2022 08-08-2022	01-08- 202205-09- 2022	20-10-2022	18-11-2022	233	29
South City, VIP Road, Zirakpur	30-03-2022	26-07-2022 08-08-2022	01-08-2022 05-09-2022	06-09-2022	19-11-2022	234	74

(Projects in bold pertain to this year)

The date of inspection of various projects as reported to be carried out by DVO was as under: -

No.	Particulars of the project	Date of inspection as mentioned in the valuation report.
1.	M/s Singla Builders and Promoters Ltd. Plot No.1265-C, JLPL, Ind. Area, Sector-82, Mohali	14.11.2022
2.	Housing Park (Phase-1 and Phase-2) Chandigarh-Ambala Highway, Derabassi	15.11.2022
3.	SBP Homes-1, Sector-126, Kharar, SAS Nagar, Mohali	19.10.2022
4.	SBP Homes-2, Sector-126, Kharar, SAS Nagar, Mohali	20.10.2022

It was thus contended by the assessee that the inspection continued to be carried out in the month of October, 2022 and November, 2022

and it was not possible to issue valuation report before making inspection of the property. The assessee thus questioned the validity of valuation report of DVO in terms of sub-section (6) of Sec.142A.

4.3 The assessee drew attention to the provisions of sub-section (6) of Sec.142A which mandate DVO to serve copy of valuation report upon assessee within the specified period. The report was not a mere report but an order itself. The power so vested in DVO was *quasi-judicial* in nature and therefore, any violation thereof would nullify the valuation. The same was evident from clauses (4) and (5) of Sec.142A. The report of the DVO was clearly time-barred and the addition based on the same deserves to be deleted. The copy of complete DVO report was stated to be served by Ld. AO to the assessee for the first time on 23-11-2022. An affidavit to that effect was also furnished by the assessee. When the report of DVO was time barred, Ld. AO could not have taken cognizance of the same and addition made solely on the basis of DVO report was illegal and deserve to be deleted. To support this legal ground, reliance was placed on judicial decisions which have already been enumerated in the impugned order.

4.4 The assessee also questioned the method of valuation of DVO on merits. It was stated that the assessee submitted various replies as and when required by Ld. DVO. All the documents in regard to the projects such as approved maps, drawings, structural designs, invoices of material and labor were filed with DVO. However, DVO did not consider the actual documents while framing his reports. He only

considered CPWD rates which were much higher than the actual rates as evident from the bills / documents as provided by the assessee. The action of DVO in not considering the real figures and making report based on other estimated rates and figures was completely illegal and was not the statutory mandate. As against this, the assessee furnished independent valuer's report and tabulated reasons for difference between valuation of the projects as computed by DVO and the registered independent valuer. The assessee also highlighted mistake committed by Ld. DVO while taking the plinth area, PAR rates and development charges which resulted in such huge variation between the two valuations. If such mistakes were ironed out from Ld. DVO's report, the resulting variation of construction cost would come close to the construction cost as reflected in the regular books of accounts. In the absence of any defect in the books, the assumption of power to estimate profit by Ld. DVO could not be upheld. Another report from independent valuer as registered with the department was also submitted by the assessee which was at very minor variance with the construction cost as declared by the assessee and the variation was within the permissible limits only. However, the said report was completely ignored by lower authorities without any specific reason. The Ld. AO was duty bound to identify the difference in two reports which was not done.

4.5 The assessee further contended that Ld. DVO was duty bound to give reasonable opportunity of hearing to the assessee and consider the evidences and documents produced by him. However, the

documents as submitted by the assessee as well as the report of independent registered value were not considered at all. No material was confronted to the assessee and no draft valuation report was ever confronted to the assessee. In fact, no such draft valuation report was prepared by DVO. This valuation had serious adverse impact on the assessment and the same should not have been passed without providing the assessee a reasonable opportunity of being heard. The draft report should have been issued seeking objections from the assessee which was not done and therefore, the impugned addition was not justified.

4.6 In yet another submission assailing DVO's valuation, it was contended that state PWDs rates should be preferred over CPWD rates. The CPWD rates are generally higher by around 30% from state PWD rates. This proposition finds support from various judicial decision as referred to by the assessee.

4.7 The assessee also stated that in terms of provisions of Sec.153B, the time limit for completion of assessment in case of search u/s 132 was 12 months from the end of financial year in which the search was conducted. Since the search was conducted on 21-01-2021 which lasted till 24-01-2021, the assessment was to be completed by 31-03-2022. Just when the assessment was getting time barred, Ld. AO made reference to DVO on 30-03-2022 for valuation. Such reference could be made only to estimate the value of any 'asset', 'property' or 'investment' but estimation of cost of construction was not covered therein. The cost of construction was in respect of

construction which constitutes stock-in-trade for the assessee. Therefore, reference was beyond the scope of Sec.142A in terms of decision of Hon'ble Delhi High Court in the case of **Aar Pee Apartments Pvt. Ltd. (188 Taxman 39)** holding that for the purported unexplained expenditure, power u/s 142A could not be exercised.

4.8 The assessee also contended that construction expenses on the project was stock-in-trade for the assessee and in case of alleged unrecorded stock purchases, addition could not be made u/s 69B. The Ld. AO did not have incriminating evidence for referring the case to DVO for valuation. No valid material or evidence was found or confronted to the assessee which could form the basis that the assessee had incurred out-of-books expenditure on projects. The excel sheet was not a signed document. There was no valid evidence in the possession of Ld. AO and the addition was merely on presumption. The assessee was incorporated only on 17-08-2010 and from the date of incorporation till the year in question, the assessee operated for only 1.5 years. Therefore, it was not financially possible for a newly incorporated company to incur such huge expenditure of Rs.75.44 Crores out-of-books as alleged by Ld. AO when the income was merely Rs.2.46 Crores and total receipt for this year was Rs.33.55 Crores only. There was no incriminating material found during search to support such kind of addition. The only basis of allegation was cash receipts and payments for the month of July, 2020 only. The alleged sheet pertaining to construction expenses contained cash receipts and payments for the month of July, 2020 only and

hence, when the document did not pertain to the year in question and also not to the projects which was ongoing during the year under consideration, reference to DVO was mechanical, without application of mind and without there being any incriminating material for the year in question. Most of the projects which were ongoing in AY 2013-14 stood completed during financial years 2013-14 and 2014-15 itself. The case laws of Hon'ble Gujarat High Court in the case of **Anand Banwarilal Adhukia (75 Taxmann.com 301)**; the decision of Hon'ble Delhi High Court in the case of **Anil Arora (ITA 340/2015)**; the decision in **Abhinav Kumar Mittal (30 Taxmann.com 357)**; the decision in **Nishi Mehra (56 Taxmann.com 89)** was quoted to support various submissions. It was reiterated that similar valuation as proposed by Ld. DDIT u/s 132(9D) was already dropped considering the assessee's submissions.

