आयकर अपीलीय अधिकरण, हैदराबाद पीठ
IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad 'A' Bench, Hyderabad
श्री विजय पाल राव, उपाध्यक्ष एवं श्री मधुसूदन सावडिया, लेखा सदस्य के समक्ष ।
BEFORE SHRI VIJAY PAL RAO, VICE PRESIDENT
AND
SHRI MADHUSUDAN SAWDIA, ACCOUNTANT MEMBER

आ.अपी.सं /**ITA No.137/Hyd/2025**

(निर्धारण वर्ष/Assessment Year:2018-19)

Ramesh Babu Segu, Hyderabad. PAN: AMRPS2069N	Vs.	ACIT, Central Circle-1(1), Hyderabad.
(Appellant)		(Respondent)

निर्धारिती द्वारा/Assessee by:	Sri K A Sai Prasad, CA
राजस्व द्वारा/Revenue by::	Ms. Payal Gupta, Sr. AR
सुनवाई की तारीख/Date of hearing:	11/02/2026
घोषणा की तारीख/Pronouncement:	13/02/2026

आदेश/ORDER

Per Madhusudan Sawdia, A.M.:

This appeal is filed by Shri Ramesh Babu Segu ("the assessee"), feeling aggrieved by the order passed by the Learned Commissioner of Income Tax (Appeals)-11, Hyderabad ("Ld. CIT(A)"), dated 19/11/2024 for the Assessment Year ("A.Y.") 2018-19.

2. The assessee has raised the following Grouds of appeal:

> "1a. The order of the Learned First Appellate Authority in not correct either on facts or in law and in both,
>
> 2a. The Learned First Appellate Authority erred in law and on facts by upholding the additions made by the Assessing Officer under Section 69C of the Income Tax Act, amounting to INR. 39,18,000/.

2b. The Learned First Appellate authority is not justified in rejecting the claim of appellant that the seized receipts totalling amounting to INR 39,18,000/-do not belonging to the appellant.

3a. The Learned First Appellate Authority is not justified in confirming the additions of INR 1,41,54,990 towards Long Term Capital gain on Sale of Immovable property made by the Assessing Officer.

3b. The Learned First Appellate Authority is not justified in confirming the decision of the assessing officer in restricting the cost of Land to INR 760 per Square yard from INR 1000 per Square yard claimed by the appellant.

3c. The Learned First Appellate Authority is not justified in confirming the decision of the assessing officer in restricting the cost of construction to INR 300 per Square yard from INR 831 per Square yard claimed by the appellant.

4a. The Appellant prays for leave to add or amend or alter any of the grounds at the time of hearing of appeal."

3. The brief facts of the case are that the assessee is an individual engaged in the business of real estate services. The assessee filed his return of income for the assessment year 2018–19 on 31.08.2018, declaring total income of Rs.6,59,820/-. Subsequently, a search and seizure operation under section 132 of the Income Tax Act, 1961 ("the Act") was conducted on 28.01.2020 in the case of Polisetty Somasundaram Group. During the course of search, certain unaccounted cash book and receipt vouchers were found and seized from the business premises of Polisetty Somasundaram. On the basis of the said seized material and the statement of the Managing Partner of Polisetty Somasundaram, Shri Polisetty Shyam Sundar, recorded on 08.06.2020, the Learned Assessing Officer ("Ld. AO") observed that the assessee was allegedly involved in unaccounted cash transactions with Polisetty Somasundaram aggregating to Rs.2,21,18,000/- pertaining to assessment years 2014–15 to

2018–19. Accordingly, notice under section 153C of the Act was issued to the assessee on 29.08.2022. In response thereto, the assessee filed return of income for assessment year 2018–19 on 08.03.2023, declaring total income of Rs.8,87,820/-. The Ld. AO thereafter issued notice to the assessee under section 143(2) of the Act on 10.03.2023. After considering the submissions of the assessee, the Ld. AO, on the basis of seized material, alleged that the assessee had made unaccounted cash payment of Rs.39,18,000/- to Polisetty Somasundaram during the year under consideration and accordingly added the same in the hands of the assessee under section 69C of the Act. The Ld. AO further recomputed the long-term capital gains arising from sale of immovable property by rejecting the fair market value adopted by the assessee as on 01.04.2001 and made an addition of Rs.1,41,54,990/-. The Ld. AO also made additions of Rs.13,440/- on account of business income and Rs.50,000/- on account of disallowance under section 80C of the Act. Accordingly, the assessment was completed by the Ld. AO under section 153C of the Act vide order dated 27.03.2023, determining the total income of the assessee at Rs.1,90,24,250/-.

4. Aggrieved with the order of the Ld. AO, the assessee filed an appeal before the Ld. CIT(A), who confirmed the additions challenged before him. Hence, the Ld. CIT(A) dismissed the appeal of the assessee.

5. Aggrieved with the order of the Ld. CIT(A), the assessee is in appeal before this Tribunal. The ground nos. 1(a) and 4(a) of the appeal of the assessee are general in nature and require no separate adjudication.

