आयकर अपीलीय अधिकरण, **'सी'** न्यायपीठ**,** चेन्नई।

IN THE INCOME TAX APPELLATE TRIBUNAL
'C' BENCH: CHENNAI
श्री मनु कुमार गिरि, न्यायिक सदस्य एवं
श्री **एस. आर. रघुनाथा,** लेखा सदस्य **के समक्ष**
BEFORE SHRI MANU KUMAR GIRI, JUDICIAL MEMBER AND
SHRI S.R.RAGHUNATHA, ACCOUNTANT MEMBER

आयकर अपील सं./**ITA Nos.1119, 1120 & 1121/Chny/2025**
निर्धारण वर्ष**/Assessment Years: 2015-16, 2017-18 & 2018-19**
&
आयकर अपील सं./**ITA Nos.209 to 213 & 214/Chny/2025**
निर्धारण वर्ष**/Assessment Years: 2010-11 to 2014-15 & 2016-17**

Mr. P. Palanisamy, 390, P.P. Nilayam, 9th Main I Cross, HAL II Stage, Indira Nagar, Bengaluru-560 038.	**v.**	The ACIT, Central Circle-3, Coimbatore.
[**PAN:ADSPP 9150 F**]		
(अपीलार्थी**/Appellant)**		**(**प्रत्यर्थी**/Respondent)**

आयकर अपील सं./**ITA Nos.219, 220, 221 & 222/Chny/2025**
निर्धारण वर्ष**/Assessment Years: 2015-16, 2010-11, 2017-18 & 2018-19**
&
आयकर अपील सं./**ITA Nos.200, 201 to 208/Chny/2025**
निर्धारण वर्ष**/Assessment Years: 2016-17, 2011-12 to 2018-19**
&
आयकर अपील सं./**ITA Nos.3388 to 3392/Chny/2024**
निर्धारण वर्ष**/Assessment Years: 2014-15 to 2018-19**

M/s. P.P. Financers, 24, Radha Avenue, 3rd Street, Valsaravakkam, Chennai-600 087.	**v.**	The ACIT, Central Circle-3, Coimbatore.
[**PAN: AAHFP 0288 L**]		
(अपीलार्थी**/Appellant)**		**(**प्रत्यर्थी**/Respondent)**

आयकर अपील सं./**ITA Nos.215 to 218 & 223/Chny/2025**
निर्धारण वर्ष**/Assessment Years: 2015-16 to 2018-19 & 2014-15**

Mr. P. Kuppuchamy, No.80/7, 17th Cross, 16th Main Road, BTM Layout, NS Palya, Bangaluru-560 076.	**v.**	The ACIT, Central Circle-3, Coimbatore.

[**PAN: AJZPP 4091 J**]		
(अपीलार्थी**/Appellant)**		**(**प्रत्यर्थी**/Respondent)**
आयकर अपील सं./**ITA Nos.224 & 225/Chny/2025** निर्धारण वर्ष**/Assessment Years: 2017-18 & 2018-19**		
Mr.L. Karuppusamy, No.119, 18th Cross, Lakshmipuram, Ulsoor, Bangaluru-560 008.	**v.**	The ACIT, Central Circle-3, Coimbatore.
[**PAN: APQPK 4872 F**]		
(अपीलार्थी**/Appellant)**		**(**प्रत्यर्थी**/Respondent)**
ITA Nos.3365-3366/Chny/2024 & **ITA Nos.3382-3383/Chny/2024** निर्धारण वर्ष**/Assessment Years: 2017-18 & 2018-19**		
M/s. P.P. Enterprises, 215/4C1/217/C1, 1st Floor, P.P. Complex, Oddanchatam, Dindigul-624 704.	**v.**	The ACIT, Central Circle-3, Coimbatore.
[**PAN: AATFP 5166 H**] **&** **[PAN: AAPFP 7024 C]**		
(अपीलार्थी**/Appellant)**		**(**प्रत्यर्थी**/Respondent)**
ITA Nos.2528 to 2530/Chny/2024 निर्धारण वर्ष**/Assessment Years: 2016-17 to 2018-19**		
The ACIT, Central Circle-3, Coimbatore.	**v.**	M/s. P.P. Enterprises, 215/4C1/217/C1, 1st Floor, P.P. Complex, Oddanchatam, Dindigul-624 704. [**PAN: AATFP 5166 H**] **&** **[PAN: AAPFP 7024 C]**
(अपीलार्थी**/Appellant)**		**(**प्रत्यर्थी**/Respondent)**

आयकर अपील सं./**ITA Nos.3367 to 3374/Chny/2024** निर्धारण वर्ष**/Assessment Years: 2011-12 to 2018-19**		
Mr.Palanisamy Raghupathy, 390, 9th Main I Cross, HAL II State, Indira Nagar, Bengaluru-560 038. [**PAN: AFKPR 9573 G**]	**v.**	The ACIT, Central Circle-3, Coimbatore.
(अपीलार्थी**/Appellant)**		**(**प्रत्यर्थी**/Respondent)**
आयकर अपील सं./**ITA Nos.3384 to 3387/Chny/2024** निर्धारण वर्ष**/Assessment Years: 2015-16 to 2018-19**		
M/s. P.P. Constructions, 66, Balaji Avenue, K.A. Nagar, 3rd Cross Kothur Road, N.S.Post, Karur-639 002. [**PAN: AARFP 0405 F**]	**v.**	The ACIT, Central Circle-3, Coimbatore.
(अपीलार्थी**/Appellant)**		**(**प्रत्यर्थी**/Respondent)**
आयकर अपील सं./**ITA Nos.2531/Chny/2024** निर्धारण वर्ष**/Assessment Year: 2018-19**		
The DCIT, Central Circle-3, Coimbatore	**v.**	M/s. P.P. Constructions, 66, Balaji Avenue, K.A. Nagar, 3rd Cross Kothur Road, N.S.Post, Karur-639 002. [**PAN: AARFP 0405 F**]
(अपीलार्थी**/Appellant)**		**(**प्रत्यर्थी**/Respondent)**
आयकर अपील सं./**ITA Nos.3375 to 3381/Chny/2024** निर्धारण वर्ष**/Assessment Years: 2012-13 to 2018-19**		
Mr. Sellamuthu Kabilan, 24, 14th Cross, 11th Main, N.S.Palya, BTM II Stage, Bengaluru-560 076. [**PAN: AGFPK 2083 E**]	**v.**	The ACIT, Central Circle-3, Coimbatore.

(अपीलार्थी**/Appellant)**		**(**प्रत्यर्थी**/Respondent)**
Assessee by	:	Mr.T. Banusekar, Advocate
Department by	:	Mr.Bipin.C.N., CIT
सुनवाईकीतारीख/Date of Hearing	:	19.11.2025
घोषणाकीतारीख /Date of Pronouncement	:	09.02.2026

आदेश / O R D E R

PER BENCH:

The present batch comprises of 61 appeals, consisting of 4 appeals preferred by the Revenue and 57 appeals filed by 11 assessees', all belonging to the P.Palanisamy Group. These appeals are directed against the orders passed by the Learned Commissioner of Income Tax (Appeals)-20, Chennai (hereinafter referred to as *"the ld. CIT(A)"*), dated 31.07.2024, except in the case of PP Enterprises (Oddanchatram), wherein the order of the ld. CIT(A) is dated 05.08.2024. The impugned orders of the ld.CIT(A) emanate from the assessment orders passed by the Assistant Commissioner of Income Tax, Central Circle–3, Coimbatore (hereinafter referred to as *"the Assessing Officer" or "AO"*), u/s.s 153A read with sections 143(3) / 144 and section 153C read with sections 143(3) / 144 of the Income-tax Act, 1961 (hereinafter referred to as *"the Act"*), pertaining to the Assessment Years 2010-11 to 2018-19, the particulars whereof are set out hereunder:

S.No	Assessee	Assessment Years (hereinafter referred to as 'AY')	Date of order	Order passed u/s.
1	PP Financiers (Oddanchatram)	2010-11 to 2018-19	28.12.2019	153A r.w.s.144
2	PP Financiers (Chennai)	2015-16 to 2018-19	30.12.2019	153A r.w.s.144
3	PP Financiers (Karur)	2014-15 to 2018-19	28.12.2019	153A r.w.s.143(3)
4	PP Enterprises (Bengaluru)	2016-17 to 2018-19	28.12.2019	153A r.w.s.143(3)
5	PP Enterprises (Oddanchatram)	2017-18 & 2018-19	27.12.2019	153C r.w.s.144
6	PP Constructions	2015-16 to 2018-19	27.12.2019	153A r.w.s.144
7	P.Palanisamy	2010-11 to 2018-19	30.12.2019	153C r.w.s.144
8	P.Raghupathy	2011-12 to 2018-19	31.12.2019	153C r.w.s.144
9	Sellamuthu Kabilan	2012-13 to 2018-19	30.12.2019	153C r.w.s.143(3)
10	L.Karuppusamy	2017-18 & 2018-19	30.12.2019	153C r.w.s.144
11	P.Kuppuchamy	2014-15 to 2018-19	30.12.2019	153C r.w.s.143(3)

2. In the cases of PP Financiers (Karur), PP Enterprises (Bengaluru), PP Enterprises (Oddanchatram), PP Constructions, Shri P. Raghupathy, and Shri Sellamuthu Kabilan, the respective appeals have been filed with a delay of 61 days / 92 days, as pointed out by the Registry. The assessees have filed affidavits seeking condonation of delay, explaining that the delay occurred on account of their awaiting receipt of the remaining appellate orders in order to file all appeals collectively, and further due to the freezing of their bank accounts, which necessitated arrangements for payment of the prescribed appeal fees.