4.9 Another line of argument was that without rejection of books of accounts, reference to DVO was invalid. The books of accounts were duly audited by independent auditor without any adverse remarks. No recourse to Sec.142A could be done by Ld. AO without first rejecting the books as held by Hon'ble Apex Court in the case of **Sargam Cinema (328 ITR 513)**. Similar was the decision of Hon'ble Delhi High Court in the case of **Ambience Developers & Infrastructure Pvt. Ltd. (25 Taxmann.com 210)**. It was contended that when the reference to DVO was invalid, the assessment order was time-barred as per the decision of Hon'ble Rajasthan High Court in the case of **Bajrang Textiles (294 ITR 561)**. Similar was the view of Chandigarh

Tribunal in the case of **Chet Ram Ravi Kumar (ITA No.696 to 698/Chd/2013)**.

4.10 The assessee further pointed out that regular return of income was filed by the assessee on 30-09-2013 which stood scrutinized u/s 143(3) on 30-11-2015. The alleged excel sheet as maintained by the assessee in CRS software, never had the cash component column and the same was added later on which was well explained by Shri Amit Goyal in the retraction affidavit. Thus, the additions were made merely on the basis of DVO report whereas no incriminating material was found for this year. The addition was also based on excel sheet prints which never existed at the time of search. Relying upon the decision of Hon'ble Apex Court in the case of **Abhisar Buildwell Pvt. Ltd. (149 Taxmann.com 399)**, it was contended that no such addition could have been made in the year of completed assessment.

4.11 Even if the excel sheet was taken to be the incriminating material, the same do not satisfy the requirement of 4th proviso to Sec.153A(1) which mandate that the escaped income should be represented in the form of an asset. This condition was not satisfied in the present case. The Hon'ble Punjab & Haryana High Court in the case of **Ravi Kumar (294 ITR 78)** held that loose slips recording some transactions in itself is not the finding of undisclosed asset. Therefore, the jurisdiction of Ld. AO was bad-in-law. In the present case, not even single evidence in the shape of agreement with the party,

affidavit or cash book ledger was found by the search team which would corroborate the contents of the loose slips.

4.12 On the addition of Rs.108 Lacs, the assessee contended that this addition was solely based on certain sheets allegedly found from Shri Amit Goyal. However, Shri Amit Goyal was pressurized and forced to sign excel sheet print out. After search, Shri Amit Goyal retracted from his statement and explained the circumstances in his retraction letter. The Ld. AO also ignored cross-examination request of the assessee. It was pleaded that no reliance could be placed by Ld. AO such a statement. This statement, therefore, could not lead to impugned addition. Reference was made to the decision in **Andaman Timber Industries (62 Taxmann.com 3)** to support this argument. Further, mere statement could not be considered as incriminating material in terms of decision of Hon'ble Apex Court in the case of **Vinod Solanki (92 SCL 157 SC)**; the decision of Hon'ble Delhi High Court in the case of **Best Infrastructure (I) Pvt. Ltd. (397 ITR 82)**; the decision of Hon'ble Madras High Court in the case of **M. Narayan & Bros. (339 ITR 192)**. In the decision of **Jindal Steel & Power Ltd. (157 Taxmann.com 207)**, it was held by Hon'ble Apex Court that retraction which is filed within a reasonable time must take precedence over original statement. In the present case, the retraction was within a span of 8 days mentioning the reasons for retraction of statement as duly supported by the sworn affidavit and medical report. If this statement was ignored, there was not even single corroborative evidence for making additions in the hands of the assessee. The

addition made solely on the basis of statement of employee deserve to be deleted as per the decision of Hon'ble Rajasthan High Court in the case of **Sanjay Chabbra (ITA No. 22/2021)** and the decision of Hon'ble Delhi High Court in the case of **Sunil Aggarwal (ITA No.224/2003)**.

4.13 The assessee also contended that the excel sheet were non-existent at the time of search. These excel sheets were mere print outs, unsigned and undated having no evidentiary value. No corroborative evidence was found to support these sheets. In the case of **Balraj Gupta vs. ACIT (ITA No.1948/Del/2019)**, it was held by Tribunal that document as impounded from the hard disk was not a valid piece of evidence and addition on that basis could not be made. Similar was the decision in **Gammon Constructions P. Ltd. (ITA No.1246/Del/2020 dated 20-09-2023)**. In the case of **CBI vs. V.C. Shukla (3 AIR 410)**, it was held by Hon'ble Apex Court that every transaction as recorded in the regular books needs to be independently corroborated and proved when some liability is to be fastened in respect of such transactions. The legal principle as laid down by Hon'ble Supreme Court was that independent corroborative evidence is required in respect of entries in regular books of accounts. Similarly, Hon'ble Supreme Court in **Common Cause Vs. Union of India (2017) 77 Taxmann.com 245 (SC)** stressed the need for exercising caution and for bringing on record relevant, reliable and cogent evidence to corroborate the entries found in loose sheets. The Hon'ble Punjab & Haryana High Court in the case of **Khosla Rice &**

General Mills Ltd. (ITA No.208/2011 dated 17-09-2012) confirmed deletion of addition for want of corroborative evidences. In the case of **Vivek Aggarwal (92 CCH 051)**, it was held by Hon'ble Delhi High Court that undated and unsigned document could not be relied upon without independent enquiries. The assessee further contended that the statement of Smt. Justeen was never confronted to the assessee. The material / statement collected at the back of the assessee could not be used unless confronted to the assessee. As against this, the assessee filed affidavit from number of buyers confirming that entire sale consideration was paid through banking channels only.