6. The ground nos. 2(a) and 2(b) of the appeal of the assessee are related to the addition of Rs.39,18,000/- under Section 69C of the Act. In this regard, the Learned Authorised Representative ("Ld. AR") submitted that the addition of Rs.39,18,000/- has been made by the Ld. AO solely on the basis of a cash book extracted from a seized pen drive and two receipts seized from the premises of Polisetty Somasundaram, a third party. As regards the evidentiary value of the said seized pen drive, the Ld. AR invited our attention to the decision of the Visakhapatnam Bench of the Tribunal in the case of Polisetty Somasundaram Vs. DCIT in ITA Nos. 172 to 180/Viz/2023 dated 18.08.2023, wherein the Tribunal categorically held that the contents of the seized pen drive and the cash book generated therefrom do not have evidentiary value in the absence of a valid certificate under section 65B of the Indian Evidence Act, 1872. It was submitted that the said finding was rendered in the case of the very person from whose premises the pen drive was seized. It was contended that when the pen drive has been denied independent evidentiary value in the case of Polisetty Somasundaram himself, the same pen drive cannot be relied upon to make an addition in the hands of the assessee, who is a third party, in the absence of any independent corroborative evidence. The Ld. AR further relied on the decision of this Tribunal in the case of Purushottam Naidu Lekkala Vs. ACIT in ITA No. 608/Hyd/2023 dated 11.06.2024, wherein it has been held that digital evidence, without independent corroboration, cannot form the sole basis for making an addition.

7. The Ld. AR further invited our attention to the two receipts seized from the premises of Polisetty Somasundaram and reproduced by the Ld. CIT(A) at page 23 of his order. It was submitted that these receipts were treated by the lower authorities as corroborative evidence in support of the pen drive. However, on perusal of the said receipts, it would be evident that there is no signature of the assessee on either of the receipts. The Ld. AR also invited our attention to para no. 3 of the assessment order in the case of another person i.e., Cheekati Ramaiah, wherein the Ld. AO had reproduced similar receipts seized from the same party i.e., Polisetty Somasundaram. It was submitted that all the receipts bear identical signatures of two persons, which clearly establishes that the signatures do not belong to the assessee. Further, the Ld. AR drew our attention to para nos. 4.2 and 4.3 of the assessment order, wherein reference is made to the statement of Shri Polisetty Shyam Sundar recorded under section 132(4) of the Act, stating that advances aggregating to Rs.2,21,18,000/- were received from the assessee. However, in para no. 4.4 of the assessment order, reference is made to the statement of Shri Yeluri Chandra Sekhar Rao, Manager (Finance) of M/s. Polisetty Somasundaram recorded during the assessment proceedings, who stated that the amounts received from the assessee were towards principal and interest. It was submitted that there is a clear and irreconcilable contradiction between the two statements, which has not been reconciled by the Revenue. It was further submitted that all the material relied upon by the Revenue has been seized from the premises of a third party, does not bear the signature of the assessee, and

has not been corroborated by any independent evidence belonging to the assessee. Accordingly, it was prayed that the addition be deleted.

8. Per contra, the Learned Departmental Representative ("Ld. DR") relied upon the orders of the lower authorities. She submitted that the two receipts seized from the premises of Polisetty Somasundaram contained the name of the assessee and the amounts mentioned therein, and therefore constituted corroborative evidence. She further submitted that the receipts contained three signatures and not two, as contended by the assessee, and accordingly prayed for confirmation of the addition.

9. In rejoinder, the Ld. AR invited our attention to para no.4.4 of the order of the Ld. AO, wherein the statement of Shri Yeluri Chandra Sekhar Rao is reproduced, and submitted that the so-called third signature appearing on the receipts matches with the signature of Shri Yeluri Chandra Sekhar Rao, thereby again establishing that no signature of the assessee appears on the receipts. Accordingly, the Ld. AR prayed before the Bench to delete the addition of Rs.39,18,000/-.

10. We have carefully considered the rival submissions and perused the material available on record. We observed that the addition of Rs.39,18,000/- in the hands of the assessee has been made primarily on the basis of (i) a cash book extracted from a seized pen drive and (ii) two receipts seized from the premises of Polisetty Somasundaram. In this regard, we have gone through the para nos. 37 to 46 of the order of the Visakhapatnam Bench of the Tribunal in

the case of Polisetty Somasundaram Vs. DCIT (supra), which is to the following effect:

"37. With respect to Ground No.5, regarding the violation of section 65B of the Indian Evidence Act, the Ld. AR submitted that the primary evidence from wherein the data was copied on the Pen Drive was not identified. The Ld. AR referred to the Digital Evidence Investigation Manual issued by the CBDT which clearly indicates the procedure for obtaining the Certificate U/s. 65B of the Indian Evidence Act. The Ld. AR further submitted that the Certificate obtained U/s. 65B of the Act is not in accordance with the procedures laid down in section 65B(2).of the Indian Evidence Act. The Ld: AR also submitted that the four conditions prescribed in sub-section (2) of section 65B of the Indian Evidence Act should be followed cumulatively while obtaining the Certificate U/s. 65B of the Indian

Evidence/Act. The Ld. AR vehemently argued and submitted that the search team has failed to adhere to the procedures laid down in section- 65B(2) (d) of the Indian Evidence Act while seizing the pendrive from Sri A. Srinivasa Rao, Cashier of the assessee. The copy of the Certificate has been placed in Page-11 of the Paper Book-1. The Ld. AR also produced a copy of Certification issued U/s. 65B of the Indian Evidence Act in another case wherein the primary and secondary device details, including the owner / user of the device has been clearly mentioned. The Ld. AR submitted that in the instant case, no evidence was produced by the Revenue stating that the data copied to the pendrive was from the system identified in this regard, and used by the Cashier Sri A. Srinivasa Rao. The Ld. AR therefore pleaded that on this ground also, the assessment order is not a valid assessment order. The Ld. AR relied on the following case laws;

(i) Vetrivel Mineral vs. ACIT, Central Circle-2, Madurai [20211 129 taxmann.com 126 (Madras)

(ii) Judgment of the Hon'ble Supreme Court in the case of Arjun Panditrao Khotkar vs. Kailash Kushanrao Gorantyal and Ors in Civil Appeal Nos. 20825-20826 of 2017.

(iii) Anvar P.V. vs. P.K. Basheer and others [2014] 10 SCC 473 (SC).