2.1 The Learned Departmental Representative (hereinafter referred to as "the ld.DR") did not raise any serious objection to the prayer for condonation of delay. At this juncture, it is pertinent to note that

the Hon'ble Supreme Court, in the case of Collector, Land Acquisition v. MST Katiji [(1987) 167 ITR 471 (SC)], has enunciated six guiding principles for determining whether delay in filing an appeal deserves to be condoned which are as under:

> *1. Ordinarily a litigant does not stand to benefit by lodging an appeal late*
>
> *2. Refusing to condone delay can result in a meritorious matter being thrown out at the very threshold and cause of justice being defeated. As against this when delay is condoned the highest that can happen is that a cause would be decided on merits after hearing the parties*
>
> *3. "Every day's delay must be explained" does not mean that a pedantic approach should be made. Why not every hour's delay, every second's delay? The doctrine must be applied in a rational common sense pragmatic manner.*
>
> *4. When substantial justice and technical considerations are pitted against each other, cause of substantial justice deserves to be preferred for the other side cannot claim to have vested right in injustice being done because of a non-deliberate delay.*
>
> *5. There is no presumption that delay is occasioned deliberately, or on account of culpable negligence, or on account of mala fides. A litigant does not stand to benefit by resorting to delay. In fact he runs a serious risk.*
>
> *6. It must be grasped that judiciary is respected not on account of its power to legalize injustice on technical grounds but because it is capable of removing injustice and is expected to do so.*

2.2 A perusal of the aforesaid decision clearly demonstrates that the expression "sufficient cause" is required to be construed liberally,

and that where substantial justice and technical considerations are placed in opposition, the cause of substantial justice must prevail, as the opposite party cannot claim any vested right in the perpetuation of injustice occasioned by an inadvertent or non-deliberate delay.

2.3 In view of the above, we are satisfied that sufficient cause exists for the delay in filing the appeals, and it is evident that the assessees could not have gained any advantage by instituting the appeals belatedly. Accordingly, the delay is hereby condoned. In respect of the remaining assessees, there is no delay in filing the appeals, and proof of receipt of the orders of the ld. CIT(A) has been duly enclosed with Form No. 36.

Further, since all the 61 appeals arise out of the same search proceedings, and the issues involved therein are common, identical, and interconnected, the appeals are being disposed of by way of a consolidated/common order, in the interest of convenience and judicial economy.

3. The brief facts giving rise to the present appeals are that a search and seizure operation u/s. 132 of the Income-tax Act, 1961 (hereinafter referred to as "the Act") was carried out on 10.08.2017 in the cases of various entities and individuals belonging to the P.Palanisamy Group. During the course of the search, incriminating books of account, documents, unaccounted cash, and jewellery were found and seized. Inter alia, certain "Thittam Books" were

recovered, which contained consolidated month-wise records relating to unaccounted finance business, reflecting details such as partners' capital contributions, capital introduced in the names of depositors, loans advanced and repaid during the month, interest receipts, chit commission, and outstanding loan balances at the end of each month.

3.1 The statements u/s.132(4) of the Act were recorded from partners, employees, and in certain cases, borrowers. Pursuant to the search proceedings, notices u/s.153A and 153C of the Act were issued, calling upon the assessees to furnish their returns of income for the relevant assessment years. Thereafter, the Assessing Officer passed assessment orders u/s.153A r.w.s 143(3) / 144 and section 153C r.w.s 143(3) / 144 of the Act, as detailed in paragraph 1 of this order, making various additions on both substantive as well as protective bases.

4. Aggrieved by the assessment orders, the assessees preferred appeals before the Learned Commissioner of Income Tax (Appeals). By orders dated 31.07.2024, except in the case of PP Enterprises (Oddanchatram) wherein the appellate order was passed on 05.08.2024, the ld. CIT(A) upheld the substantive additions in all cases, while deleting the protective additions in the cases of PP Enterprises (Bengaluru) for Assessment Years 2016-17 to 2018-19 and PP Constructions for Assessment Year 2018-19.

4.1 Consequently, the Revenue has preferred four appeals challenging the deletion of the protective additions in the aforesaid cases, whereas the remaining 57 appeals have been filed by the 11 assessees assailing the confirmation of the substantive additions.

5. During the course of hearing, the Learned Authorised Representative (hereinafter referred to as "the ld.AR") for the assessees sought directions from the Tribunal for production of the sanctions, statutory approvals, and seized materials pertaining to all the assessees. The said direction was duly issued by us, pursuant to which the Learned Departmental Representative (hereinafter referred to as "the ld.DR") complied and produced the requisite records. Both the ld.AR for the assessees and the ld.DR have placed detailed written submissions on record and have also filed various paper books in support of their respective contentions. The issues arising in the present appeals are dealt with assessee-wise in the succeeding paragraphs of this order.

6. In respect of the assessees whose assessments have been framed u/s.153C of the Act, the ld.AR has raised preliminary legal objections seeking annulment of the assessments on the grounds that:

(i) the notices issued u/s.153C are based on a combined satisfaction, which is contrary to law and evidences non-application of mind;

(ii) the approval granted u/s.153D is invalid, being a composite approval and vitiated by lack of due application of mind; and (iii) the Document Identification Number (DIN) has not been mentioned in the approvals granted u/s.153D in all cases, and further, in the case of PP Enterprises (Oddanchatram), even the assessment order does not bear a DIN.

6.1 We propose to first adjudicate the appeals involving the aforesaid legal issues, before proceeding to the merits of the additions.

7. During the course of hearing, the ld.AR of the assessees submitted modified grounds as well as additional grounds of appeal. Upon examination, it is evident that the additional ground relating to the validity of approval u/s.153D raises a pure question of law and goes to the very root of the matter. Accordingly, the modified and additional grounds raised by the assessees are admitted, in view of the law laid down by the Hon'ble Supreme Court in NTPC Ltd. v. CIT [(1998) 229 ITR 383 (SC)].

I. P.Palanisamy – AYs 2010-11 to 2018-19

A.Y.	ITA NO.
2010-11	209 / Chny / 2025
2011-12	210 / Chny / 2025
2012-13	211 / Chny / 2025
2013-14	212 / Chny / 2025
2014-15	213 / Chny / 2025

2015-16	1119 / CHNY / 2025
2016-17	214 / CHNY / 2025
2017-18	1120 / CHNY / 2025
2018-19	1121 / CHNY / 2025

8. In the modified grounds of appeal, Ground No.3 pertains to the contention that the mandatory satisfaction contemplated u/s.153C of the Act has not been validly recorded, which issue is now taken up for adjudication. The ld.AR submitted that the notice issued u/s.153C in the present cases, a copy of which was furnished to the assessees by the ld.DR pursuant to the directions of the Tribunal during the course of hearing, is invalid in law. It was contended by the ld.AR that the satisfaction recorded is a composite/combined satisfaction, not specific to each assessment year, and further, it does not specify as to which seized material pertains to which assessment year.

8.1 In support, reliance was placed on the decision of the Delhi Tribunal in Pushpanjali Constructions (P.) Ltd. v. DCIT [128 ITR (Trib) 201 (Del)], with specific reference to paragraph 23, wherein it was held that a satisfaction note which is general, vague, and casual, without recording particulars of escapement of income, quantification thereof, or linkage to a specific assessment year, reflects lack of proper application of mind and is therefore bad in law, rendering the consequent assessment proceedings invalid.

9. The ld.AR further submitted that a proforma for recording satisfaction u/s.153C has been placed on record by the ld.DR. It was pointed out that the said proforma merely states that the seized documents pertain to the concerned assessee and does not disclose how such satisfaction was arrived at, nor does it indicate how the seized material has a bearing on the determination of total income, much less that it represents undisclosed income.

9.1 It was further submitted that the examination note, also placed on record by the ld.DR and stated to constitute the satisfaction u/s.153C, is undated, and therefore cannot be regarded as having been recorded prior to the issuance of notice u/s.153C. According to the ld.AR, the said examination note is at best a communication seeking approval from the Joint Commissioner, and cannot be equated with a legally valid satisfaction note as contemplated under the statute.

10. The ld.AR also placed reliance on the judgment of the Hon'ble Karnataka High Court in DCIT v. Sunil Kumar Sharma [259 taxmann.com 179 (Kar)], wherein it has been held that a consolidated satisfaction note vitiates the entire assessment proceedings. It was further submitted that the Special Leave Petition filed by the Revenue against the said judgment has been dismissed by the Hon'ble Supreme Court in DCIT v. Sunil Kumar Sharma [2024] 165 taxmann.com 546 (SC).

10.1 On the issue of combined satisfaction being contrary to law, further reliance was placed on the decisions of the Pune Bench of the Tribunal in ACIT v. Subash Jivraj Jain [2025 (7) TMI 1496 – ITAT Pune] and Rameshbhai Harilal Patel v. ACIT [TS-1229-ITAT-2025 (Pun)].

11. The ld.AR further relied upon the judgment of the Hon'ble Delhi High Court in Kishore Kumar Sharma v. ACIT [178 taxmann.com 315 (Del)], wherein it was held that failure on the part of the jurisdictional Assessing Officer to record reasons demonstrating how the seized material has a bearing on the determination of total income of the other person would invalidate the notice issued u/s.153C and all consequential proceedings. It was also submitted that the SLP filed by the Department against the said judgment was dismissed by the Hon'ble Supreme Court in ACIT v. Kishore Kumar Sharma [178 taxmann.com 661 (SC)].