4.14 In the last ground of appeal (Ground No.8), the assessee raised the issue of approval u/s 153D to assert that Ld. AO sought approval of Addl. CIT on 28-11-2022 which was given on 29-11-2022. The seized record comprised voluminous pages and complex valuation report of the DVO. The assessee raised various flaws in the valuation report and no query was raised by approving authority on these objections. The approval u/s 153D could not be mechanical but it must be granted with due application of mind. The assessee also raised legal issue stating that the assessment order did not bear Document identification number (DIN) as mandated by CBDT.

4.15 The Ld. CIT(A), in para 6.2 of the impugned order, after considering satisfaction as recorded by Ld. AO to initiate proceedings for this year, observed that Annexure B-14 to B-24 contained details of cash receipts of Rs.103 Lacs against booking of flats. The receipts were not found recorded in the books of accounts. Thus, Ld. AO was

in his possession incriminating material which revealed that income to that extent had escaped assessment. Such income was represented in the form of an “asset” as defined in Explanation-2 to Sec.153A. As per seized document, the assessee received cash of Rs.103 Lacs which was not recorded in the regular books and such receipts were in the nature of assets. Therefore, Ld. AO assumed valid jurisdiction for this year.

4.16 On reference to DVO, it was observed by Ld. CIT(A) that AO made reference u/s 142A to estimate the cost of investment in various projects during AYs 2012-13 to 2021-22. The projects were in the nature of assets and a mere reference to DVO would not cause any prejudice to the assessee since AO, by making such reference to an expert, would be guided by his expert opinion in order to examine the genuineness of amounts disclosed in the books of accounts of cost of construction for such real estate projects for the purposes of making an assessment. It will help AO in making objective and fair assessment. Such reference was purely discretionary on the part of Ld. AO and it was to assist him for making the assessment. Adhering to principles of natural justice, Ld. AO shared the valuation reports with the assessee. Moreover, AO was in possession of incriminating material indicating that cash of Rs.433.35 Lacs was used for construction purposes. Though the said paper was seized during search on 21-01-2021 whereas the projects under reference for the year under consideration were completed prior to the date of search, however, the said seized document pointed that the assessee had

been making construction expenditure outside the books of accounts. The guess-work could be resorted to as per the decision of Hon'ble Delhi High Court in the case of **Smt. Dayawanti Gupta (390 ITR 496)**. In the case of **Chetan Das Lachman Das (254 CTR 392)**, it was held that seized material could be relied upon to draw inference that there could be similar transactions. Therefore, findings in respect of unaccounted expenditure incurred outside the books of account for some financial year could be extrapolated in respect of other projects being developed by the assessee for different assessment years.

4.17 In terms of provisions of Sec.142A(6), DVO was to send copy of his report in respect of estimation so made to AO within a period of 6 months from the end of the month in which the reference was made. Out of 7 projects, DVO sent his report to Ld. AO on 12-09-2022 and 26-09-2022 in respect of two projects. The reference was made to DVO on 30-03-2022 and accordingly, DVO was to send his report to AO up-to 30-09-2022 in respect of remaining 5 projects also. However, the report for 5 projects was sent on 18-11-2022, 19-11-2022, 21-11-2022 and 23-11-2022 which was beyond the period of 6 months. There was no information in the assessment order to show that the reports of the DVO in respect of 5 projects was received by AO before 30-09-2022 as per the provisions of Sec.142A(6). Therefore, there was merit in the argument of the assessee that such reports sent by DVO beyond the period of 6 months were not valid in terms of Sec.142A(6). However, in terms of provisions of Sec.153 read with proviso, the assessment was to be completed by AO within

60 days from 30-09-2022 i.e., by 30-11-2022. The AO passed the assessment order on 29-11-2022 which was within the limitation period. Further, AO took into consideration all the material which was in his possession including the explanation furnished by the assessee. Though the report of DVO could not be considered as valid one, however, it was an important piece of information containing expert opinion regarding cost of expenditure incurred by the assessee on different projects as undertaken during this year. Therefore, the DVO report could have been used by the AO for the purpose of making assessment by treating it as relevant material. The Ld. CIT(A) also observed that the assessee could not provide any material to show that the CPWD rates as applied by DVO were higher than the valuation on the basis of PWD rates. Finally, the impugned addition of Rs.75.44 Crores was confirmed.

4.18 On the addition of Rs.108 Lacs, the retraction of Shri Amit Goyal could not be considered as voluntary one. He was one of the key employees of the assessee-company. Shri Amit Goyal and two independent witnesses signed various pages of the statement and the statement was verified to be given without any pressure. Therefore, the retraction was mere after-thought. This recorded statement u/s 132(4) would have great evidentiary value as per the decision of Hon'ble Rajasthan High Court in the case of **Roshan Lal Sancheti (150 Taxmann.com 227)**. Unless the admission is not successfully withdrawn, it is the best evidence. In terms of decision of Hon'ble Punjab & Haryana High Court in **Rakesh Mahajan (214 CTR 218)**, it

was held that the admission constitute best evidence. The other arguments as raised by the assessee were also rejected and the addition of Rs.108 Lacs was confirmed.

4.19 On the issue of mechanical approval u/s 153D, it was held that the approval was accorded after due examination of relevant record and verification by the range head. Further, the approval was in the nature of administrative power. The range head while examining the matter u/s 153D does not examine to adjudicate upon the rights or obligations of the assessee but only consider whether the AO has fulfilled the requirements of Sec.153A. This condition was duly satisfied in the present case. Finally, the appeal of the assessee was dismissed. Aggrieved, the assessee is in further appeal before us.