38. Per contra, the Ld. DR submitted before that the Digital Evidence collection form was obtained from the assessee's premises during the. search operations. The Ld. DR also submitted that as per page 33 of the submissions, the system has been identified by the search party. Countering the same, the Ld. AR submitted that there is no evidence in support of the claim of the Ld. CIT-DR that the same system was used by the assessee's Cashier.

39. We have heard both the parties and perused the material available on record and the orders of the Ld. Revenue Authorities on this issue as well as the submissions made by the Ld. AR and the Ld. CIT-DR. The CBDT has issued an Investigation Manual for the purpose of collecting Digital Evidence in the cases of search and seizure. In para 2.6.3 of the said Manual, the CBDT has advised that the procedure has to be consonance with the provisions of section 65B of the Indian Evidence Act For reference sake, we extract below the relevant para 2.6.3 of the Manual:

"2.6.3 Under Indian Evidence Act there are several reference to documents and records and entries in books of account and their recognition as evidence. By way of the THE SECOND SCHEDULE to the Information Technology Act

Amendments to the Indian Evidence Act have been brought in so as to incorporate reference to Electronic Records along with the documents giving recognition evidence.

Further, special provisions as to evidence relating to .electronic record have been inserted in the Indian Evidence Act, -1872 in the form of section 65A & 65B, after section 65. These /provisions are very important. They govern the integrity of the electronic record- as evidence, as well as, the process for -creating electronic record. Importantly,- they impart faithful output of computer the same evidentiary value as original without further proof or production of original ***Accordingly, while handling any digital evidence, the procedure has to be in consonance of these provisions."***

40. *Further, we find that-section 65B(2) of the Indian Evidence Act clearly specifies. the following conditions with respect to obtaining of Digital Evidence both for primary and secondary evidences. The relevant extract of section 65B(2), (3), and (4) are as follows:*

"(2) The conditions referred to in sub-section

(1) in respect of a computer output shall be the following, namely:

(a) the computer output containing the information was produced by the computer during the period over which the computer was used regularly to store or process information for the purposes of any activities regularly carried on over 181 that period by the person having lawful control over the use of the computer;

(b) during the said period, information of the kind contained in the electronic record or of the kind from which the information so contained is derived was regularly fed into the computer in the ordinary course of the said activities;

(c) throughout the material part of the said period, the computer was operating properly or, if not, then in respect of any period in which it was not operating properly or was out of operation during that part of the period, . was not such as to affect the electronic record or the accuracy of its contents; and

(d) the information contained in the electronic record reproduces or is derived from such information fed into the computer in the ordinary course of the said activities.

(3) Where over any period, the function of storing or processing information for the purposes of any activities regularly carried on over that period , as mentioned in clause (a) of sub-section (2) .was regularly performed by computers, whether-

(a) by a combination of computers operating over that period; or

(b) by different computers operating in succession over that period; or

(c) by different combinations of computers operating in succession over that period; or

(d) in any other manner involving the successive operation over that period, in whatever order, of one or more computers and one or more combinations of computers, all the computers used for that purpose during that period shall be treated for the purposes of this section as constituting a single computer; and references in this section to a computer shall be construed accordingly.

(4) In any proceedings where it is desired to give a statement in evidence by virtue of this section, a certificate doing any of the following things, that is to say, -

(a) identifying the electronic record containing the statement and describing the manner in which it was produced;

(b). giving such particulars of any device involved in the ^ production of that electronic record as may be appropriate for the purpose of showing that the electronic record was produced by a computer;

(c) dealing with any of the matters to which the conditions mentioned in subsection (2) relate,

and purporting to be. signed by a person occupying a responsible official position in relation to the operation of the relevant device or the management of the relevant activities (whichever is appropriate) shall be evidence of any matter stated in the certificate; and for the purposes of this sub- section it shall be sufficient for a matter to be stated to the best of the knowledge and belief of the person stating it"

41. We find from the written submissions of the Ld. AR that the provisions of section 65B(2)(d) as extracted above was not followed by the Revenue. ***The Revenue: failed to identify the primary system giving particulars of the device involved in the production of the data was produced by a computer.***

42. Further, we have considered the cases referred to by the Ld. AR. In the case of **Vetrivelt Mineral vs. ACIT, Central Circle-2, Madurai reported in [2021] 129 taxmann.com 126** (Mad.)the Honl3le Madras High Court has observed as under:

"24. As contended by the writ petitioners, when the entire assessment has been framed only on the basis of the so-called electronic record which are said to be copies of Excel Sheet,— Excel work note book etc., **non-compliance of section 65(B) of the Indian Evidence Act renders the document , inadmissible in the eye of law as held by the Supreme Court in the judgment Anvar P. V,** case (supra).

"14.Any documentary evidence by way of an electronic record under the Evidence Act, in view of sections 59 and 65A, can be , proved only in accordance with the procedure prescribed under section 65B. Section 65B deals with the admissibility of the electronic record. The purpose of these provisions is to sanctify secondary evidence in electronic form, generated by computer. It may be noted that the section starts with a non obstante clause. Thus, notwithstanding anything contained in the Evidence Act, any information contained in an electronic record which is printed on a paper, stored, recorded or copied in optical or magnetic media produced by a computer shall be deemed to be a document only if the conditions mentioned under sub-section (2) are satisfied, without further proof or production. of the original The very admissibility of such a document, Le., electronic record which is called as computer output, depends on the satisfaction of the four conditions under section 65B(2). Following are the specified conditions under section 65B(2) of the Evidence Act:

(i) The electronic record containing the information should have been produced by the computer during the period over which the same was regularly used to store or process information for the purpose of any activity regularly carried on ' over that period by the person having lawful control over the use of that computer;

(ii) The information of the kind contained in electronic record or of the kind from which the information is derived was regularly fed into the , computer in the ordinary course of the said activity;