12. Per contra, the ld.DR, through tabulated details filed along with written submissions, furnished assessee-wise particulars of seized material referred to in the satisfaction note and correlated the same with the relevant assessment years. It was submitted that the tabulation and analysis demonstrate that, even though the satisfaction note is consolidated, the Assessing Officer has, in substance, referred to incriminating material pertaining to each assessment year, thereby fulfilling the requirements of section 153C of the Act.

12.1 The ld.DR placed strong reliance on the decision of the Hon'ble Delhi High Court in Indian National Congress v. DCIT [2024] 160 taxmann.com 606 (Del), particularly paragraphs 22 to 24, to contend that while returns pursuant to section 153C of the Act must be filed year-wise, the satisfaction note itself need not be recorded separately for each year, and that a composite satisfaction would suffice.

12.2 Reliance was also placed on the judgment of the Hon'ble Supreme Court in CIT v. Calcutta Knitwears [2014] 43 taxmann.com 446 (SC), to submit that the statute merely mandates that satisfaction be recorded, without prescribing the manner or format thereof, and that courts should not add to or subtract from the language of the statute. Reference was made to paragraphs 23, 26, and 34 of the said judgment to emphasize the principles of literal and harmonious interpretation.

13. The ld.DR further referred to the judgment of the Hon'ble Karnataka High Court in DCIT v. Sunil Kumar Sharma (supra), contending that paragraph 36 reflects only the submissions of counsel and paragraph 53 constitutes obiter dicta rather than the ratio decidendi. Reliance was also placed on the decisions in Union of India v. Dhanwanti Devi (21.08.1996) and State of Orissa v. Dhirendra Sundar Das (Civil Appeal No. 4646 of 2019) to submit that dismissal of an SLP does not amount to declaration of law under Article 141 of the Constitution.

13.1 On the aforesaid basis, it was argued that the decision in Indian National Congress v. DCIT (supra), being a later and more direct pronouncement on the issue of combined satisfaction, should prevail, and therefore the notices issued u/s.153C of the Act in the present cases are valid.

14. In rejoinder, the ld.AR controverted the submissions of the ld.DR and submitted that the Revenue is impermissibly attempting to supplement or improve the satisfaction note by providing fresh correlations and explanations through written submissions. It was pointed out that the assessee-wise tables mapping seized material to assessment years, as contained in Annexure-I to the written submissions of the ld.DR, were never part of the original satisfaction note.

14.1 It was emphatically submitted that such post-facto justification is not permissible in law, reliance being placed on several judicial precedents including Prashant Joshi v. ITO [2010] 1 taxmann.com 90 (Bom), East Coast Commercial Co. Ltd. v. ITO [1981] 128 ITR 326 (Cal), Hindustan Lever Ltd. v. R.B. Wadkar [268 ITR 332 (Bom)], ACIT v. Nirmal Bang Securities (P.) Ltd. [67 taxmann.com 57 (Bom)] and Blackstone Capital Partners (Singapore) VI FDI Three Pte. Ltd. v. ACIT [146 taxmann.com 569 (Del)], affirmed by grant of SLP in [2024] 159 taxmann.com 389 (SC), for the proposition that reasons cannot be supplemented by subsequent explanations or affidavits.

15. With respect to the reliance placed by the ld.DR on Indian National Congress v. DCIT (supra), the ld.AR submitted that the said decision is factually distinguishable, as the satisfaction note reproduced in paragraph 18 of that judgement clearly demonstrates year-wise reference to incriminating material, including amounts and dates, which is conspicuously absent in the present cases. It was therefore submitted that the said decision does not advance the case of the Revenue.

15.1 Without prejudice, it was contended that where two views are possible, the view favourable to the assessee must be adopted, in light of the decisions of the Hon'ble Supreme Court in CIT v. Vegetable Products Ltd. [88 ITR 192 (SC)] and CIT v. Kulu Valley Transport Co. (P.) Ltd. [77 ITR 518 (SC)].

16. The ld.AR reiterated reliance on the judgment of the Hon'ble Karnataka High Court in DCIT v. Sunil Kumar Sharma (supra), contending that paragraph 53 of the said judgment clearly lays down that a consolidated satisfaction vitiates the assessment, which constitutes a binding ratio and not mere obiter. It was further submitted that the Pune Bench of the Tribunal in ACIT v. Subash Jivraj Jain (supra), after considering Indian National Congress v. DCIT (supra), has followed Sunil Kumar Sharma (supra), particularly noting the dismissal of the Revenue's SLP by the Hon'ble Supreme Court.

17. The ld.AR further contended that the decision of the Hon'ble Supreme Court in CIT v. Calcutta Knitwears (supra) was rendered in the context of section 158BD of the Act, and therefore the principles laid down therein cannot be mechanically applied to proceedings u/s.153C of the Act. It was submitted that the satisfaction contemplated u/s.158BD necessarily pertains to a single assessment, namely, the determination of undisclosed income for the block period, whereas u/s.153C, separate assessments are required to be framed for each assessment year falling within the scope of the provision.

17.1 In support of this distinction, reliance was placed on the judgment of the Hon'ble Supreme Court in PCIT v. Abhishar Buildwell (P.) Ltd. [2023] 454 ITR 212 (SC), wherein it has been authoritatively held that, for the purposes of assessments u/s.153A/153C, the assessment years are to be classified into abated and unabated years, and that in respect of unabated years, additions can be made only on the basis of incriminating material found during the course of search. It was submitted that a necessary corollary of the said decision is that the relevant assessment years must be specifically identified and the satisfaction u/s.153C of the Act must be recorded with reference to each assessment year, which stands in clear contrast to the scheme of section 158BD, where a single satisfaction suffices for framing a block assessment.

18. We have carefully considered the rival submissions, perused the material available on record, and examined the orders of the lower authorities, along with the judicial precedents relied upon by both parties. The core issue that arises for our consideration is whether, for the purposes of section 153C of the Act, a separate satisfaction is required to be recorded for each assessment year, and whether the recording of a combined or consolidated satisfaction vitiates the assessment proceedings initiated thereunder.

18.1 At this juncture, it would be appropriate to first advert to the statutory provisions of section 153C of the Act, which read as under:

> *"Assessment of income of any other person.*
>
> *153C. (1) Notwithstanding anything contained in section 139, section 147, section 148, section 149, section 151 and section 153, where the Assessing Officer is satisfied that,—*
>
> *(a) any money, bullion, jewellery or other valuable article or thing, seized or requisitioned, belongs to; or*
>
> *(b) any books of account or documents, seized or requisitioned, pertains or pertain to, or any information contained therein, relates to,*
>
> *a person other than the person referred to in section 153A, then, the books of account or documents or assets, seized or requisitioned shall be handed over to the Assessing Officer having jurisdiction over such other person and that Assessing Officer shall proceed against each such other person and issue notice and assess or reassess the income of the other person in accordance with the provisions of section 153A, if, that Assessing Officer is satisfied that the books of account or documents or assets seized or requisitioned have a*

bearing on the determination of the total income of such other person for six assessment years immediately preceding the assessment year relevant to the previous year in which search is conducted or requisition is made and for the relevant assessment year or years referred to in sub-section (1) of section 153A :"

19. The ld.DR, through a tabulation filed along with the written submissions, sought to correlate the seized material referred to in the satisfaction note with the respective assessment years, and thereby contended that the satisfaction recorded makes reference to the relevant years. However, it is an undisputed fact that the satisfaction recorded u/s.153C of the Act does not contain assessment year-wise particulars of the incriminating material proposed to be relied upon for the purpose of determination of total income.

19.1 In view of the ratio laid down in *Prashant Joshi v. ITO* [(2010) 1 taxmann.com 90 (Bom)], we hold that the ld.DR cannot seek to improve, supplement, or cure the defects in the satisfaction note by subsequently furnishing a tabulation mapping the seized material to the relevant assessment years.

19.2 As regards the reliance placed by the ld.DR on the decision of the Hon'ble Delhi High Court in *Indian National Congress v. DCIT* (supra), we find that the Hon'ble High Court has made the following observations:

"24……This too appears to suggest that while the notice could be composite and based on a common satisfaction note which encapsulates the incriminating material pertaining to the AYs' in

question, it is only returns which must and mandatorily be filed separately"

20. Accordingly, even in Indian National Congress v. DCIT (supra), relied upon by the ld.DR, the Hon'ble Court has observed that the satisfaction note must encapsulate the incriminating material pertaining to the assessment years in question. In the present cases, such a requirement is conspicuously absent from the satisfaction notes recorded u/s.153C of the Act. As rightly pointed out by the ld.AR, the satisfaction note in Indian National Congress v. DCIT (supra) specifically referred to three assessment years, along with appropriate cross-references and dates of entries, as is evident from paragraph 18 of the said judgment.

20.1 In contrast, the satisfaction note in the instant cases does not disclose which seized material pertains to which assessment year and appears to have been recorded in a casual and mechanical manner. We further observe that the assessment orders refer to several incriminating materials which do not even find mention in the satisfaction note, thereby reinforcing the contention that the statutory requirement of recording proper satisfaction has not been complied with.