Our findings and Adjudication

5. Ground No.1 is general in nature which do not require any specific adjudication on our part. In Ground No.2, the assessee has assailed the jurisdiction of Ld. AO u/s 153A on the ground that in the absence of any incriminating material found during search, the jurisdiction u/s 153A was illegal. In Ground No.3, the assessee has again questioned the jurisdiction of Ld. AO in terms of 4th proviso to Sec. 153A(1) on the ground that escaped income was not represented in the form of an “asset” and the mandatory statutory condition to assume jurisdiction was not fulfilled in the present case. In Ground No.4, the assessee has challenged the assessment order on the ground that it was passed beyond limitation since reference as made to DVO u/s 142A was illegal. In Ground No.5, the assessee has

challenged transfer order passed u/s 127. However, no arguments have been made on this ground and therefore, this ground of appeal do not require any adjudication on our part. In Ground No.6 and its sub-grounds, the assessee has assailed impugned addition u/s 69B merely on the basis of DVO Valuation. The assessee has also contended that report of DVO was never served on the assessee and further, this report was time barred. The assessee has also contended that DVO issued report without confronting the issues to the assessee which was in gross violation of principles of natural justice. In Ground No.7, the assessee has challenged confirmation of addition of Rs.108 Lacs as made by Ld. AO u/s 69A on the ground that the same was based on retracted statement and no such cash was received by the assessee during the year. The assessee has also contended that opportunity of cross-examination was not provided to the assessee. No corroborative evidence was found for the impugned addition whereas the assessee filed enough evidences including affidavits of huge number of customers to substantiate the fact that amount disclosed in the regular books was the real transaction and alleged unaccounted cash never existed. In Ground No.8, the assessee has assailed approval u/s 153D. In Ground No.9, the assessee seeks quashing of the order on the ground that the orders of lower authorities did not have DIN. However, it was stated that the issue of non-quoting of DIN is already *sub-judice* before Hon'ble Apex Court and therefore, this issue has been kept open. In Ground No. 10, the assessee state that impugned order was passed without giving

reasonable opportunity of hearing. However, no such fact has been demonstrated before us during the course of hearing. Therefore, this ground stand dismissed. Ground No.11 is general in nature. Since all the grounds assails twin quantum additions on merits as well as on legal grounds and are inter-connected with each other, the same are disposed-off collectively. In the above background, the grounds of appeal are adjudicated as under.

6. From the facts, it emerges that the assessee is engaged in construction of real estate projects. The assessee entity was incorporated on 17-08-2010. The impugned assessment stems from search action by the department on the assessee-group on 21-01-2021 at the business as well as residential premises. The assessee-company was also covered under that search. Post-search proceedings, notice u/s 153A was issued to the assessee on 09-02-2022 and in response thereto, the assessee filed return of income on 11-03-2022 declaring income of Rs.246.43 Lacs which was subjected to impugned assessment u/s 153A. The normal block period of 7 years due to search action was AYs 2015-16 to 2021-22. However, Ld. AO initiated assessment proceedings for earlier 3 Assessment Years also viz. AYs 2012-13, 2013-14 and 2014-15. The same was on the basis that during search, certain cash flow statement for the month of July, 2020 was seized from the business premises of the assessee. The said seized statement indicated cash expenditure by the assessee group to the tune of Rs.433.35 Lacs for construction activities which was being undertaken by the assessee-group at that

point of time. This is pertinent in the background of the fact that the assessee had filed its original / regular return of income u/s 139(1) on 30-09-2013 declaring income of Rs.231.56 Lacs which stood scrutinized u/s 143(3) on 30-11-2015 substantially accepting the returned income. The assessment thus already attained finality and this year was completed / unabated assessment year on the date of search and no assessment proceedings were pending against the assessee for this year on the date of search. In such a situation, as per the recent landmark decision of Hon'ble Apex Court in the case of **Pr. CIT vs. Abhisar Buildwell (P.) Ltd. (149 Taxmann.com 399)**, no addition could be made for this year unless some incriminating material was found during search action. In this decision, the Hon'ble Court laid down following pertinent propositions: -

13. For the reasons stated hereinabove, we are in complete agreement with the view taken by the Delhi High Court in the case of Kabul Chawla (supra) and the Gujarat High Court in the case of Saumya Construction (supra) and the decisions of the other High Courts taking the view that no addition can be made in respect of the completed assessments in absence of any incriminating material.

14. In view of the above and for the reasons stated above, it is concluded as under:

- (i) that in case of search under section 132 or requisition under section 132A, the AO assumes the jurisdiction for block assessment under section 153A;
- (ii) all pending assessments/reassessments shall stand abated;
- (iii) in case any incriminating material is found/unearthed, even, in case of unabated/completed assessments, the AO would assume the jurisdiction to assess or reassess the 'total income' taking into consideration the incriminating material unearthed during the search and the other material available with the AO including the income declared in the returns; and
- (iv) in case no incriminating material is unearthed during the search, the AO cannot assess or reassess taking into consideration the other material in respect of completed assessments/unabated assessments. Meaning thereby, in respect of completed/unabated assessments, no addition can be made by the AO in absence of any incriminating material found during the course of search under section 132 or requisition under section 132A of the Act, 1961. However, the completed/unabated assessments can be re-opened by the AO in exercise of powers under sections 147/148 of the Act, subject to fulfilment of the conditions as envisaged/mentioned under sections 147/148 of the Act and those powers are saved.

Approving the decision of Hon'ble Delhi High Court in the case of **Kabul Chawla (380 ITR 573)** as well as the decision of Hon'ble Gujarat High Court in **Saumya Construction (P.) Ltd. (387 ITR 529)**, it was held by Hon'ble Court that in respect of completed assessments / unabated assessments, no addition could be made by Assessing Officer in the absence of any incriminating material found during the course of search under section 132 or requisition made under section 132A. The facts of the present case would establish that during search cash flow statement was found only for the month of July, 2020 which indicated alleged cash expenditure by the assessee in construction activities. However, there is no incriminating material which suggests that similar cash expenditure was being incurred by the assessee-group for AY 2013-14 also. It is another pertinent fact that all the 7 construction projects which were being carried out by the assessee during this year stood completed during financial years 2013-14 and 2014-15 itself i.e., well before the date of search and there was no question of incurring cash expenditure on completed projects in the year of search. It could further be noted that the assessee entity was incorporated only on 17-08-2010 and during AY 2013-14, it was at initial stages of carrying out construction projects which would take longer time to fructify and incurrence of such unaccounted expenditure would be incomprehensible considering the returned income and sales turnover of the assessee. The cited case law of Hon'ble Apex Court duly supports the case of the assessee that presumption or extrapolation of similar analogy of incurrence of unaccounted cash