(iii) During the material part of the said period, the computer was operating properly and that even if it was not operating properly for

some time, the break or breaks had not affected either the record or the accuracy of its contents; and

(iv) The information contained in the record should be a reproduction or derivation from the information fed into the computer in the ordinary course of the said activity:

15. Under section 65B(4) of the Evidence Act, if it is desired to give a statement in any proceedings pertaining to an electronic record, it is permissible provided the following conditions are satisfied:

a. There must be a certificate which identifies the electronic record containing the statement;
b. The certificate must describe the manner in which the electronic record was produced;
c. The certificate must furnish the particulars of the device involved in the production of that record;
d. The certificate must deal with the applicable conditions mentioned under section 65B(2) of the Evidence Act; and
e. The certificate must be signed by a person occupying a responsible official position in relation to the operation of the relevant device.

16. It is further clarified that the person need only to state in the certificate that, the same is to the best of his knowledge and belief Most importantly, such a certificate must accompany the electronic record like computer printout, Compact Disc (CD), Video Compact Disc (VCD), pen drive, etc., pertaining to which a statement is sought to be given in evidence, when the same is-produced - in evidence. All these safeguards are taken to ensure ' the source and authenticity, which are the two hallmarks pertaining to electronic record sought to be used as [(evidence: Electronic records being more susceptible to tampering, alteration, transposition, excision, etc. without such safeguards, the whole trial based on proof of electronic records can lead to travesty of justice.

17. Only if the electronic record is duly produced in terms of section 65B of the Evidence Act, the question would arise as to the genuineness thereof and in that situation, resort can be made to section 45A opinion of examiner of electronic evidence.

18. The Evidence Act does not contemplate or permit the proof of an electronic record by oral evidence if requirements under section 65B of the Evidence Act are not complied with, as the law now stands in India."

43. In the case of **Anvar P.V vs. P.K. Basheer and Others [2014] 10 see 473 (SC),** the Hon'ble Supreme Court held their observations vide Paras 14, 15, 16, 17 & is to state that **non-compliance of section 65(B) of the Indian Evidence Act renders the document inadmissible in the eye of law.** Relying on the same ratio laid down by the Hon'ble Apex Court, the Hon'ble Madras High Court delivered its judgment in the case of Vetrivel Mineral, vs. ACIT (supra) vide para 24 of its order which is extracted herein above. Therefore, in our opinion there is no need to repeat the finding of the Hon'ble Supreme Court in the case of Anvar P.V. vs. P.K. Basheer and Others again for reference.

44. Now coming to the decision of the Hon Hole Supreme Court in the case of **Arjun Pandit Rao Khotkar vs. Kailash Kushan Rao Gorantyal And Ors reported in [2020] 7 SCC 1 (SC)** the Hon'ble Apex Court has observed as under:

> "30. Coming back to Section 65B of the Indian Evidence Act, sub-section (1) needs to be analyzed. The sub-section begins with a non-obstante clause, and then goes on to mention information contained in an electronic record produced by a computer, which is, by a deeming fiction, then made a "document". This deeming fiction only takes effect if the further conditions mentioned in the Section are satisfied in relation to both the information and the computer in question; and if such conditions are met, the "document" shall then be admissible in any proceedings. The words "...without further proof or production of the original..." make it clear that once the deeming fiction is given effect by the fulfilment of the conditions mentioned in the Section, the "deemed document" now becomes admissible in evidence without further proof or production of the original as evidence of any contents of the original, or of any fact stated therein of which direct evidence would be admissible.
>
> **31. The non-obstante clause in sub-section (1) makes it clear that when it comes to information contained in an electronic record, admissibility and proof thereof must follow the drill of Section 65B, which is a special provision in this behalf** - Sections 62 to 65 being irrelevant for this purpose. However, **Section 65B(1) clearly differentiates between the original document - which would be the original electronic record contained in the computer in which the original information is first stored and the computer output containing such information which then may be treated as evidence of the contents of the "original" document. All this necessarily shows that Section 65B differentiates**

between the original information contained in the computer itself and copies made there from -the former being primary evidence and the latter being secondary evidence.

32. Quite obviously, the requisite certificate in sub-section (4) is unnecessary if the original document itself is produced. This can be done by the owner of a laptop computer, a computer tablet or even a mobile phone, by stepping into the witness box and proving that the concerned device, on which the original is owned and/or operated by him. In cases where "the computer", as defined, happens to be a part of a "computer system" or "computer network" (as defined in the Information Technology Act, 2000) and it becomes impossible to physically bring such network or system to the Court, then the only means of proving information contained in such electronic record can be in accordance with Section 65B(1), together with the requisite certificate under Section 65B(4).This being the case, it is necessary to clarify what is contained in the last sentence in paragraph 24 of Anvar P.V. (supra) which reads as "...if an electronic record as such is used as primary evidence under Section 62 of the Evidence Act..". This may more appropriately be read without the words "under Section 62 of the Evidence Act..." With this minor - clarification, 'the law stated in paragraph 24 of Anvar P.V. (supra) does not need to be revisited.

45. On careful perusal of the case laws cited above, we are of the considered view that the - Revenue Authorities should mandatorily and I scrupulously follow the conditions laid down under section 65B(2) and (4) of the Indian Evidence Act to render any documents to be valid in the eyes of law. In the instant case, the investigation agency obtained a Certificate about the details of the pen drive and the person in whose custody it was seized. Except these details nothing was there in the Certificate and also the said Certificate was not completely filled up by the Ld. Revenue Authorities. Further, from the Certificate obtained under Indian Evidence Act which is placed in Page-11 of Paper Book-2, we find - force in the arguments of the Ld. AR that it is not as per the conditions laid down U/s. 65B of the Indian Evidence

Act. For the sake of reference, the Certificate is reproduced here in below:

CERTIFICATE U/S 65B OF THE INDIAN EVIDENCE ACT, 1872

I, A. Srinivasa Rao (Name)(PAN NO. [illegible]) state the following that I am an employee/partner/director/proprietor of Messers. Pollisetty Somasundaram after referred to as firm / company /LLP /AOP /Proprietary Firm) Located at Messers. Pollisetty Somasundaram , D.no 8-24-31, Mangalagiri Road , Guntur 522001 (here after referred to as Premises).

