

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.1277/Hyd/2024
(निर्धारण वर्ष/Assessment Year:2017-18)

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

C.O. No.03/Hyd/2025
(In आ.अपी.सं /ITA No.1277/Hyd/2024)
(निर्धारण वर्ष/Assessment Year:2017-18)

Ramesh Babu Segu, Hyderabad. PAN: AMRPS2069N	Vs.	ACIT, Central Circle-1(1), Hyderabad.
(Appellant)		(Respondent)
निर्धारिती द्वारा/Assessee by:	Shri 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.:

The captioned appeal is filed by the Revenue feeling aggrieved by the order passed by the Learned Commissioner of Income Tax (Appeals)-11, Hyderabad ("Ld. CIT(A)"), dated 11/10/2024 for the Assessment Year ("A.Y.") 2017-18. The assessee has also raised the Cross Objection for the A.Y.2017-

18. Since the issues raised in the Revenue's appeal and the assessee's Cross Objection are interwoven, they have heard together and disposed of vide the consolidated order for the sake of convenience and brevity.

ITA No.1277/Hyd/2024:

2. The Revenue has raised the following Grounds of appeal:

- “1. Whether on the facts and in the circumstances of the case and in law, the Id. CIT(A) erred in not considering the pen drive seized during the course of search u/s 132 of the Act as an 1 independent primary source of evidence u/s 65B of the Indian Evidence act, when the extracts of digital evidence collected from the pen drive was confronted to and accepted by Sri Polisetty Shyam Sunder?
2. Whether on the facts and in the circumstances of the case and in law, the Id. CIT(A) erred in not considering the fact that the contents of seized pen drive were confirmed by the AR of Sri Polisetty Shyam Sunder during the course of scrutiny assessment proceedings u/s 143(3) rws 153C of the Act?
3. Whether on the facts and in the circumstances of the case and in law, the Id. CIT(A) erred in not considering the fact that corroborative evidence in the form of physical copy of receipts issued to the assessee were found and seized which matched with the contents of the seized pen drive regarding payments made by the assessee?
4. Any other ground that may be urged at the time of hearing”

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 (“A.Y.”) 2017–18 on 30.03.2018, declaring total income of Rs.5,55,050/-. 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 A.Ys. 2014–15 to 2018–19. Accordingly, notice under section 153C of the Act was issued by the Ld. AO to the assessee on 29.08.2022. In response thereto, the assessee filed return of income for A.Y. 2017–18 on 08.03.2023, declaring total income of Rs.6,05,200/- . The Ld. AO thereafter issued notice under section 143(2) of the Act on 10.03.2023. On the basis of the material seized from the premises of Polisetty Somasundaram, particularly the data contained in a pen drive, the Ld. AO alleged that during the year under consideration, the assessee had made cash payments of Rs.1,10,00,000/- to Polisetty Somasundaram. When called upon to explain the source of such payment, the assessee categorically denied having made any such payment. Not being satisfied with the explanation, the Ld. AO treated the alleged payment of Rs.1,10,00,000/- as unexplained expenditure under section 69C of the Act and added the same to the income of the assessee. Accordingly, the assessment was completed by the Ld. AO under section 153C on 27.03.2023, determining the total income of the assessee at Rs.1,16,05,200/-.

4. Aggrieved with the order of the Ld. AO, the assessee filed an appeal before the Ld. CIT(A). During the appellate proceedings, the Ld. CIT(A) observed that the receipt vouchers seized during the search did not pertain to the assessment year under consideration and, therefore, had no relevance for making the impugned addition. The Ld. CIT(A) further observed that the cash book on which the Ld. AO relied was generated from data contained in a pen drive seized from the premises of Polisetty Somasundaram. The Ld. CIT(A) noted that the Visakhapatnam Bench of the Tribunal, in the case of Polisetty Somasundaram Vs. DCIT, in ITA No.172 to 180/Viz/2024, dated 18/08/2023 had held that the contents of the very same seized pen drive were not admissible evidence in the absence of a valid certificate under section 65B of the Indian Evidence Act, 1872, and on that basis, had quashed the assessment made under section 153A in the case of Polisetty Somasundaram. The Ld. CIT(A) held that once the contents of the seized pen drive were held to be inadmissible in the hands of Polisetty Somasundaram, from whose premises the pen drive was seized, the same material could not be relied upon to make an addition in the hands of the assessee, who is a third party. Accordingly, the Ld. CIT(A) deleted the addition of Rs.1,10,00,000/- and allowed the appeal.