expenditure for this assessment year, without there being any incriminating material on record, could not be raised / applied. This argument of Ld. AR finds our concurrence and is to be accepted. This is further supported by the decision of Hon'ble Gujarat High Court in the case of **Anand Banwarilal Adhukia (75 Taxmann.com 301)** concurring that unless there is *prima-facie* application of Sec.69, reference to the valuer under Sec.142A is simply not permissible. It is only when there is some material before the Assessing Officer to hold that the case of an assessee falls under Sec.69, as the case may be, that he can, to estimate the value of such unexplained investment or expenditure in bullion, jewellery etc. can call for the report of the valuer. The initial starting point for referring valuation has to be invocation of Sec.69 and therefore, unless and until such contingencies are reflecting on the record, reference u/s 142A cannot be resorted to by Ld. AO. The other decisions as referred to by Ld. AR viz. the decision of Hon'ble Delhi High Court in the case of **Anil Arora (ITA No. 340/2015)**; the decision in **Abhinav Kumar Mittal (30 Taxmann.com 357)**; the decision in **Nishi Mehra (56 Taxmann.com 89)** also supports the same view. The facts of the present case would show that Ld. AO do not have any cogent material with him to support the allegation of unaccounted expenditure by the assessee for AY 2013-14. In such a case, the reference u/s 142A could not be held to be a valid one and such a reference could not be held to be justified on the facts of the case. Accordingly, it was to be concluded that

unless evidence of unaccounted expenditure for this year was found, no reference to Ld. DVO could have been made by Ld. AO.

7. Proceeding further, guided by cash flow statement for the month of July, 2020 as seized during search, Ld. AO has assumed incurrence of similar expenditure in this year and to ascertain the correct value of various expenditure in the ongoing projects during AY 2013-14, he referred the valuation to Ld. DVO at fag-end of time limit available to pass the assessment order. The fact on record would show that the last date to pass the assessment order for AY 2013-14 was expiring on 31-03-2022 whereas the reference to DVO has been made on 30-03-2022 i.e., just one day prior to time barring date. The reference was made to value the quantum of alleged unaccounted expenditure made by the assessee in its various projects being carried out in this year. However, the assessee being engaged in civil construction, the construction expenses would be revenue expenses for the assessee and the same is neither an 'asset' or 'investment' nor 'property' which could be referred to DVO for valuation to make addition on estimated basis in case of search assessment. The provisions of sub-section (1) of s.142A specifically provide that the Assessing Officer may, for the purposes of assessment or reassessment, make a reference to a Valuation Officer to estimate the value, including fair market value, of any 'asset', 'property' or 'investment' and submit a copy of report to him. However, the alleged unaccounted expenditure does not fit into any of the stated category. The alleged expenditure is in the nature of revenue expenditure for the

assessee which would be covered only under the provisions of Sec.69C for which no reference could be made by Ld. AO to DVO. The same is beyond the scope of valuation as per sub-section (1) of Sec.142A. Further, this being search addition and a case of unabated year, the kind of addition as made by Ld. AO could only be on the basis of incriminating material as found during search. Pertinently, Ld. DDIT proposed similar reference u/s 132(9D) after the conclusion of search which was dropped upon assessee's similar objections. We find substantial force in these arguments of Ld. AR.

8. It could further be seen that upon such reference by Ld. AO, Ld. DVO has apparently valued the alleged unaccounted expenditure merely on the basis of standard CPWD rates without confronting the issues to the assessee and the impugned addition of alleged unexplained expenditure u/s 69B has been made merely on the basis of estimated valuation. This is against the settled position that local PWD rates are to be preferred over CPWD rates and CPWD rates are generally higher than local PWD rates (as per decision of Hon'ble Apex Court in **Sunita Mansingha 393 ITR 121**; the decision of Hon'ble Punjab & Haryana Court in the case of **Rajesh Mahajan 50 Taxmann.com 206**). In the case of **Rajesh Mahajan (supra)**, it was observed by Hon'ble Court that 15% of valuation could be allowed for personal supervision. As against this, the assessee has furnished valuation report from an independent approved valuer who has valued the expenditure at much lower figures which are quite close to the expenditure as reflected by the assessee in its regular books of

accounts. The said report has been discarded merely on the ground that no adverse comment has been made on DVO valuation as referred to by Ld. AO. However, the valuation exercise is in the nature of independent estimation only and there is no such requirement under law to point out fault in the report of other valuer. The assessee already furnished detailed bills and documents in support of expenditure which have not been taken into account by Ld. DVO. Many flaws have been pointed out by the assessee in the valuation of Ld. DVO which has not been considered by lower authorities. Admittedly, no draft report was ever prepared by Ld. DVO and the same was never confronted to the assessee despite the fact that the same would have substantial bearing on determination of assessee's total income. So much so, even the final report has also not been served by Ld. DVO upon the assessee as statutorily mandated u/s 142A(6). It is an undisputed fact that the report was sent by DVO to Ld. AO only and the complete copy of the report has been served upon the assessee for the first time by Ld. AO only on 23-11-2022 which run contrary to mandatory prescription of Sec.142A(6).

9. At this juncture, it would be relevant to take note of the provisions of Sec.142A which read as under: -

Estimation of value of assets by Valuation Officer.

142A. (1) *The Assessing Officer may, for the purposes of assessment or reassessment, make a reference to a Valuation Officer to estimate the value, including fair market value, of any asset, property or investment and submit a copy of report to him.*

(2) *The Assessing Officer may make a reference to the Valuation Officer under subsection (1) whether or not he is satisfied about the correctness or completeness of the accounts of the assessee.*

(3) *The Valuation Officer, on a reference made under sub-section (1), shall, for the purpose of estimating the value of the asset, property or investment, have all the powers that he has under section 38A of the Wealth-tax Act, 1957 (27 of 1957).*

(4) *The Valuation Officer shall, estimate the value of the asset, property or investment after taking into account such evidence as the assessee may produce and any other evidence in his possession gathered, after giving an opportunity of being heard to the assessee.*

(5) *The Valuation Officer may estimate the value of the asset, property or investment to the best of his judgment, if the assessee does not co-operate or comply with his directions.*

(6) *The Valuation Officer shall send a copy of the report of the estimate made under sub-section (4) or sub-section (5), as the case may be, to the Assessing Officer and the assessee, within a period of six months from the end of the month in which a reference is made under sub-section (1).*

(7) *The Assessing Officer may, on receipt of the report from the Valuation Officer, and after giving the assessee an opportunity of being heard, take into account such report in making the assessment or reassessment.*

Explanation.—In this section, "Valuation Officer" has the same meaning as in clause (r) of section 2 of the Wealth-tax Act, 1957 (27 of 1957).