I, A. Srinivasa Rao (Name) state that by virtue of being employee / partner /director / proprietor in firm / company / LLP/AOP/Proprietary Firm, I and my employees uses the server/system/File-folder/hard disk/pen drive/mobile/email Cashier HP Pendrive , S.no : PS-16G-K (here after referred to as System) located in the premises of Office at Located at Messers. Pollisetty Somasundaram , D.no 8-24-31, Mangalagiri Road , Guntur 522001 firm/company/LLP /AOP /Proprietary Firm. Further, the server/system/File-Folder/hard disk/pen drive/mobile/email used by us in this premises was functioning normally all times and this server/system/hard disk/pen drive/mobile/email was used for meeting various business interest of Messers. Pollisetty Somasundaram / company /LLP /AOP /Proprietary Firm. I,(Name)also like to state that I (Name) along with my staff / and/or family members were involved in entering data on server/system/File-Folder/hard disk/pen drive/mobile/email in the Premises.

Accordingly, I,Ashok Naga Sai Pabbathi(Name of Digital Forensic Examiner)certify that the data is backed up from the Cashier HP Pendrive , S.no : PS-16G-K server/system/File-Folder/hard disk/pen drive/mobile/email during the search proceedings u/s 132 of the Income Tax Act,1961, in case of Messers. Pollisetty Somasundaram (Company name), At the Messers. Pollisetty Somasundaram , D.no 8-24-31, Mangalagiri Road , Guntur 522001 Date of Search: 28-1-2020) is stored in the devices with the following details:

Master Copy Details	Working Copy Details
Make: Sandisk Model: Cruzer Blade Serial No: n/a	Make: Sandisk Model: Cruzer Blade Serial No: n/a
Is the Hash Value Calculated ?	Algorithm:
Yes No	MD5 SHA1 Others
MD5 hash value: [illegible]	
SHA1 hash Value: [illegible]	

Therefore, this certificate is sufficient compliance of Section 65B of the Indian Evidence Act,1872.

Signature:
Name: A. Srinivasa Rao
Designation: Cashier

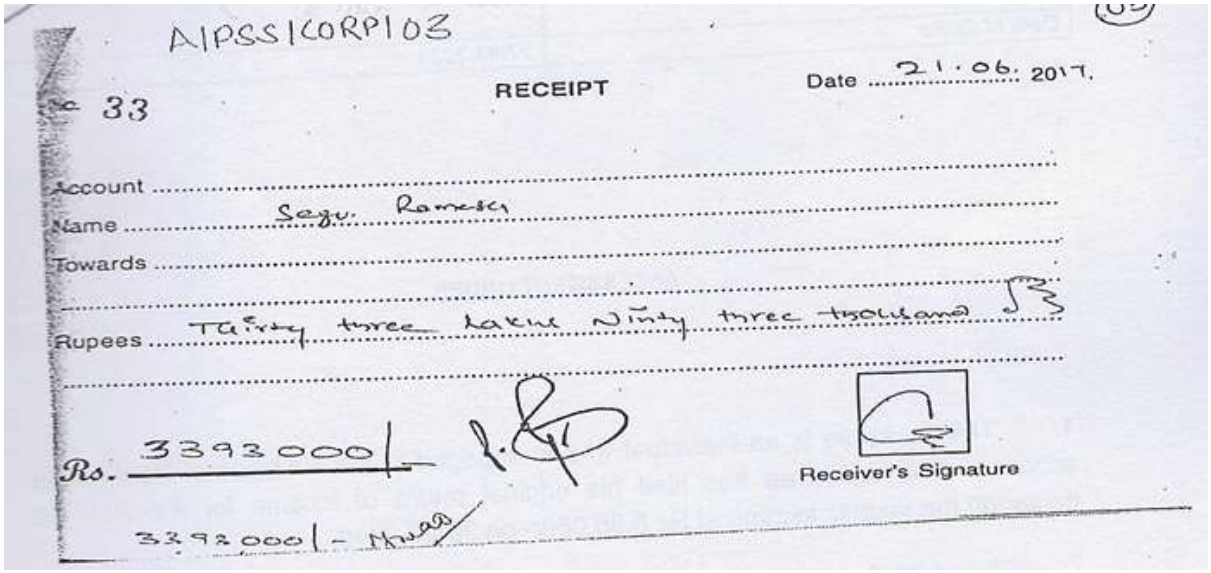
Signature:
Name: Ashok Naga Sai Pabbathi
Designation: Digital Forensic Examiner

46. After considering the decisions of the Hon'ble Supreme Court in the case of Anvar P.V Vs P.K. Basheer and Others (supra); Arjun Pandit Rao Khotkar vs. Kailash Kushan Rab Gorantyal and Ors (supra) and the judgment of the Hon'ble Madras High Court in the case of Vetrivel Mineral vs. ACIT (supra) as well as on perusal of the facts and circumstances of the case, we are of the considered we that the four conditions stipulated in section 65B(2) i.e., (a) to (d) along with section 65B(4) were not followed a while obtaining the Certificate U/s. 65B of the Indian Evidence Act 1872 in the case of the assessee which are to be followed mandatorily. Therefore, we have no hesitation to hold that this Certificate is not a valid Certificate as prescribed under the Indian Evidence Act 1872 and hence cannot be enforced. Therefore, the Certificate/obtained in the case of the assessee cannot be regarded as a legally valid certificate U/s. 65B of the Indian Evidence Act and the same has no recognition in the eyes of law. The information contained in the seized pendrive is could not be considered as admissible evidence as per the provisions of section 65B of Indian Evidence Act. Therefore, we are. of the considered view that such inadmissible seized material is not sustainable in the eyes of law. Thus, the assessment order passed in the case of the assessee on 31/3/2022 is not a valid assessment ordain the eyes of law and it deserves to be set aside."