20.2 The submission of the ld.DR that voluminous material was seized and that adequate time was not available to record year-wise satisfaction cannot be accepted. The satisfaction notes in the cases of the assessee group were recorded between August 2019 and

September 2019, i.e., nearly two years after the search operation, which commenced on 10.08.2017 and concluded on 26.09.2017. The corresponding assessments were completed between 27.12.2019 and 31.12.2019, within a period of three to four months thereafter. If a detailed analysis, as contended by the ld.DR, could be undertaken within such a short span prior to completion of assessments, we find no justification for the failure to carry out a proper examination of seized material and to record a legally sustainable, year-wise satisfaction during the intervening period of nearly two years.

20.3 The reliance placed by the ld.DR on the Investigation Manual bearing F. No. 286/161/2006-IT (Inv. II), to contend that there is no requirement for recording separate satisfaction for each year, does not advance the case of the Revenue. Even the said Manual, in paragraph 1.8, mandates that a "proper satisfaction" must be recorded prior to issuance of notice u/s.153C of the Act. For the reasons discussed hereinabove namely, that the satisfaction recorded is consolidated, not relatable to individual assessment years, and does not correlate the seized material with the respective assessment years, we hold that the satisfaction recorded in the present cases is not a proper satisfaction in the eyes of law, and does not even conform to the standards prescribed under the said Investigation Manual.

20.4 Further, the decision in Indian National Congress v. DCIT (supra) does not support the stand of the Revenue, as it clearly stipulates that the satisfaction note must encapsulate incriminating material pertaining to the assessment years concerned, a condition which remains unmet in the present cases. Consequently, we hold that the satisfaction notes recorded u/s.153C of the Act in the cases of the assessees do not satisfy the requirements of law and, therefore, vitiate the entire assessment proceedings.

21. Turning to the issue of consolidated satisfaction, we note that while the decision in Indian National Congress v. DCIT (supra) may be cited against the assessees, the Hon'ble Karnataka High Court in DCIT v. Sunil Kumar Sharma [2024] 259 taxmann.com 179 (Kar) has taken a view favourable to the assessee, and has observed as follows:

> *"53. Further, satisfaction note is required to be recorded u/s.153C of the IT Act for each Assessment Year and in the impugned proceedings, a consolidated satisfaction note has been recorded for different Assessment Years, which also vitiates the entire assessment proceedings. In view of all these findings, it is said that the appeals do not have any substance for seeking intervention as sought for by the assessee/Revenue."*

21.1 The Special Leave Petition (SLP) filed against the judgment of the Hon'ble Karnataka High Court in DCIT v. Sunil Kumar Sharma was dismissed by the Hon'ble Supreme Court in DCIT v. Sunil Kumar Sharma [2024] 165 taxmann.com 546 (SC).

22. We further note that in ACIT v. Subash Jivraj Jain [2025 (7) TMI 1496 – ITAT Pune], the Pune Bench of the Tribunal observed that, notwithstanding the existence of conflicting judicial opinions, the view favourable to the assessee should be adopted, in conformity with the law laid down by the Hon'ble Supreme Court in CIT v. Naga Hills Tea Co. Ltd. [1973] 89 ITR 236 (SC) and A.P. Electrical Equipment Corporation v. The Tahsildar & Ors. (Civil Appeal Nos. 4526–4527 of 2024). The relevant passages of the decision are reproduced below:

> *"21. We find when the Revenue challenged the above order of the Hon'ble Karnataka High Court in the case of DCIT vs. Sunil Kumar Sharma (supra), the Hon'ble Supreme Court in SLP (Civil) Diary No.21526of 2024 vide order dated 20th August, 2024 dismissed the SLP filed by the Revenue.*
>
> *22. We find following the above decision, the Co-ordinate Bench of the Tribunal in the case of Shri Rajendra Rameshlal Gugale vs. PCIT vide ITA No.1676/PUN/2024 for assessment year 2017-18, order dated 30.12.2024 has quashed the assessment proceedings by observing as under:*
>
> *"8.7. Since in the instant case a consolidated satisfaction note has been prepared for assessment years 2012-2013 to 2018-2019, therefore, the consolidation satisfaction note being not in accordance with law, therefore, the entire assessment proceedings is liable to be quashed. We hold accordingly and quash the assessment."*
>
> *23. So far as the decision of the Hon'ble Delhi High Court in the case of Indian National Congress vs. DCIT (supra) relied on by Ld.DR is concerned, we find no doubt there is a favourable decision in favour of the Revenue on the issue of combined satisfaction. However, it has been held in various decisions that when there are two views*

possible on an issue and there is no decision of the jurisdictional High Court on that issue, then the view which is favourable to the assessee has to be adopted. We find the Hon'ble Supreme Court in the case of CIT vs. Naga Hills Tea Co. Ltd. (1973) 89 ITR 236 (SC) at page 240 has observed as under:

"If a provision of a taxing statute can be reasonably interpreted in two ways, that interpretation which is favourable to the assessee, has got to be accepted. This is a well-accepted view of law."

24. Further, the Hon'ble Supreme Court recently in the case of M/s. A.P. Electrical Equipment Corporation vs. The Tahsildar & Ors. (supra) has held that if two decisions of this Court appear inconsistent with each other, the High Courts are not to follow one and overlook the other, but should try to reconcile and follow that decision whose facts appear more in accord with those of the case at hand. Following the above principle and considering the fact that the Hon'ble Supreme Court has dismissed the SLP filed by the Revenue in the case of DCIT vs. Sunil Kumar Sharma (supra), therefore, we follow the decision of the Hon'ble Karnataka High Court in the case of DCIT vs. Sunil Kumar Sharma (supra) and hold that the satisfaction note is required to be recorded u/s 153C for each assessment year and a consolidated satisfaction note recorded for different assessment years would vitiate the entire assessment proceedings. Since in the instant case a consolidated satisfaction note has been prepared for assessment years 2012-13 to 2018-19, therefore, such consolidated satisfaction note being not in accordance with law, the entire assessment proceedings are liable to be quashed. We hold and direct accordingly."

23. Accordingly, it is evident that the Pune Bench of the Tribunal in ACIT v. Subash Jivraj Jain (supra) has followed the decision of the Hon'ble Karnataka High Court in DCIT v. Sunil Kumar Sharma (supra), and has held that a separate satisfaction note is required to be recorded u/s.153C for each assessment year. It was further held

that a consolidated satisfaction note, covering multiple assessment years, would vitiate the entire assessment proceedings.

24. A similar view has been taken by the Pune Bench of the Tribunal in Rameshbhai Harilal Patel v. ACIT [TS-1229-ITAT-2025 (Pun)], where it has been held in relevant terms as follows:

> *"27. We find an identical issue had come up before the Co-ordinate Bench of the Tribunal in the case of Chitra Narendra Parmar vs. ACIT & group of cases vide ITA Nos.1262 & 1269/PUN/2024 & ors, order dated 14.07.2025 for assessment years 2016-17 and 2017-18, where the Tribunal, following the decision of the Hon'ble Karnataka High Court in the case of DCIT v. Sunil Kumar Sharma reported in 159 taxmann.com 179 (Kar.) and distinguishing the decision of the Hon'ble Delhi High Court in the case of Indian National Congress vs. DCIT (2024) 463 ITR 431 (Del), has quashed the assessment proceedings passed u/s.153C of the Act on account of combined satisfaction. The relevant observations of the Tribunal read as under:……*
>
> *28. Since in the instant case also the Assessing Officer has passed a combined satisfaction note for assessment years 2012-13 to 2018-19, therefore, respectfully following the decision of the Co-ordinate Bench of the Tribunal in the case of Chitra Narendra Parmar vs. ACIT (supra) (to which both of us are parties), we hold that the assessment proceedings initiated u/s 153C of the Act on account of combined satisfaction are not valid in law and accordingly the same are quashed. Since the assessee succeeds on this legal ground, the grounds challenging the addition on merit are not being adjudicated being academic in nature. The appeal of the assessee is accordingly allowed."*

25. In a similar vein, the Jodhpur Bench of the Tribunal, in Anjana Constructions v. ACIT [2025] 128 ITR (Trib) 148 (Jodhpur), has also held as follows:

"The Hon'ble Supreme Court in case of Sunil Kumar Sharma (supra) upheld the order of the Hon'ble Karnataka High Court in DCIT VS Sunil Kumar Sharma (2024) 469 ITR 197 (Kar). We respectfully follow the order of Hon'ble Karnataka High Court which was duly affirmed by the Hon'ble Supreme Court accordingly, the initiation notice u/s 153C is quashed. Accordingly, the assessment for A.Ys 2014-15 & 2015-16 u/s 153C r.w.s. 143(3), date of order 26/12/2018 are quashed."

26. It is apparent from a plain reading of section 153C of the Act that the provision refers to "six assessment years immediately preceding the assessment year relevant to the previous year in which the search is concluded or requisition is made" and, additionally, to the "relevant assessment year or years" for which reference is made to section 153A(1) of the Act.

27. The Hon'ble Supreme Court, in CIT v. Calcutta Knitwears (supra), has emphatically held that while interpreting a statute, the Court is not entitled to add to or subtract from the language used by the legislature. Applying this principle, any attempt to construe section 153C by omitting the expression "relevant assessment year or years" would be impermissible. Conversely, the use of the expression "relevant assessment year or years" in section 153C plainly indicates that the satisfaction must be recorded with reference to each assessment year proposed to be brought within the ambit of section 153C. This interpretation is in consonance with the interpretative principles reiterated by the Hon'ble Supreme Court in paragraphs 26 and 34 of CIT v. Calcutta Knitwears (supra).