The provisions of Sec.142A have undergone amendment by Finance Act, 2014. The nature of amendment, as succinctly brought out in CBDT Circular No.1/2015 dated 21-01-2015, is as under: -

"43. Estimate of value of assets by Valuation Officer and time limit for completion of assessments where reference made

43.1 The provisions contained in section 142A of the Income-tax Act, before its amendment by the Act, provided that the Assessing Officer may, for the purpose of making an assessment or reassessment, require the Valuation Officer to make an estimate of the value of any investment, any bullion, jewellery or fair market value of any property. On receipt of the report of the Valuation Officer, the Assessing Officer may after giving the assessee an opportunity of being heard take into account such report for the purposes of assessment or reassessment.

43.2 Section 142A of the Income-tax Act does not envisage rejection of books of account as a pre-condition for reference to the Valuation Officer for estimation of the value of any investment or property. Further, the said section 142A does not provide for any time limit for furnishing of the report by the Valuation Officer.

43.3 Accordingly, section 142A has been substituted so as to provide that the Assessing Officer may, for the purposes of assessment or reassessment, require the assistance of a Valuation Officer to estimate the value, including fair market value, of any asset, property or investment and submit the report to him. The Assessing Officer may make a reference to the Valuation Officer whether or not he is satisfied about the

correctness or completeness of the accounts of the assessee. The Valuation Officer, shall, for the purpose of estimating the value of the asset, property or investment, have all the powers of section 38A of the Wealth-tax Act, 1957. The Valuation Officer is required to estimate the value of the asset, property or investment after taking into account the evidence produced by the assessee and any other evidence in his possession or gathered, after giving an opportunity of being heard to the assessee. If the assessee does not co-operate or comply with the directions of the Valuation Officer, he may estimate the value of the asset, property or investment to the best of his judgment.

43.4 It has also been provided that the Valuation Officer shall send a copy of his estimate to the Assessing Officer and the assessee within a period of six months from the end of the month in which the reference is made. On receipt of the report from the Valuation Officer, the Assessing Officer may, after giving the assessee an opportunity of being heard, take into account such report in making the assessment or reassessment.

43.5 Sections 153 and 153B of the Income-tax Act have also been amended to provide that the time period beginning with the date on which the reference is made to the Valuation Officer and ending with the date on which his report is received by the Assessing Officer shall be excluded from the time limit provided under the aforesaid section for completion of assessment or reassessment.

43.6 Applicability: —These amendments take effect from 1st October, 2014."

In terms of para 43.4 of the above Circular, it is obligatory on the part of valuation officer to send a copy of his estimate to the Assessing Officer and the assessee within a period of six months from the end of the month in which the reference is made. On receipt of the report from the Valuation Officer, the Assessing Officer may, after giving the assessee an opportunity of being heard, take into account such report in making the assessment or reassessment. The said requirement of furnishing of report by DVO to the assessee within the statutory time period of 6 months is not shown to have been fulfilled in the present case. This requirement of furnishing of valuation report by DVO to the assessee is not mere empty formality but a mandatory statutory requirement which would enable the assessee to contest the same and assail the valuation so made by DVO since the same would have

material bearing on determination of income of the assessee. When the statute mandates an authority to act in a particular specified manner then it has to be done in that manner only particularly when it would affect substantive rights of the assessee. In the absence of fulfillment of such mandatory requirement / condition, the assessee could not be fastened with such huge impugned addition as made by Ld. AO.

10. It could further be ascertained that the provisions of Sec. 142A(1) allows the Assessing Officer to refer valuation of any 'asset' or 'property' or 'investment' to a Valuation Officer with a view to determine the value of investments, bullion, jewellery or other valuable articles, or the fair market value of property whether or not the AO is satisfied about the correctness and completeness of the accounts of the assessee. The Valuation Officer estimates the value after considering all evidences and after giving the assessee an opportunity of hearing. The purpose of aforesaid valuation is to get an independent valuation of assets for the purpose of assessment or reassessment, which may include investments, bullion, jewellery or property. The Valuation Officer must consider all evidence produced by the assessee and evidence they have gathered, and must give the assessee a chance to be heard. The best judgment valuation could be made only if the assessee does not cooperate with DVO. As per mandate of sub-section (6), the valuation officer must submit their report within six months of receiving the reference, and this timeline could not be condoned for delays. The provisions of sub-section (6)

mandate Valuation officer to send a copy of report of estimate to AO and the assessee within a period of six months from the end of the month in which a reference is made to DVO. Thus, the statute has mandated the DVO to perform this statutory function in a particular manner. The use of words “shall” in sub-section (6) clearly shows that these provisions are mandatory in nature and without complying with the same, the report could not be used to the detriment of the assessee. The natural corollary would be that if the report is not served as per statutory mandate, the same could not be used by Ld. AO against the assessee and DVO would become *functus officio* to issue this report after the expiry of specified period of 6 months. In such a situation, the cognizance of the same could not be taken by Ld. AO to make impugned additions in the hands of the assessee.

11. As it could be gathered from our tabulation in preceding para 4.2, except for two projects, the date of final report with respect to remaining 5 projects is well after the said date of 30-09-2022. Even the inspection of three of the projects has continued to be carried out during the month of October and November, 2022. In our considered opinion, as per amendment to Sec.142A by Finance Act, 2014, the provisions of sub-section (6) is mandatory requirement of the law for the reason that the word “shall” has been used therein and DVO is under a statutory duty to serve the copy of valuation report to the assessee within the period of 6 months. The power vested in DVO is quasi-judicial in nature and therefore, the report is not mere a report but an order in itself. When the report of DVO is time barred, Ld. Ld.