5. Aggrieved by the order of the Ld. CIT(A), the Revenue is in appeal before this Tribunal. At the outset, the Learned Departmental Representative ("Ld. DR") submitted that the solitary issue involved out of the grounds of appeal of the Revenue is the deletion of addition of Rs.1,10,00,000/- by the Ld. CIT(A).

She contended that the Ld. CIT(A) erred in disregarding the pen drive seized during the search under section 132, which, according to her, constituted independent and primary electronic evidence under section 65B of the Indian Evidence Act. She submitted that the extracts of the digital data were confronted to and accepted by the Managing Partner of Polisetty Somasundaram, Shri Polisetty Shyam Sundar. She further submitted that during assessment proceedings under section 143(3) read with section 153C, the authorised representative of Polisetty Somasundaram had also confirmed the contents of the seized pen drive in their respective assessment proceedings. It was contended that the cash book printouts extracted from the pen drive clearly mentioned the date and amount of advances allegedly given by the assessee to Polisetty Somasundaram. She further submitted that certain cash vouchers were also found from the premises of Polisetty Somasundaram corroborating the entries in the pen drive. Accordingly, she prayed that the order of the Ld. CIT(A) be set aside and the addition made by the Ld. AO be restored.

6. Per contra, the Learned Authorised Representative ("Ld. AR") strongly supported the order of the Ld. CIT(A). He invited our attention to page nos. 2 and 3 of the assessment order, wherein the Ld. AO has reproduced two receipts allegedly seized from the premises of Polisetty Somasundaram. He submitted that both the receipts were neither seized from the premises of the assessee nor contained any acknowledgment or signature of the assessee. It was further submitted that the said receipts did not pertain to the assessment year under consideration and, therefore, had no relevance for making the impugned

addition. The Ld. AR also drew our attention to the order of the Visakhapatnam Bench of the Tribunal in the case of Polisetty Somasundaram Vs. DCIT (supra), the relevant part of which has been reproduced at page nos. 27 to 37 of the order of the Ld. CIT(A), wherein the Tribunal categorically rejected the contents of the seized pen drive as inadmissible evidence in the absence of a valid certificate under section 65B of the Indian Evidence Act and consequently quashed the assessment order made under section 153A of the Act. It was submitted that when the contents of the seized pen drive were held to be inadmissible in the case of Polisetty Somasundaram, from whose premises the pen drive was seized, the same material could not be relied upon to make an addition in the hands of the assessee, who is a third party.

7. In the alternative, the Ld. AR submitted that documents seized from the premises of a third party and statements of third parties, in the absence of any independent corroborative evidence, cannot be used against the assessee. Accordingly, he prayed for dismissal of the Revenue's appeal.

8. We have carefully considered the rival submissions and perused the material available on record. The addition of Rs.1,10,00,000/- in the hands of the assessee has been made solely on the basis of the contents of a pen drive seized from the premises of Polisetty Somasundaram. In this regard, we have gone through the order of the Visakhapatnam Bench of the Tribunal in the case of Polisetty Somasundaram Vs. DCIT (supra), the relevant part of which has been reproduced at page nos. 27 to 37 of the order of the Ld. CIT(A), which is to the following effect:

✓ 6.5 The main contention of the appellant in the additional legal ground of appeal is that the Hon'ble ITAT Visakhapatnam vide its order in ITA No. 172 to 180/Viz/2020-23 dated 18.08.2023 in the case of M/s Polisetty Somasundaram Vs. DCIT Central Circle-1, Guntur held in the facts of the case, that information contained in the seized pendrive could not be

अपील संख्या/ Appeal Nos.
10337/2013-14 for AY 2014-15
10381/2014-15 for AY 2015-16
10439/2015-16 for AY 2016-17
11540/2016-17 for AY 2017-18