28. In light of the foregoing reasoning, and having regard to the fact that the Hon'ble Supreme Court has dismissed the Revenue's SLP in DCIT v. Sunil Kumar Sharma (supra), we follow the decision of the Hon'ble Karnataka High Court in the said case and hold that the combined satisfaction recorded in the case of P.Palanisamy for Assessment Years 2010-11 to 2018-19 is contrary to the provisions of section 153C, which mandates separate satisfaction for each assessment year, and consequently vitiates the entire assessment proceedings.

28.1 In reaching this conclusion, we also rely on the principle laid down by the Hon'ble Supreme Court in CIT v. Vegetable Products Ltd. [1973] 88 TR 192 (SC), wherein it was held that where two interpretations are possible, the view favourable to the assessee should be adopted.

Thus, the satisfaction recorded u/s.153C fails on two independent grounds: (i) it does not state the incriminating material vis-à-vis the relevant assessment year, as discussed in earlier parts of this order, and (ii) it is a consolidated satisfaction, contrary to statutory mandate, thereby vitiating the assessment proceedings for the assessment years 2010-11 to 2018-19 in the case of the assessee.

28.2 Even if the decision of the Hon'ble Delhi High Court in Indian National Congress v. DCIT (supra) is considered, it is clear that in that case, although the satisfaction note was combined, it nevertheless contained specific reference to incriminating material

for each assessment year. Such a feature is absent in the present case. Therefore, even the said decision does not support the Revenue but, on the contrary, supports the assessees, as there is nothing in the satisfaction note to indicate that the material relating to each relevant assessment year was considered while recording satisfaction. We have already held that any attempt to supplement the satisfaction note at this stage would not cure the defect or render it compliant with section 153C of the Act.

29. The next legal issue raised by the ld.AR, as Ground No.5 in the modified grounds, relates to the approval u/s.153D of the Act, which is challenged on the grounds that it was issued without application of mind, and further, that it is a composite approval, not in conformity with statutory requirements. It was contended that, for these reasons, the approval u/s.153D is invalid, and the assessments framed pursuant thereto are therefore bad in law.

30. The ld.AR submitted that the approvals granted u/s.153D by the Joint Commissioner of Income Tax (JCIT) were issued without any application of mind. The following points were advanced in the written submissions in support of this contention:

1) *From the approvals granted, it can be seen that the approvals are in respect of 5 individuals namely L.Karuppusamy, P.Kuppuchamy, Sellamuthu Kabilan, Palanisamy Raghupathy, P.Palanisamy, whereas the approval granted talks only of the modus operandi of purported tax evasion by "assessee firm". This clearly shows that there is no application of mind on the part of the JCIT in granting approval for the said approval does*

not talk of the income purportedly generated and unaccounted by the said individuals or the modus operandi adopted for the same.

2) *The approvals also refer to the details provided by the assessees while it is the case of the Ld.DR that the assessees did not cooperate in the assessment and did not submit any details during the course of assessment, which also reflects non-application of mind on part of the JCIT.*

3) *It can also be seen that in the table that is drawn up in the approval, there are arithmetical discrepancies i.e., numbers in the table of additions provided does not add up and the undisclosed income is mentioned as "00" in some of the years, which go on to reflect that the approval has been granted without application of mind*

4) *It can further be seen that all the approvals are granted on a single day and that the draft assessment orders are also dated on the same day, i.e., 27.12.2019. It can be seen that in all there are 61 orders and that it is impossible to grant approval for 61 cases after reading such voluminous draft assessment orders, the appraisal report submitted by the Investigation Unit and analyzing the seized material within such a short span.*

   It may particularly be noted that the assessment order reproduces substantial portions in Tamil and that it is highly unlikely that the JCIT without translation would have been able to comprehend the same. Also, the seized material are entirely in Tamil which also goes against the probability of application of mind.

31. With regard to the last contention raised by the ld.AR, namely that the JCIT could not have understood Tamil and therefore could not have comprehended the seized material in Tamil, and consequently that the approval u/s.153D is devoid of application of mind, it is noted that the ld.DR has placed on record an affidavit sworn by Shri Narendra Kumar Naik, the approving authority for the assessment orders passed by the Assessing Officer. In the affidavit, Shri Naik has stated that the Assessing Officer, being a native of Tamil Nadu, had explained the contents of the seized documents wherever they were in the vernacular Tamil language, from time to time.

31.1 In view of the aforesaid affidavit, we are inclined to accept the explanation furnished by Shri Narendra Kumar Naik, and therefore the approval u/s.153D cannot be held to be lacking application of mind merely on the ground that Shri Naik did not know Tamil.

32. However, the ld.AR submitted that the approval u/s.153D in the case of the assessee (an individual) has been drafted in a generic manner, repeatedly referring to "assessee firm" and failing to address any issues specifically relevant to the assessee's case. Further, it is noted that the approvals issued in respect of the P.Palanisamy Group contain arithmetical errors, inasmuch as the figures shown under the columns of detected income and returned income do not tally with the assessed income. In certain approvals,

the detected income has been recorded as "00", despite substantial additions being made by the Assessing Officer.

33. The approval u/s.153D in the case of P.Palanisamy is reproduced below, and the ld.AR stated that the approvals are verbatim identical across the group. It is further stated that, similar to the approval in the case of P.Palanisamy, the approvals issued in respect of the other four individuals, namely L.Karuppusamy, P.Kuppuchamy, Sellamuthu Kabilan and Palanisamy Raghupathy, refer exclusively to the modus operandi of the alleged tax evasion by the "assessee firm", without dealing with the individual issues relevant to each assessee.

2A

GOVERNMENT OF INDIA
OFFICE OF THE JOINT COMMISSIONER OF INCOMETAX
CENTRAL RANGE,
63, RACE COURSE ROAD, COIMBATORE.

C.No.JCIT/CR/CBE/100(3)/2019-20 Dated: 27/12/2019

MEMORANDUM

Sub: Search & Seizure – in the case of Shri. P. Palaniswamy (ADSPP9150F) - Approval u/s 153D of the IT Act,1961 – Regarding.

Ref: Draft assessment orders submitted by ACIT, Central Circle-3, Coimbatore, dated.27.12.2019

# # # #

Attention of the Assistant Commissioner of Income-tax, Central Circle-3, Coimbatore is drawn to the draft assessment orders submitted for approval.

2. A search u/s132A was conducted in the case of M/s P.P. Finance and group on 10.08.2017. Based on the seized documents pertains to the assessee, notice under section 153A were issued.

3. On the basis of appraisal report submitted by the Investigation unit, analysis of seized materials, on perusal of the details provided by the assessee and time to time discussions made with the assessing officer, the following modus operandi and concealment was observed.

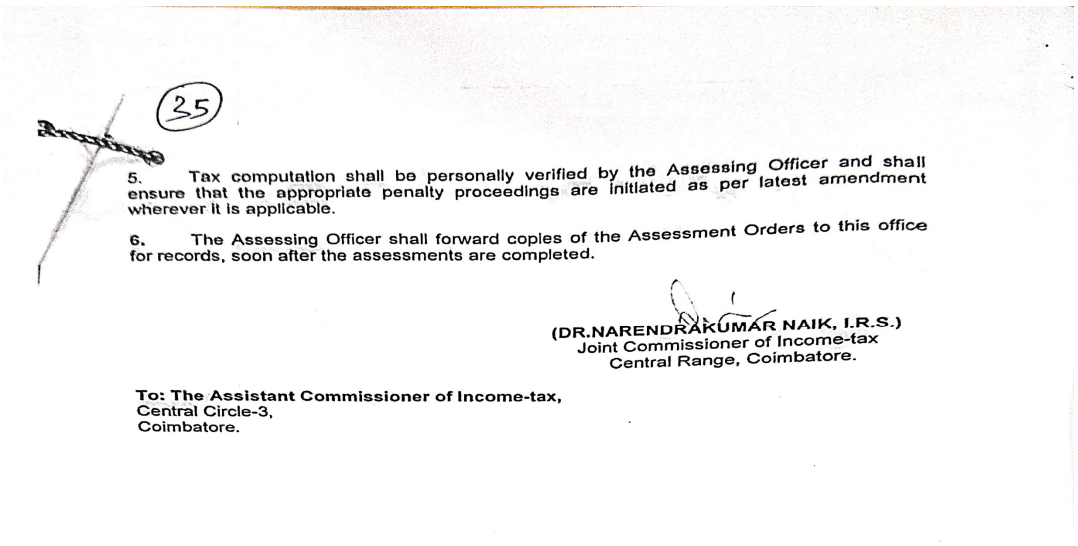
The Assessee Firm has adopted the Modus Operandi of concealing income by maintaining Parallel Books of Accounts which is not part of the regular Books of Accounts.

The Assessee Firm is in the practice of writing the entries in the books, by mentioning the last two digits in the paise Column.

The Assessee Firm is in the practise of introducing Capital as deposits. The Partner Shri P. Palanisamy has failed to provide the details with regards to Identity the Credit worthiness and genuinity of the depositors.

4. The approval u/s 153D of the IT Act is hereby accorded to the Assessing Officer to complete the assessments determining the assessed Income as proposed in the draft assessment orders as below.

AY	Detected Income	Returned Income	Assessed Income
2010-11	0	30,47,350	2,17,18,410
2011-12	0	22,64,560	26,86,240
2012-13	0	25,16,470	7,26,45,962
2013-14	0	19,92,190	4,65,48,446
2014-15	0	15,79,510	6,44,31,332
2015-16	0	24,36,430	6,77,39,220
2016-17	3,25,68,000	34,74,770	14,49,24,688
2017-18	2,83,13,555	32,63,380	21,96,46,369
2018-19	2,75,83,635	42,75,760	40,20,65,483



25

5. Tax computation shall be personally verified by the Assessing Officer and shall ensure that the appropriate penalty proceedings are initiated as per latest amendment wherever it is applicable.