11. On perusal of above, we find that the Tribunal has categorically denied evidentiary value to the seized pen drive and the cash book extracted therefrom due to the absence of a valid certificate under section 65B of the Indian Evidence Act and also quashed the assessment order of the Ld. AO made under section 153A of the Act. Therefore, in our considered view, once the seized pen drive has been held to be inadmissible in law, the same cannot be independently used as evidence in any case, including in the hands of a third party.

12. Further, as regards the contention of the Revenue that the two receipts constitute corroborative evidence, we have gone through the receipts

reproduced by the Ld. CIT(A) at page no.3 of its order, which is to the following effect:



A/PSS/CORP/03

No. 33 RECEIPT Date 21.06.2017.

Account .....

Name ..... Segu. Ramesh

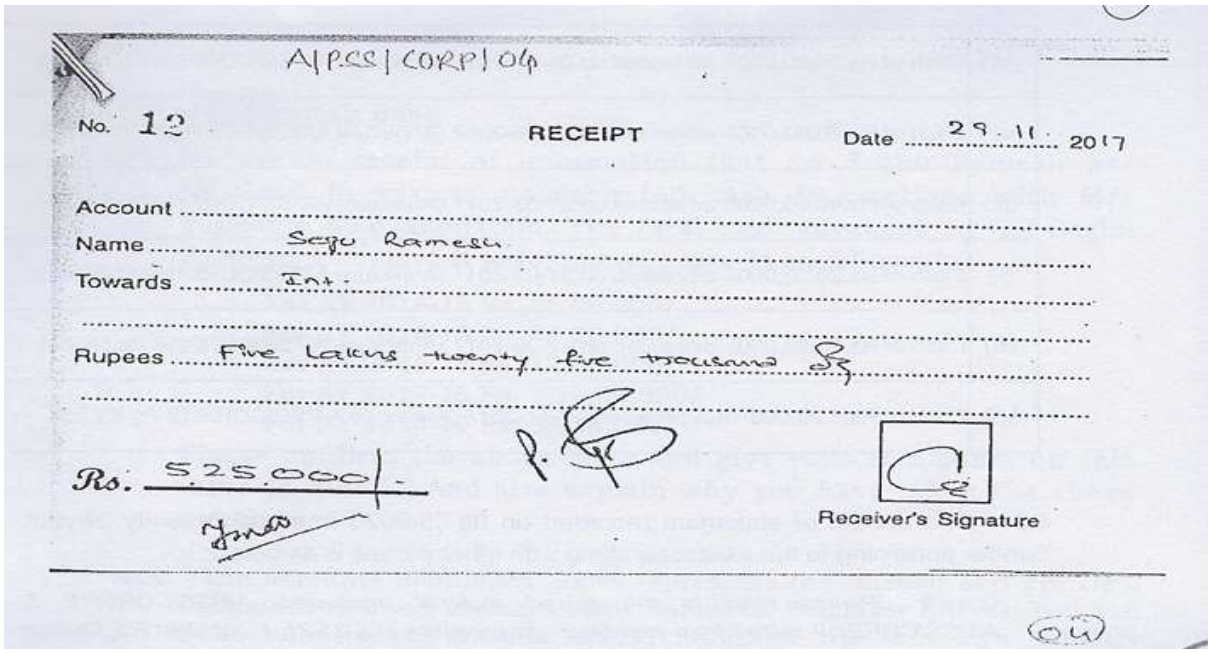
Towards .....

Rupees ..... Thirty three lakhs Ninty three thousand Rs

Rs. 3393000/-

3393000/- Mwas

Receiver's Signature



A/PSS/CORP/04

No. 12 RECEIPT Date 29.11.2017

Account .....

Name ..... Segu Ramesh

Towards ..... Int.