Ramesh Babu Segu,
PAN: AMRPS2069N
AYs - 2014-15 to 2017-18

considered as admissible evidence as per the provision of section 65B of the Indian Evidence Act (Since Certificate drawn u/s. 65B was found invalid By Honble ITAT), and as the information taken from the same pendrive was used in the appellant's case for making additions, such additions are not sustainable. The relevant portion of the decision of the Hon'ble ITAT is reproduced as below:

Ground of appeal no. 5 raised by the appellant before Hon'ble ITAT in No. 172 to 180/Viz/2020-23:

"5. On the facts and circumstances of the case the Ld. CIT(A) is not justified in considering the certificate obtained u/s. 65B in respect of the seized pendrive (vide Annexure A/PSS/CORP/18) as a legally valid certificate though it does not bring out the satisfaction of all the conditions laid down in section 65B(2) and 65B(4) of the Indian Evidence Act, which is a mandatory requirement as held by the Hon'ble Apex Court. The Ld CIT(A) ought to have held that the said digital evidence does not qualify as admissible evidence for the purpose of Assessment in view of the legal infirmity in the certificate obtained u/s. 65B and the additions made based on the said evidence are not sustainable in law."

(Emphasis supplied)

The relevant portion of the decision on ground of appeal no. 5 is follows:

"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

अपील संख्या/ Appeal Nos.
10337/2013-14 for AY 2014-15
10381/2014-15 for AY 2015-16
10439/2015-16 for AY 2016-17
11540/2016-17 for AY 2017-18

Ramesh Babu Segu,
PAN: AMRPS2069N
AYs - 2014-15 to 2017-18

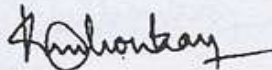
Evidence/Act. The Ld. AR vehemently argued and submitted that the search team has failed to adhere to the procedures laid down in section- 65B(2) (d) of the Indian Evidence Act while seizing the pendrive from Sri A. Srinivasa Rao, Cashier of the assessee. The copy of the Certificate has been placed in 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* [2021] 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



Page 29 of 41

अपील संख्या/ Appeal Nos.
10337/2013-14 for AY 2014-15
10381/2014-15 for AY 2015-16
10439/2015-16 for AY 2016-17
11540/2016-17 for AY 2017-18

Ramesh Babu Segu,
PAN: AMRPS2069N
AYs - 2014-15 to 2017-18

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.*

अपील संख्या/ Appeal Nos.
10337/2013-14 for AY 2014-15
10381/2014-15 for AY 2015-16
10439/2015-16 for AY 2016-17
11540/2016-17 for AY 2017-18

Ramesh Babu Segu,
PAN: AMRPS2069N
AYs - 2014-15 to 2017-18

(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-

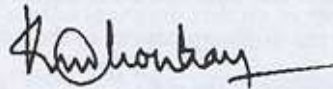
- (a) by a combination of computers operating over that period; or
- (b) by different computers operating in succession over that period; or
- (c) by different combinations of computers operating in succession over that period; or
- (d) in any other manner involving the successive operation over that 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.**



अपील संख्या/ Appeal Nos.
10337/2013-14 for AY 2014-15
10381/2014-15 for AY 2015-16
10439/2015-16 for AY 2016-17
11540/2016-17 for AY 2017-18

Ramesh Babu Segu,
PAN: AMRPS2069N
AYs - 2014-15 to 2017-18

42. Further, we have considered the cases referred to by the Ld. AR. In the case of **Vetrivel Mineral vs. ACIT, Central Circle-2, Madurai reported in [2021] 129 taxmann.com 126 (Mad.)** the Hon'ble 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*

अपील संख्या/ Appeal Nos.
10337/2013-14 for AY 2014-15
10381/2014-15 for AY 2015-16
10439/2015-16 for AY 2016-17
11540/2016-17 for AY 2017-18

Ramesh Babu Segu,
PAN: AMRPS2069N
AYs - 2014-15 to 2017-18

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:*

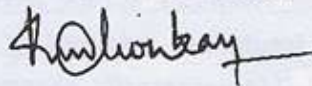
15. *Under section 65B(4) of the Evidence Act, if it is desired to give a statement in any proceedings pertaining to an electronic record, it is permissible provided the following conditions are satisfied:*