6. The Assessing Officer shall forward copies of the Assessment Orders to this office for records, soon after the assessments are completed.

(DR.NARENDRAKUMAR NAIK, I.R.S.)
Joint Commissioner of Income-tax
Central Range, Coimbatore.

To: The Assistant Commissioner of Income-tax,
Central Circle-3,
Coimbatore.

33.1. The ld.AR further relied upon the decision of the Hon'ble Allahabad High Court in PCIT v. Sapna Gupta [2023] 147 taxmann.com 288 (All), wherein it was held that it is humanly impossible for an approving authority to examine records of 85 cases in one day and apply independent mind to each case. The Court concluded that the approval was granted mechanically, without application of mind. In this context, the ld.AR submitted that in the present case, approvals have been granted in respect of 61 cases in the P. Palanisamy group, and it is not known how many other approvals may have been granted by the JCIT on the same date, which further supports the inference of non-application of mind.

34. In support of the contention that the approvals u/s.153D of the Act were issued without application of mind and therefore the assessments framed thereunder are liable to be quashed, the ld.AR relied upon the following decisions:

- *ACIT v. Serajuddin & Co.* [2023] 454 ITR 312 (Ori), SLP dismissed by the Hon'ble Supreme Court in *ACIT v. Serajuddin & Co.* [2024] 463 ITR 698 (SC);
- *PCIT v. Anuj Bansal* [2024] 466 ITR 251 (Del), SLP dismissed by the Hon'ble Supreme Court in *PCIT v. Anuj Bansal* [2024] 466 ITR 254 (SC);
- *Gurvinder Singh Duggal v. ACIT* [2024] 6 TMI 336 (ITAT Delhi);
- *S.P. Singla Constructions Pvt. Ltd. v. DCIT* [2025] 1 TMI 1570 (ITAT Chandigarh);
- *ZTA Infratech Pvt. Ltd. v. DCIT/ACIT* [2025] 10 TMI 143 (ITAT Delhi);
- *Umesh Sadashiv Thakre v. ACIT* [2025] 175 taxmann.com 951 (ITAT Nagpur);
- *YRCE Educare Pvt. Ltd. v. ACIT* [2025] 8 TMI 1363 (ITAT Nagpur);
- *Kehar Singh v. DCIT* [2025] 126 ITR (Trib) 609 (Delhi);
- *Apple Commodities Ltd. v. DCIT* [2025] 126 ITR (Trib) 623 (Delhi);
- *Pushpanjani Construction P. Ltd. v. DCIT* [2025] 128 ITR (Trib) 201 (Del);
- *PCIT v. Believe Constructions (P.) Ltd.* [2025] 180 taxmann.com 63 (Del); and
- *Dheeraj Chaudhary v. ACIT* [2025] 178 taxmann.com 360 (Delhi Trib.).

35. The ld.AR further submitted that the approvals u/s.153D in the present cases are combined approvals, which is contrary to the specific statutory requirement. It was contended that such combined approvals vitiate the assessment proceedings, relying on the decisions in PCIT v. Sapna Gupta (supra), PCIT v. Shiv Kumar Nayyar [2024] 6 TMI 29 (Delhi High Court), Tish Consultants Pvt. Ltd. v. DCIT [2025] 7 TMI 173 (ITAT Delhi), Dheeraj Chaudhary v.

ACIT (supra), PCIT v. Shivgori Builders (P.) Ltd. [2025] 180 taxmann.com 180 (Delhi), and ACIT v. Splendor Landbase Ltd. & Anr. [2025] 126 ITR (S.N.) 85.

36. The ld.AR also relied on the decisions of the Hon'ble Gujarat High Court in CIT v. Purshottamdas T. Patel [1994] 209 ITR 52 (Guj) and the Hon'ble Supreme Court in Kalyankumar Ray v. CIT [1991] 191 ITR 634 (SC), submitting that assessment is an integrated process involving determination of both income and tax. Since section 153D mandates approval of the assessment, the income and tax computation must also be approved by the JCIT.

It was submitted that the approval u/s.153D of the Act in the present case merely states that the tax computation is to be personally verified by the Assessing Officer, and does not actually approve the tax, thereby indicating that the assessment was not properly approved. Reliance was placed on the decisions of the Hon'ble Gujarat High Court and the Hon'ble Supreme Court (supra), and it was submitted that this defect renders the assessment void.

37. Per contra, the ld.DR submitted that the functional structure of the Investigation and Central Divisions must be appreciated, and that the Range Head had been continuously involved in the matter at every critical stage from recording satisfaction to issuance of the show-cause notice prepared in consultation with the Range Head. It was submitted that the approving authority would therefore have a comprehensive understanding of the issues well in advance, before

the case is placed for approval u/s.153D of the Act. Accordingly, the fact that 61 approvals were granted on the same day does not imply that they were issued mechanically or without due consideration of the facts.

37.1 The ld.DR also placed on record an affidavit of Shri Narendra Kumar Naik, JCIT, stating that the Assessing Officer and the Range Head were located in the same office building in Coimbatore, and that for effective monitoring and to obtain first-hand information regarding the progress of the cases, regular discussions and briefings were conducted by the JCIT with the Assessing Officer. The JCIT has further stated as follows:

> *"6 That, the Offices of the Assessing Officer and Range Head were in the same Office Building in Coimbatore and for the effective monitoring and to receive first hand information regarding the progress of the cases, regular discussion and briefing were conducted with the Assessing Officer.*
>
> *7. That the Authorized Representative of the assessee Shri Haja Ali has appeared before me periodically and the relevant issues and seized documents were discussed in presence of the Assessing Officer G Karthikeyan. That, the Authorised Representative has also discussed regarding working of undisclosed income to apply before the Hon. Income Tax Settlement Commissioner (ITSC), however the assessee didn't proceed with the application before ITSC.*
>
> *8. That, I have constantly supervised the proceedings as Range Head and discussed issues from time to time with the Assessing Officer and therefore at the time of submitting the draft assessment order, I was well acquainted with the facts, issues and findings of the cases.*

Therefore, after due diligence, I used to approve those draft orders, after necessary corrections and modification, if required.

9. That, the approval has been accorded after due diligence and complete understanding of the facts and issues with prior application of mind and as per the Search and Seizure manual of CBDT dated 22.12.2006."

38. On this point, the ld.AR placed reliance on the decision of the Third Member in Dheeraj Chaudhary v. ACIT [2025] 178 taxmann.com 360 (Delhi Tribunal), wherein it was held that mere participation in the assessment proceedings cannot be treated as evidence of application of mind on the part of the approving authority. The relevant extracts of the decision were reproduced and relied upon by the ld.AR as under:

"20. I have gone through the order of learned Accountant Member and noted that in Paragraph 7, it is noted that the approval accorded by the Additional CIT u/s.153D of the Act is nothing but the culmination of day to day involvement of the Assessing Officer and the Additional CIT in search assessments. The relevant procedure noted by the learned Accountant Member reads as "The fact is that the AO and the Addl. CIT works as team members and the AO works under the supervision of the Addl. CIT. The team work gets culmination by the approval u/s.153D of the Act. Such involvement of the Addl. CIT in the search assessment is in routine in the Central Charges of the Income Tax Department where the search assessments are completed. It is not a case where the assessment records, other files, investigation folders, etc. of a search case change hands for the first time between the AO and the Addl. CIT at the time of approval of the search assessment. The detail mentioned above is based on my personal experience while working in each hierarchy (AO onwards) of the Central Charges of the Income Tax Department." The second aspect considered by the learned

Accountant Member is that approval u/s.153D of the Act by the Additional CIT is merely administrative in nature to safeguard internal checks and balances without affecting the quasi-judicial powers of the Assessing Officer and creating any prejudice to the assessee. It was further noted by the learned AM that while granting approval u/s.153D of the Act, the Additional CIT does not act as a reviewing/appellate authority to allow or disallow the additions proposed by the Assessing Officer.