AO could not have taken cognizance of the same and the addition so made on the basis of invalid valuation report would be illegal. The valuation is nothing but mere estimation exercise. If this report is discarded, nothing would be left with Ld. AO to support the impugned addition in the hands of the assessee. Another aspect of the matter is that sub-section (6) of Sec.142A mandates the DVO to submit his report within six months to the AO and the assessee. But if the DVO does not submit his valuation report within 6 months, there is no unlimited extension of time limit as provided under clause (v) of Explanation-1 to Sec.153. This clause exclude time period commencing from the date on which the Assessing Officer makes a reference to the Valuation Officer u/s 142A(1) and ending with the date on which the report of the Valuation Officer is received by the Assessing Officer. However, such reference could not provide unlimited extension of specified time period. To contend that mere reference to DVO u/s 142A may provide unlimited limitation to the AO to complete the assessment / reassessment if report from DVO is not received will lead to absurd consequences. This could not be the legislative intent. Therefore, the period of six months, in our considered opinion, has to be construed as mandatory timeline which must be fulfilled in order to make impugned addition in the hands of the assessee. Therefore, it is to be concluded that Ld. AO has erred in taking cognizance of this time-barred valuation report and the consequential addition as made by Ld. AO in the basis of valuation report could not be sustained in law on this score also.

12. We also concur that in search action, no addition could have been made by Ld. AO on mere estimation. In particular, this being unabated year, the additions have to be strictly as per incriminating material found during the course of search as per the decision of Hon'ble Apex Court in the case of **Pr. CIT vs. Abhisar Buildwell (P.) Ltd. (149 Taxmann.com 399)**. However, the impugned addition as made by Ld. AO is merely based on the valuation of DVO. The Ld. CIT(A) has justified the same on the ground that guess-work could be resorted by Ld. AO and the similar extrapolation could have been by Ld. AO in this year. However, there is no concrete material, whatsoever, in the possession of Ld. AO to indicate that the assessee incurred similar expenditure in this year. During search, no evidence has been found that the assessee has incurred similar unaccounted expenditure for this year. Therefore, the impugned addition could not be sustained in the manner as made by Ld. AO.

13. Our aforesaid view find support from the decision of Amritsar Tribunal in the case of **Golden Tulip Hospitality P. Ltd. (156 Taxmann.com 511)** holding as under: -

10. We have heard the rival contentions, perused the material on record, written submissions, and the impugned order. Admittedly, the sole basis of the addition is only the valuation report furnished by the DVO which has been obtained by the Id. AO during the course of search assessment proceedings. As per the provisions of section 142A (6) of the Act, it apparently clear that the valuation report has to be furnished by the Id. DVO within six months from the end of the month in which reference is made by the Id. AO. This issue is now well settled by the Hon'ble Apex Court decision in case of Sargam Cinema v. CIT [2011] 197 Taxman 203/[2010] 328 ITR 513/[2009 (10) TMI 569 - SC ORDER] and in the case of CIT v. Nirmal Kumar Agarwal [2018] 99 taxmann.com 292/259 Taxman 320 (SC)/[2018 (10) TMI 2002 - SC ORDER]. Admittedly, in the present case, the valuation report is dated 28-10-2016 which is beyond the prescribed time of 30-9-2016. Hence, it is evident that the said valuation report of Id. DVO is barred by limitation and, hence, cannot be relied upon by either

party in the eyes of law. Consequentially, in our view, no addition per se can be made by the Revenue by placing reliance on an invalid valuation report.

11. The Ld. Counsel has taken alternative plea that the valuation report considered by the CIT(A) cannot be relied upon as the DVO report which has been made on the basis of CPWD rated instead of PWD rates (APB, Pg. 43 para 8.3). The Ld. Counsel in this regard, placed reliance upon the binding judgment of Hon'ble Supreme Court in the case of Sunita Mansingha (supra) wherein, it has been held that for the purpose of valuating the property, the local rate should be applied and not CPWD rates and normally, there is difference of about 25% with respect to rate of CPWD and PWD rates. Thus, the addition has been made without providing the benefit of rate difference between CPWD and PWD rate.

12. Considering the factual matrix of the case and judicial pronouncements, we hold that the order passed by the Ld. CIT(A) is infirm and perverse to the facts on record in confirming the addition based on invalid report of DVO and further without allowing benefit of the difference in the value as per law. Accordingly, the addition of Rs. 21,73,975/-sustained by the Ld. CIT (A) is bad in Law and as such, same is deleted.

The co-ordinate bench, on similar facts, deleted the addition so made by Ld. AO on the ground that the addition was based on invalid report of DVO. The Ld. AR has referred to similar decisions of Kolkata Tribunal in the case of **Narula Education Trust (126 Taxmann.com 158)** which has been followed by Bangalore Tribunal in the case of **Bashir Ahmed Abdurrahman Matte (ITA Nos. 6 & 7/Bang/2021)**. Similar is the view in another decision of Kolkata Tribunal in **Jis Foundation (ITA Nos.1 to 6/Kol/2020)** and the decision of Ahmedabad Tribunal in **Smt. Rashidaben Taher Morawala (ITA No.1353/Ahd/2019)**. All these decision supports the same view and render ample assistance to the case of the assessee.

14. The Ld. AR has contended that books have not been rejected before making reference to Ld. DVO. This argument is no longer valid considering the provisions of sub-section (2) to Sec.142A which provide that such a reference could be made by Ld. AO whether or not

he is satisfied about the correctness or completeness of the accounts of the assessee. This argument does not find our concurrence.

15. Finally, considering the enumerated facts and circumstances of the case, the impugned addition as made by Ld. AO on account of alleged unaccounted expenditure in various projects merely on the basis of DVO valuation could not be sustained in law in legal grounds as well as on merits. The same stand deleted. We come to a conclusion that reference to DVO was not a valid one. Consequently, no cognizance thereof could be taken by Ld. AO while making the assessment. When the reference to DVO was not valid, the Ld. AO was not entitled for extended time limit and therefore, the assessment order as passed by Ld. AO was barred by limitation and accordingly, liable to be quashed on legal ground. The impugned addition as made by Ld. AO stand deleted on merits also. We order so. The corresponding grounds as raised by the assessee stand allowed accordingly.

16. So far as the addition of Rs.5 Lacs is concerned, the same would not survive since we have quashed the assessment order. Even otherwise on merits, we find that the said addition is on account of certain projects which has been carried out by separate group entity viz. M/s Dream City Private Ltd. which has come into existence only on 18-09-2017. This project has been started only in AY 2018-19 and not in AY 2013-14. It is unconceivable that the assessee has received advances for such a project during AY 2013-14 on behalf of an entity which never existed in AY 2013-14. Nothing has been shown that this

project was ever started by the assessee. Therefore, the addition to that extent could not be sustained on merits also.