- 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."*



अपील संख्या/ Appeal Nos.
10337/2013-14 for AY 2014-15
10381/2014-15 for AY 2015-16
10439/2015-16 for AY 2016-17
11540/2016-17 for AY 2017-18

Ramesh Babu Segu,
PAN: AMRPS2069N
AYs - 2014-15 to 2017-18

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, admittsibility 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

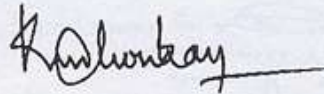
अपील संख्या/ Appeal Nos.
10337/2013-14 for AY 2014-15
10381/2014-15 for AY 2015-16
10439/2015-16 for AY 2016-17
11540/2016-17 for AY 2017-18

Ramesh Babu Segu,
PAN: AMRPS2069N
AYs - 2014-15 to 2017-18

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



अपील संख्या/ Appeal Nos.
10337/2013-14 for AY 2014-15
10381/2014-15 for AY 2015-16
10439/2015-16 for AY 2016-17
11540/2016-17 for AY 2017-18

Ramesh Babu Segu,
PAN: AMRPS2069N
AYs - 2014-15 to 2017-18

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

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

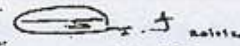
A. S. RAJAN (Name) PAN NO. A10P4588N state the following that I am an employee/partner/director/proprietor of Messrs. Polivetty Somanandaram after referred to as firm / company / LLP / AOP / Proprietary Firm) Located at Messrs. Polivetty Somanandaram (no 8-24-21, Manalachi Road, Guntur 522001) (here after referred to as Premises).

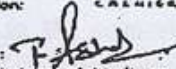
A. S. RAJAN (Name) state that by virtue of being employee / partner / director / proprietor in firm / company / LLP / AOP / Proprietary Firm, I and my employees uses the server/system/File folder/hard disk/pen drive/mobile/email Cashier HP Pendrive, s.no: P1365 (here after referred to as System) located in the premises of Office at Located at Messrs. Polivetty Somanandaram, no 8-24-21, Manalachi 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 Messrs. Polivetty Somanandaram / 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, Ashok Naga Sai Pabbathi (Name of Digital Forensic Examiner) certify that the data is backed up from the Cashier HP Pendrive, s.no: P1365 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 Messrs. Polivetty Somanandaram (Company name). At the Messrs. Polivetty Somanandaram, no 8-24-21, Manalachi 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: <u>Cruzer Blade</u> Serial No: n/a	Make: Sandisk Model: <u>Cruzer Blade</u> Serial No: n/a
Is the Hash Value Calculated ?	Algorithm:
Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> MD5 <input type="checkbox"/> SHA1 <input type="checkbox"/> Others
MD5 hash value: b9825e605699608c2e8109d7d5e42b8	
SHA1 hash Value: b097431850543e9b92c03f8d85b95e0b30349200	

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

Signature: 
Name: A. S. RAJAN
Designation: CA/MSA

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

अपील संख्या/ Appeal Nos.
10337/2013-14 for AY 2014-15
10381/2014-15 for AY 2015-16
10439/2015-16 for AY 2016-17
11540/2016-17 for AY 2017-18

Ramesh Babu Segu,
PAN: AMRPS2069N
AYs - 2014-15 to 2017-18

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." ✓

9. On a perusal of above, it is an undisputed fact that the very same seized pen drive and the data contained therein were examined by the Visakhapatnam Bench of the Tribunal and it has been held that the contents of the pen drive were not admissible as evidence in the absence of a certificate under section 65B of the Indian Evidence Act and, on that basis, quashed the assessment order of the Ld. AO made under section 153A of the Act. Once the contents of the seized pen drive have been declined to be accepted as valid evidence in the case of Polisetty Somasundaram, from whose premises the pen drive was seized, we find no justification in law to rely upon the same material for making an addition in the hands of the assessee, who is a third party. The Revenue has

not brought on record any independent or corroborative evidence to establish that the assessee actually incurred unexplained expenditure of Rs.1,10,00,000/- during the year under consideration. We have also gone through the page nos. 2 and 3 of the assessment order, wherein the Ld. AO has reproduced the two receipts allegedly seized from the premises of Polisetty Somasundaram, which is to the following effect:

AIPSSICORP103

No. 33 RECEIPT Date 21.06.2017

Account

Name Segu Ramesh

Towards

Rupees Thirty three lakh ninety three thousand

Rs. 3393000/- P.S. Receiver's Signature

3392000/- Mwas

AIPSSICORP104

No. 12 RECEIPT Date 29.11.2017

Account

Name Segu Ramesh

Towards Int.

Rupees Five lakhs twenty five thousand

Rs. 525000/- P.S. Receiver's Signature

Mwas

10. On a perusal of the above, we find that the alleged receipts relied upon by the Revenue were neither seized from the premises of the assessee nor pertain to the relevant assessment year. Accordingly, the said receipt cannot be relied on for making any addition for the year under consideration. Further, we find merits in the submission of the Ld. AR that the documents seized from the premises of a third party and statements of third parties, in the absence of any independent corroborative evidence, cannot be used against the assessee. In view of the present facts and respectfully following the decision of the Visakhapatnam Bench of the Tribunal in the case of Polisetty Somasundaram (supra), we hold that there is no infirmity in the order passed by the Ld. CIT(A) in deleting the addition made under section 69C of the Act. Accordingly, the appeal filed by the Revenue is dismissed.

11. In the result, the appeal of the Revenue in ITA No.1277/Hyd/2024 is dismissed.

C.O. No.3/Hyd/2025:

12. The assessee has raised the following grounds in his Cross Objection:

“1. The deletion of the INR 1,10,00,000/- addition under Section 69 of Income tax act, 1961 by the Learned CIT(A)-11, Hyderabad, is legally justified. The Learned Assessing Officer's addition was unjustified, and the Hon'ble ITAT should uphold the deletion.

2. The addition is based solely on Annexure A/PSS/CORP/18, which lacks legal validity. The Hon'ble ITAT, Visakhapatnam, in ITA No. 172 to 180/Viz/22-23 (M/s. Polisetty Somasundaram, dated 15-08-2023), has held that additions cannot be made without a valid Section 65B certificate, making the impugned addition unsustainable.

3. The department's claim of corroborative evidence from receipts is factually incorrect. The alleged receipts do not conclusively establish undisclosed income or unexplained expenditure, and adverse inferences cannot be drawn based on assumptions.

4. The reliance on unverified digital evidence, including the seized pen drive, is legally untenable. In the absence of supporting bank transactions or books of accounts, the addition lacks legal sanctity under the Income Tax Act and the Indian Evidence Act.

5. That the Assessing Officer erred in making the disallowance of INR 1,10,00,000/- under Section 69 of the Income Tax Act, 1961, without appreciating the correct facts and legal position. That without prejudice to the above, the addition/disallowance made by the Assessing Officer is excessive, arbitrary, and based on mere conjecture and surmises. The same has been rightly deleted by the CIT(A), and no interference is warranted by the Hon'ble ITAT.

6. That the cross-objector craves leave to add, alter, amend, or withdraw any of the above grounds at the time of hearing of the appeal.”

13. Since we have dismissed the appeal filed by the Revenue and upheld the order of the Ld. CIT(A), the cross-objection filed by the assessee becomes infructuous and is accordingly dismissed.

14. In the result, the Cross Objection of the assessee in C.O. No.3/Hyd/2025 is dismissed.

15. To sum up, the appeal of the Revenue in ITA No.1277/Hyd/2024 as well as the cross-objection of the assessee in C.O. No.3/Hyd/2025 are dismissed.

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	ACIT, Central Circle-1(1), Room No.6, Block-A, 7 th Floor, Aayakar Bhavan, Hyderabad, Telangana-500004.
2	Ramesh Babu Segu, Plot No.78, Road No.2, Banjara Hills, Hyderabad, Telangana-500034.
3	Pr. CIT, Central Circle, Hyderabad.
4	DR, ITAT Hyderabad Benches
5	Guard File

By Order