21. I note the above observations of learned Accountant Member and is of the view that assessment proceedings or any proceedings under the Act before the Assessing Officer which affect the levy of tax on the subject are judicial in nature. It is well-settled that the Assessing Officer upon whom jurisdiction has been conferred to make all orders judicially, has to act independently. The Assessing Officer, while framing assessment, cannot act on the advice given by an outsider even though he may be an authority higher in rank to him in official hierarchy. Higher authorities that include Additional CIT/JCIT under whom the Assessing Officer is administratively under control, are not entitled to give opinion or advice in regard to assessment proceedings being quasi-judicial in nature. This is, however, subject to the provisions of Section 144A of the Act, where the assessee or the Assessing Officer suo moto can refer the matter but, for that, he has to invoke this provision. This view is supported by Hon'ble Bombay High Court in the case of Dinshaw Darabshaw Shroff v. CIT [1943] 11 ITR 172, wherein it is held that although the Assessing Officer making an assessment is not acting as a court of law, it is clear that while framing assessment is acting in quasi-judicial capacity, and he ought to conform to the more elementary rules of judicial procedure, and in particular to conduct the case himself, and not allow somebody else, even his superior officer, to interfere in the conduct of the case. What to talk of superior authority, Hon'ble Supreme Court in the case of Union of India v. Tata Engineering &Locomotive Co. Ltd. 1997 taxmann.com 100 /AIR 1998 SC 287, 288, held that the Assessing Officer is entitled to complete the assessment as per the provisions of Section 143(3) of the Act and, for this purpose, he can call for and examine whatever document he

considers relevant. Hon'ble Supreme Court held that, if the Assessing Officer fails to follow any judgment of the High Court or of the Supreme Court, the assessee has adequate statutory remedies by way of an appeal and revision against the assessment order but, the Court should not try to control the mode and manner in which an assessment should be made. Hence, the higher authority including the Additional CIT/JCIT or CIT or CCIT, being administrative controlling authorities ofthe Assessing Officer, are not entitled to interfere in the judicial process of the Assessing Officer while framing assessment. In view of the above, I am of the view that, while making an assessment, the Assessing Officer is solely to be guided by the provisions of law and he cannot avail of any instructions or directions given by his higher authority including CBDT in making a particular assessment in a particular way. While passing assessment orders, he is only bound by what, if any, has been directed u/s. 144A of the Act by his Additional CIT/JCIT or the instructions issued by the CBDT u/s. 119 of the Act or what has been decided by the appellate authorities as mentioned in the Act. He has also to follow the precedence established by Hon'ble High Courts or the Supreme Court. The proceeding u/s.153D for granting approval is entirely different from the process of making assessment. Once draft assessment is prepared, the process of approval starts u/s.153D of the Act. Then the authority prescribed u/s.153D i.e., the Additional CIT/JCIT has to apply his mind for grant of approval after verifying the assessment records, seized records, etc.

22. I noted that the common thread discussed by Hon'ble Orissa High Court in the case of Serajuddin & Co.(supra), by Hon'ble Delhi High Court in the case of Anuj Bansal (supra) and by Hon'ble Allahabad High Court in the case of Sapna Gupta (supra) is that the requirement of previous approval of assessment by the Additional CIT/Joint CIT in terms of provisions of Section 153D of the Act being an inbuilt protection against any arbitrary or unjust exercise of power by the Assessing Officer, casts a very heavy duty on the said high ranking authority to see to it that the requirement of the previous approval, envisaged in the Section is not turned into an empty formality. Needless to say that before granting approval, the

Additional CIT/Joint CIT, as the case may be, must have before him the material on the basis whereof an opinion in this behalf has been formed by the Assessing Officer and the approval must reflect the application of mind to the facts of the case. The CBDT itself recognized the importance of this provision and the above laid down principle and hence issued Manual of Office Procedure in February, 2023 in exercise of powers u/s. 119 of the Act. Vide Para 9 of Chapter 3 of Volume-II (Technical), a clear procedure is devised i.e., how an approval is to be granted for draft assessment for passing of assessment order in search cases. According to the Manual, the Assessing Officer should submit the draft assessment order for such approval well in time along with docketed in the order sheet, a copy of the draft assessment order, covering letter filed in the relevant miscellaneous records folder. Even, it is noted that due opportunity of being heard should be given to the assessee by the supervisory officer giving approval to the proposed block assessment, at least one month before the time barring date. It is further noted that once such approval is granted, it must be in writing and filed in the relevant folder indicating above after making due entry in the order sheet. This is the mandate provided in the office manual of the Department. In view of above, I am of the view that the 'approval', as mandated u/s 153D of the Act, signifies a product of human thoughts based on the given set of facts and interpretation of the applicable law. It provides equality in treatment and thus prevents bias, prejudice and arbitrariness. It also prevents and avoids inconsistent and divergent views. The power of approval to the specified authority i.e., Superior authority has been envisaged with the objectives that no illegality or biasness, to either of the sides i.e., the assessee or the Revenue, remains."

39. The ld.AR, relying upon the aforementioned decision of the Third Member of the Tribunal, submitted that the process of approval u/s.153D of the Act commences only after the draft assessment order has been prepared. Consequently, mere participation in the assessment proceedings cannot be treated as a ground to infer

application of mind on the part of the approving authority. It was further contended that where the Assessing Officer has passed the assessment order in accordance with directions issued by the JCIT u/s. 144A, the said order would be vitiated and rendered void on the ground that it was passed on the directions of an external authority, notwithstanding that such authority is the JCIT.

40. The ld.DR, on the other hand, placed reliance on the decision of the Delhi Tribunal in *Kailash Gahlot v. DCIT* (ITA No. 3431/Del/2023), particularly drawing attention to paragraphs 16, 19, 21, 22, 23, 24 and 25. It was argued that the burden of proving non-application of mind lies on the party asserting such non-application, and that approval u/s.153D is administrative in nature. Any defect or error in the approval, it was submitted, would be curable and not fatal to the proceedings. Reliance was also placed on the observation in *Kailash Gahlot* that the fact that approval was granted within a short span of time does not, by itself, indicate that it was given mechanically without application of mind, particularly where the approving authority is fully aware of the background material. Similar reliance was placed on the decision of the Allahabad Tribunal in *Ramji Vaish v. DCIT* (ITA Nos.36, 37, 38, 101, 125, 126, 127/ALLD/2023). On the issue of consolidated approval, the ld.DR also referred to the Investigation Manual dated 22.12.2006 to contend that a consolidated approval would suffice for the purposes of section 153D of the Act.

41. In rebuttal, the ld.AR furnished a table to demonstrate that the decisions relied upon by the ld.DR have been rendered inapplicable by the decision of the Third Member in *Dheeraj Chaudhary v. ACIT* [2025] 178 taxmann.com 360 (Delhi-Trib) (TM), the relevant portions of which have been reproduced in the written submissions.

Case Law relied on by DR	The substance of CLs relied on by DR	Overruled by decision of Third Member
Kailash Gahlot v DCIT ITA No.3431 / Del / 2023	Para 22: The association, formally or informally, of the Range Head / Addl. u/s.153D are from the beginning and after receipt of the Appraisal Report as inbuilt in the SOPs and mere absence of its recitals in the order u/s.153D cannot be inferred as non-application of mind. Basically the AO and Range Head work as a team during assessment and it is not as if assessment records change hands for the first time at the time of approval. Para 25: The AR has not brought on record any material before us to	Dheeraj Chaudrary v ACIT [2025] taxmann.com 360 (Delhi-Trib) (TM)-Enclosed in S.No.7 of Case Law Book – 3 Para 20 (Page 86 of CL Book – 3) - the order of the Hon'ble Third Member takes note of the procedure noted by the Hon'ble Accountant Member that that Range Head and AO work as team members and goes on to hold in Paras 21 & 22 (Page 87 of CL Book – 3) that clear procedure is devised by CBDT vide Manual of Office Procedure issued in February 2023 vide Para 9 of Chapter 3 of Volume-II (Technical) on how an approval is to be granted for passing assessment orders

Kailash Gahlot v DCIT ITA No.3431 / Del / 2023	demonstrate that the SOP was substantively not followed. Para 25: Section 153D does not state approvals has to be through separate letters for each A.Y. The word each is not to be read qua approval but it is qua assessment order for each relevant A.Y.	in search cases. Hon'ble Third Member in Para 23 (Page 88 of CL Book-3) holds that in the present case, procedure is not at all followed which means that the approval granted is mechanical in manner and without application of mind of the approving authority. The Hon'ble Third Member in this case has observed that expect in terms of section 144A of the Income Tax Act, no direction can be given by the JCIT / ACIT under any other provisions of the Act. The process of approval u/s.153D cannot be said to be similar with assessment and starts only after the draft assessment order is forwarded to the JCIT / ACIT Paras 8 & 9 (Pages 82 and 83 of CL Book-3) of the order of the Hon'ble Third Member – "In the present case before me also, as evident from the copy of approval, as reproduced

		above, granted by the Additional CIT, is for all the six assessment years vide one approval. Hence, on this count also, the approval granted by the Additional CIT is bad in law and consequent assessment order passed in all these six assessment years is bad in law."
Ramji Vaish & Ors v DCIT & Ors ITA No.36 / Alld / 2023	Para 44: Assessee has not been able to prove that the JCIT gave the approvals mechanically, while the department has placed both guidelines and the uncontroverted affidavit of the approving authority. Therefore we are not able to hold the view that the approvals have been rendered mechanically, without reference to the materials on record Para 50: Approval to be granted for each assessment year and therefore set aside to obtain approvals in accordance with law.	It is evident from approval itself, which has been issued for individual assesses by referring to "firm" and based on the other discrepancies pointed out i.e,, • Numbers in the table of additions provided does not add up. • Undisclosed income is mentioned as "00" in some of the years. that the approval has been issued blatantly without application of mind. Dheeraj Chaudrary v ACIT [2025] taxmann.com 360 (Delhi-Trib) 9TM) -Enclosed in S.No.7 of Case Law Book – 3

		Paras 8 & 9 (Pages 82 and 83 of CL Book-3) of the order of the Hon'ble Third Member – "In the present case before me also, as evident from the copy of approval, as reproduced above, granted by the Additional CIT, is for all the six assessment years vide one approval. Hence, on this count also, the approval granted by the Additional CIT is bad in law and consequent assessment order passed in all these six assessment years is bad in law."

42. We have carefully considered the rival submissions, perused the written submissions and examined the documents placed on record, including the affidavit filed by Shri Narendra Kumar Naik, JCIT, on behalf of the Revenue. At the outset, and without entering into the merits of the legal issue concerning section 153D of the Act, we note that the said affidavit seeks to explain the procedure followed in the search assessment proceedings and delineates the respective roles of the Assessing Officer and the Range Head. The ld.AR has, on the other hand, invited our attention to certain alleged clerical

and arithmetical errors in the approvals granted u/s.153D of the Act.