Rupees ..... Five Lakhs twenty five thousand Rs

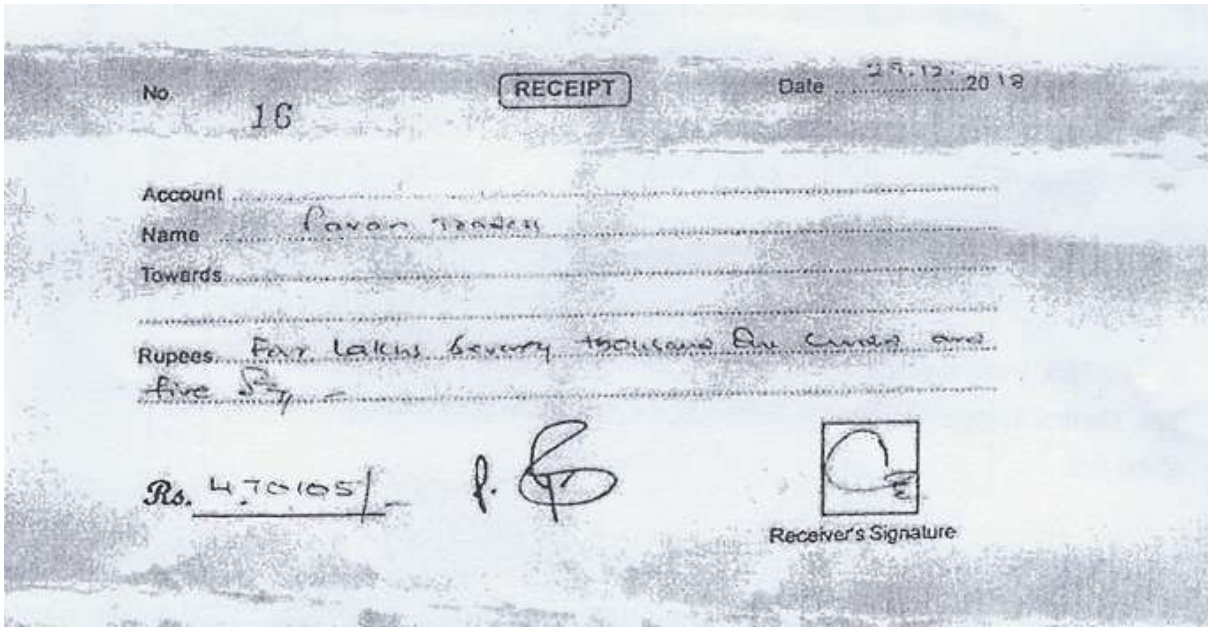
Rs. 525000/-

Mwas

Receiver's Signature

04

13. We have also gone through the similar receipts reproduced by the Ld. AO in the case of Cheekati Ramaiah at para no.3 of that order, which is to the following effect:


No. 16 RECEIPT Date 25.12.2018

Account

Name Pavan [illegible]

Towards

Rupees Four lakhs seventy thousand One Hundred and Five Only

Rs. 4,70,105/-

Receiver's Signature

14. On perusal of the above three receipts, we find that all the receipts bear the signatures of identical persons. Further, when the receipts bearing the identical signatures have been relied on two different cases of two different assessees, in our considered view the signatures on the receipts does not belong to the assessee. Further, the signature of third person appearing on the receipts as submitted by the Ld. DR and as demonstrated by the assessee, match with the signature of Sri Yeluri Chandra Sekhar Rao. Therefore, the said receipts although may be treated as corroborative evidence in the case of Polisetty Somasundaram but cannot be treated as corroborative evidence against the assessee. Further, we have also gone through the relevant statement of Shri Polisetty Shyam Sundar recorded under section 132(4) of the Act extracted at page no.4 of the order of Ld. AO which is to the following effect:

4.3 The extract of statement recorded on 08-06-2020 from Sri Polisetty Shyam Sunder pertaining to the assessee along with other parties is as below:

Q.no.9 Please refer to the seized material annexures A/PSS/CORP/18 & A/PSS/CORP/19 seized from your business permises at 8-24-31, Mangalgiri Rd, Guntur during the course of search proceedings on M/s. Polisetty Somasundaram group on 29-01-2020 and explain the following contents with narattion :

Ans. I confirm that the above details as mentioned in seized material annexures A/PSS/CORP/18 & A/PSS/CORP/19 seized from our business permises at 8-24-31, Mangalgiri Rd, Guntur during the course of search proceedings on M/s. Polisetty Somasundaram group on 29-01-2020 are various cash receipts received by M/s. Polisetty Somasundaram which are not accoounted for in our books of account. „

Further, he has stated that the above receipts are repayment of interest towards loans received in cash by them which are not reported in their books of account.

15. We have also gone through the relevant statement of Shri Yeluri Chandra Sekhar Rao extracted at page no.5 of the order of Ld. AO, which is to the following effect:

Sri Seghu Ramesh Babu

10(a).We are in receipt of information that Sri Seghu Ramesh was involved in various unaccounted cash transactions with M/s Polisetty Somasundaram. The total cash advanced by Sri Seghu Ramesh for relevant assessment years is as follows:

For AY 2014-15 Rs. 36,00,000/-
For AY 2015-16 Rs. 24,00,000/-
For AY 2016-17 Rs. 12,00,000/-
For AY 2017-18 Rs. 1,10,00,000/-
For AY 2018-19 Rs. 39,18,000/-

Please confirm the above facts and give your comments on this issue in detail. And also explain why you have taken the above amounts.

Ans: The amounts mentioned above represents the Interest and principal amounts received from Sri Segu Ramesh. Whatever Interest received was admitted as Income in the hands of the firm M/s Polisetty Somasundaram.

10(b).Please state the stand adopted by you while completing the assessment in respect of the transactions pertaining to Segu Ramesh that was found and seized during search?

Ans: Whatever the amount received as interest from Segu Ramesh we admitted as Interest income in the hands of M/s Polisetty Somasundaram.

10/03/2023

10/3/2023

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पि. वैष्णवी भा.रा.से.
P. VYSHNAVI I.R.S.
उप आयकर आयुक्त
Dy. Commissioner of Income Tax
केन्द्रीय सर्कल-1(1), हैदराबाद
Centra. Circle-1(1), HYDERABAD

16. On perusal of above both the statements, we find that there is a clear and material contradiction between the two statements. While Shri Polisetty Shyam Sundar stated that advances were received from the assessee, Shri Yeluri Chandra Sekhar Rao stated that the amounts were received towards principal and interest. This contradiction has not been reconciled or explained by the Revenue, thereby further weakening the evidentiary value of the material relied upon by the Ld. AO.

17. In addition to above facts, all the documents and material relied upon by the Revenue have been seized from the premises of a third party, do not bear the signature of the assessee, and are not supported by any independent corroborative evidence belonging to the assessee. In such circumstances, the addition made merely on the basis of such third-party material and contradictory statements cannot be sustained in the hands of the assessee. Therefore, we hold that the Revenue has failed to bring on record any independent corroborative evidence to justify the addition of Rs.39,18,000/- under section 69C of the Act. Hence, the Ld. AO is directed to delete the addition of Rs.39,18,000/-. Accordingly, ground nos.2(a) and 2(b) raised by the assessee are allowed.