17. Similarly, the addition of Rs.103 Lacs would not survive on legal grounds. Since arguments have been made on the merits also, we deal with the same. The addition of Rs.103 Lacs is primarily based on the retracted statement of accountant Shri Amit Goyal. It has also been disputed that the cash column never existed in the software which was being maintained by the assessee. The retraction has been filed merely within 8 days vide letter dated 01-02-2021 which is accompanied by sworn affidavit of Shri Amit Goyal. The only corroborative evidence in the possession of Ld. AO is the statement of Smt. Justeen which was never confronted to the assessee. In our considered opinion, the material / statement collected at the back of the assessee could not be used unless confronted to the assessee. The denial of opportunity of cross-examination is in clear violation of principle laid down by Hon'ble Apex Court in the case of **Andaman Timber Industries vs. CCE (281 CTR 0241)** holding that not allowing assessee to cross-examine witnesses by adjudicating authority though statements of those witnesses were made as basis of impugned order, amount to serious flaw which make impugned order nullity as it amounts to violation of principles of natural justice. In the present case, we find that such an opportunity of cross-examination has never been provided by Ld. AO to the assessee which would make the impugned addition nullity. If the statement of deponent is ignored, nothing would be left with Ld. AO to support its allegation. As against

this, the assessee filed affidavit from large number of buyers (placed on Page Nos. 288 to 376 of the paper book) confirming that entire sale consideration was paid through banking channels only. The onus of the assessee thus stood discharged and it was the onus of Ld. AO to prove its allegation. We do not find any such corroborative material on record which would prove the allegation of Ld. AO. Therefore, this addition, on merits also, could not be sustained in law.

18. It could further be seen that impugned AY 2013-14 was beyond six assessment years but within ten assessment years. As per 4th proviso to Sec.153A(1) read with Explanation-2, notice for reassessment for 7th to 10th year preceding the search could be made only when AO had in his possession any incriminating evidence which would that indicate that income valued for Rs.50 Lacs or more was represented in the form of an asset that had escaped assessment. As per Explanation-2, "asset" includes immovable property being land or building or both, shares and securities, loans and advances and unexplained deposits in the bank. We find that nothing of that sort has been contained in the seized document and the said notings would not fall within the ambit of "asset" as defined in Explanation-2. Therefore, the assumption of jurisdiction was vitiated. We order so. The assessee succeeds in its respective grounds of appeal. The other legal grounds viz. mechanical approval as urged by Ld. AR has been rendered infructuous.

19. In the result, the appeal of the assessee stands partly allowed in terms of our above order. The Ld. AO is directed to re-compute the income of the assessee.

ITA No.482/Chandi/2025 for AY 2017-18 & ITA No.484/Chandi/2025 for AY 2018-19: M/s Credo Assets Private Ltd.

20. The facts in AY 2017-18 are, admittedly, substantially the same and the assessee is in further appeal before us on similar grounds of appeal. The assessment for AY 2017-18 has been framed u/s 143(3) r.w.s. 153A of the Act on 11-11-2022. This assessee was also covered under search action. The regular return of income was filed by the assessee u/s 139(1) and this year was also unabated year. Pursuant to notice u/s 153A dated 21-10-2021, the assessee furnished return of income on 15-11-2021. Alleging that this assessee also made unaccounted investment in its project, Ld. AO made a reference to DVO for valuation on 30-03-2022. The copy of DVO's report was provided to the assessee only on 23-10-2022. After rejecting assessee's similar submissions and going by DVO's report, Ld. AO made similar addition of explained investments u/s 69B for Rs.21.41 Crores. The Ld. AO made another similar addition alleging receipt of on-money in the sale of projects. The same was quantified at Rs.18.56 Crores. Reference was made to the statement of Shri Amit Goyal to make this addition. In AY 2018-19, Ld. AO made twin additions on identical facts. The Ld. CIT(A) confirmed the assessments, for both the years, on similar lines. Aggrieved, the assessee is in further appeal before us for AYs 2017-18 & 2018-19.

21. Facts being pari-materia the same as in ITA No.487/Chandi/2025, our adjudication as contained therein would have an equal application for both these appeals also. Taking the same view, the twin impugned additions as made by Ld. AO, in both the years, stand deleted.

22. In AY 2018-19, Ld. AO has made another addition of Rs.51 Lacs u/s 68. The same represent unsecured loans as taken by the assessee from Shri Janesh Jindal. The assessee furnished copy of ledgers, bank account statement and Income Tax Returns etc. The Ld. AO doubted the creditworthiness of the lender on the ground that the lender had filed income tax return for Rs.4.69 Lacs. Further, there was credit from third party accounts before the funds were transferred to the assessee. Therefore, the amount of Rs.51 Lacs was added to assessee's income u/s 68. The same has been confirmed by Ld. CIT(A) against which the assessee is in further appeal before us.

23. We find that as per the requirement of Sec.68, the assessee was required to prove the identity of the lender, the genuineness of the loan and creditworthiness of the lender. In the present case, the assessee has duly furnished ledger extracts, bank account statement and Income Tax Returns of the lender to support the credits. Simply because the returned income is low, the same could not be a ground to doubt the creditworthiness since the loan could be sourced not only out of current income but out of borrowings also. It is the finding of Ld. AO that the amount has been borrowed by the lender from third parties. The immediate source of credit for the assessee is not in

doubt. As per the requirements of law, the assessee is not required to prove the source of source. Once the initial onus has been discharged to establish the sources of credit, the onus shifts on revenue to disprove the claim of the assessee. Unless evidences are brought on record to dislodge the evidences of the assessee, no such addition could be made in the hands of the assessee. Therefore, the impugned addition as made by Ld. AO stand deleted. The assessee succeeds in its corresponding grounds of appeal. Both the appeals stand partly allowed.

Conclusion

24. All the three appeals stand partly allowed.

Order pronounced on 3rd February, 2026.

-Sd-
(RAJPAL YADAV)
VICE PRESIDENT

-Sd-
(MANOJ KUMAR AGGARWAL)
ACCOUNTANT MEMBER

Dated:03-02-2026

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

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF

ASSISTANT REGISTRAR

ITAT CHANDIGARH