18. Ground Nos. 3(a) to 3(c) raised by the assessee relates to the addition of Rs.1,41,54,990/- made by the Ld. AO on account of long-term capital gain arising from sale of an immovable property. In this regard, the Ld. AR submitted that during the year under consideration, the assessee sold an immovable property to Polisetty Somasundaram and related persons for a total sale

consideration of Rs.2,30,00,000/-. It was further submitted that the corresponding land was originally purchased by the assessee on 21.06.1993. For the purpose of computing long-term capital gain, the assessee adopted the fair market value ("FMV") as on 01.04.2001. The assessee adopted the FMV of land at the rate of Rs.1,000 per square yard for 396 sq. yards of land, aggregating to Rs.3,96,000/-, and accordingly computed the indexed cost of acquisition of land at Rs.10,77,120/-. Similarly, the assessee adopted the FMV of the building constructed on the said land as on 01.04.2001 at the rate of Rs.831.18 per sq. ft. for 9,618 sq. ft. of constructed area, aggregating to Rs.79,94,400/-, and computed the indexed cost of construction at Rs.2,17,44,768/-. On this basis, the assessee computed long-term capital gain at Rs.1,78,112/-. However, the Ld. AO, relying upon a certificate issued by the Joint SRO, Nallapadu, adopted the FMV of land as on 01.04.2001 at Rs.760 per sq. yard and the FMV of the building at Rs.300 per sq. ft. Accordingly, the Ld. AO adopted the FMV of land at Rs.3,00,960/- and the FMV of the building at Rs.28,85,400/-, computed the indexed cost of land and building at Rs.86,66,898/-, and determined the long-term capital gain at Rs.1,43,33,102/-, resulting in an addition of Rs.1,41,54,990/-. The Ld. AR submitted that the FMV of land as well as the cost of construction of the building adopted by the Ld. AO is not correct. In this regard, the assessee filed additional evidence before the Tribunal along with a petition for admission, namely:

a. A valuation report of a registered valuer certifying the FMV of the building as on 01.04.2001 at Rs.76,67,697/-; and

b. A certificate obtained under the Right to Information Act from the joint SRO, Nallapadu, certifying the FMV of land as on 01.04.2001 at Rs.1,520 per sq. yard.

Accordingly, it was submitted that these additional evidences go to the root of the issue and directly affect the computation of taxable long-term capital gain. The Ld. AR therefore prayed that the additional evidence be admitted and the issue be set aside to the file of the Ld. AO for fresh verification.

19. Per contra, the Ld. DR objected to the admission of the additional evidence. She submitted that the assessee has failed to demonstrate any reasonable cause for not producing these evidences before the Ld. AO or the Ld. CIT(A), and therefore the additional evidence should not be admitted.

20. In rejoinder, the Ld. AR submitted that the FMV of land varies depending upon the location and locality, and only after obtaining information under RTI, the assessee came to know that the land value applicable to the assessee's specific locality was higher than the rate adopted by the Ld. AO. Similarly, the cost of construction depends upon the quality and nature of construction, whereas the Ld. AO had mechanically adopted a standard rate without considering the specific features of the assessee's building. Therefore, sufficient cause existed for not producing the additional evidence before the lower authorities.

21. We have carefully considered the rival submissions and perused the material placed on record. The issue before us relates to determination of the

FMV of land and cost of construction of the building as on 01.04.2001, which forms the basis for computation of long-term capital gain. The assessee has filed additional evidence in the form of a valuation report of a registered valuer for the building and an RTI-based certificate from the joint SRO, Nallapadu for the land value. We find merit in the contention of the Ld. AR that the FMV of land varies based on location, and the cost of construction depends upon the nature and quality of construction. We further find that the additional evidences filed by the assessee have a direct bearing on the computation of capital gains and go to the very root of the issue. We are also satisfied that the assessee has explained sufficient cause for not producing these evidences before the lower authorities, as the need to obtain RTI-based valuation and a registered valuer's report arose only after the assessment order was passed adopting values which, according to the assessee, did not reflect the correct FMV applicable to the specific property. Therefore, in the interest of substantial justice, and considering that the additional evidence materially affects the tax liability, we deem it appropriate to admit the additional evidence. At the same time, since verification of such evidence is required, the matter needs to be restored to the file of the Ld. AO. Hence, we set aside the issue of computation of long-term capital gain arising from sale of the immovable property to the file of the Ld. AO, with a direction to re-adjudicate the issue afresh after examining the additional evidence filed by the assessee and after providing adequate opportunity of being heard to the assessee. Accordingly, ground nos. 3(a) to 3(c) raised by the assessee are allowed for statistical purposes.

22. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the Open Court on 13th February, 2026.

Sd/- **(VIJAY PAL RAO)** **VICE PRESIDENT**	**Sd/-** **(MADHUSUDAN SAWDIA)** **ACCOUNTANT MEMBER**

Hyderabad, dated: 13th February, 2026
Okk, Sr. PS
Copy to:

S.No	Addresses
1	Ramesh Babu Segu, Plot No.78, Road No.2, Banjarahills, Hyderabad, Telangana-500034.
2	Asst. Commissioner of Income Tax, Central Circle-1(1), Aayakar Bhavan, Basheerbagh, Hyderabad, Telangana-500004.
3	Pr. CIT, Central Circle, Hyderabad.
4	DR, ITAT Hyderabad Benches
5	Guard File

By Order

KAMALA KUMAR ORUGANTI
Digitally signed by KAMALA KUMAR ORUGANTI
Date: 2026.02.13 16:04:39 +05'30'