43. Upon consideration of the approval granted u/s.153D of the Act and the contents of the affidavit filed by the Range Head, we are of the view that the matter requires further verification, including an opportunity for cross-examination, before any conclusive finding can be rendered. Accordingly, we refrain from expressing any opinion on this aspect at this stage. The additional ground relating to section 153D raised by the assessee is, therefore, not adjudicated at present and is kept open.

44. Since the assessments are quashed on the basis of Grounds No.3, the other grounds raised by the assessee are not required to be adjudicated and are accordingly left open.

45. We note that although the ld.AR raised several grounds on merits, no substantive submissions were made regarding the cash seized from the assessee's premises. In the circumstances, we hold that the seized cash belongs to the assessee from whose premises it was recovered, and this ground of the assessee is therefore dismissed. However, the addition cannot be sustained in view of our conclusion that the assessment itself is invalid for the reasons stated above.

46. The ld.AR has also contended that the provisions of section 115BBE of the Act, which provide for higher rates of tax, cannot be invoked for assessment years prior to AY 2018-19. Although this

issue is rendered academic in the present proceedings, we note that the Hon'ble Madras High Court in S.M.I.L.E. Microfinance Limited v. ACIT (VACIT 2024 SCC OnLine Mad 8416) has held as under:

> *"16. The next contention raised by the Learned Senior Counsel is that the u/s. 115BBE the rate of tax imposed is increased from 30% to 60% and the same is applicable with effect from 01.04.2017 onwards as per the amendment. Therefore, the same is applicable to any transaction from 01.04.2017 onwards and nor prior to any transactions prior to 01.04.2017. Since in the present case all alleged transactions are for the period from 08.11.2016 to 30.12.2016, hence the erstwhile rate of tax 30% only is applicable. But the contention of the revenue is that the amendment was with effect from 01.04.2017 and hence the same is applicable for the financial year 2016-2017 and the assessment year 2017-2018. Further the amendment to section 115BBE is directly related to demonetization which would be evident from objects and reasons for such amendment. In order to consider the same, the objects and reasons of Taxation Laws (Second Amendment) Bill 2016 is extracted hereunder:*
>
> *……..*
>
> *17. in the aforesaid objects and reasons nowhere it is stated that due to "demonetization" the unaccounted money ought to be charged 60% rate of tax. It only states that step had been taken to curb black money by withdrawing Specified Bank Notes of denomination of Rs.500 and Rs. 1000. And also states the people may find illegal ways of converting their black money into black again, hence as per experts advice heavy penalty ought to be levied. From the language of the object "that instead of allowing people to find illegal ways of converting their black money into black again", it is evident that the government is intended to impose the same for future transactions. Especially the use of word "again" in the object would clearly indicate it is for future transactions i.e. from 01.04.2017. Therefore this Court is of the considered opinion that the revenue is empowered to impose 60% rate of tax for the transactions from 01.04.2017 onwards and not prior to the said cut-off date. And for prior transaction the revenue is empowered to impose only 30% rate of tax."*

47. The same view has been reiterated by the Coordinate Bench of this Tribunal in Kandasamy Kuppusamy v. ITO 2025 (5) TMI 210 (ITAT Chennai), wherein reliance was placed upon the decision of the Hon'ble Madras High Court in S.M.I.L.E. Microfinance Limited (supra).

48. Accordingly, we hold that the enhanced rate of tax at 60% prescribed u/s.115BBE of the Act is not applicable to transactions that occurred prior to 1st April, 2017.

II. P.Raghupathy – AYs 2011-12 to 2018-19

A.Y.	ITA NO.
2011-12	3367/Chny/2024
2012-13	3368/Chny/2024
2013-14	3369/Chny/2024
2014-15	3370/Chny/2024
2015-16	3371/Chny/2024
2016-17	3372/Chny/2024
2017-18	3373/Chny/2024
2018-19	3374/Chny/2024

49. It is observed that the factual matrix relating to the issue of u/s.153C in the case of P.Raghupathy is identical to that of P.Palanisamy. Accordingly, the ratio of the decision rendered in the case of P.Palanisamy as held in para 28 to 28.2 (supra) shall apply mutatis mutandis to the appeals of P.Raghupathy for assessment years 2011–12 to 2018–19. Consequently, the assessment proceedings in the case of P.Raghupathy for AYs 2011–12 to 2018–

19 are hereby quashed on the grounds that the satisfaction u/s.153C are consolidated in nature, thereby contravening the statutory provisions and having been issued without application of mind.

50. Since the assessments are quashed on the basis of Grounds No.3, the remaining grounds raised by the assessee need not be adjudicated and are accordingly left open.

51. It is noted that although the ld.AR raised several substantive grounds, no meaningful submissions were advanced regarding the jewellery seized from the assessee's premises. With respect to the addition made on account of the jewellery, the Central Board of Direct Taxes, by Instruction No. 1916 dated 11.05.1994, has provided that gold jewellery and ornaments up to 500 grams per married woman, 250 grams per unmarried woman and 100 grams per male of the family need not be seized during a search operation. The Hon'ble Allahabad High Court in Ghanshyamdas Johari (41 Taxmann.com 295) has held that once jewellery falls within the ambit of Instruction No. 1916, no addition can be made in respect of the same. Similar conclusions have been reached in CIT v. Ratanlal Vyaparilal Jain [2011] 339 ITR 351 (Guj), CIT v. Satya Narain Patni [2014] 366 ITR 325 (Rajasthan) and CIT v. Ghanshyam Das Johri [2014] 41 Taxmann.com 295 (Allahabad). Accordingly, we hold that the value of the gold belongs to the assessee from whose premises it was seized and therefore this ground of the assessee is dismissed.

However, the addition cannot be sustained, as the jewellery is covered by Instruction No.1916, and in any event the assessment itself is invalid for the reasons stated earlier.

52. The ld.AR has further contended that the higher rate of tax u/s. 115BBE cannot be invoked for assessment years prior to AY 2018–19. Although this issue is now academic, having followed the decision of the Hon'ble Madras High Court in S.M.I.L.E. Microfinance Limited v. ACIT (SCC OnLine Mad 8416), we have held in the case of P. Palanisamy that the enhanced rate of 60% u/s. 115BBE is not applicable to transactions occurring before 01.04.2017. The ratio of that decision shall apply mutatis mutandis to the present case of the assessee.

III. Sellamuthu Kabilan - AYs 2012-13 to 2018-19

A.Y.	ITA NO.
2012-13	3375 / Chny / 2024
2013-14	3376 / Chny / 2024
2014-15	3377 / Chny / 2024
2015-16	3378 / Chny / 2024
2016-17	3379 / Chny / 2024
2017-18	3380 / Chny / 2024
2018-19	3381 / Chny / 2024

53. It is observed that the facts pertaining to the issue u/s.153C in the case of Sellamuthu Kabilan are identical to those in the case of P.Palanisamy. Consequently, the ratio of the decision in the case of P.Palanisamy as held in para 28 to 28.2 (supra) shall apply mutatis

mutandis to the appeals of Sellamuthu Kabilan for assessment years 2012–13 to 2018–19. Accordingly, the assessment proceedings in the case of Sellamuthu Kabilan for AYs 2012–13 to 2018–19 are hereby quashed on the grounds that the satisfaction u/s.153C of the Act are combined, thereby contravening the statutory provisions and having been issued without application of mind.

54. Since the assessments are quashed on the basis of Grounds No.3, the other grounds raised by the assessee are not required to be adjudicated and are accordingly left open.

55. We note that although the ld.AR raised various substantive grounds, no meaningful submissions were advanced regarding the cash seized from the assessee's premises. Accordingly, we hold that the seized cash belongs to the assessee from whose premises it was recovered, and this ground of the assessee is dismissed. However, the addition cannot be sustained, as the assessment itself is invalid for the reasons stated above.

56. With respect to the addition on account of jewellery, the Central Board of Direct Taxes, by Instruction No.1916 dated 11.05.1994, has provided that gold jewellery and ornaments up to 500 grams per married woman, 250 grams per unmarried woman and 100 grams per male of the family need not be seized during a search operation. The Hon'ble Allahabad High Court in Ghanshyamdas Johari (41 Taxmann.com 295) has held that once jewellery is covered by Instruction No. 1916, no addition can be made in

respect thereof. Similar conclusions have been reached in CIT v. Ratanlal Vyaparilal Jain [2011] 339 ITR 351 (Guj), CIT v. Satya Narain Patni [2014] 366 ITR 325 (Rajasthan) and CIT v. Ghanshyam Das Johri [2014] 41 Taxmann.com 295 (Allahabad). Accordingly, we hold that the value of the gold belongs to the assessee from whose premises it was seized and therefore this ground of the assessee is dismissed. However, the addition cannot be sustained since the jewellery is covered by Instruction No. 1916 and, in any event, the assessment is invalid for the reasons stated above.

57. The ld.AR has further contended that the higher rate of tax u/s.115BBE of the Act cannot be invoked for assessment years prior to AY 2018–19. Although this issue is now academic, following the decision of the Hon'ble Madras High Court in S.M.I.L.E. Microfinance Limited v. ACIT (SCC OnLine Mad 8416), we have held in the case of P. Palanisamy that the enhanced rate of 60% u/s.115BBE of the Act is not applicable to transactions occurring before 01.04.2017. The ratio of that decision shall apply mutatis mutandis to the present case of the assessee.

IV. L.Karuppusamy - AYs 2017-18 and 2018-19

A.Y.	ITA NO.
2017-18	224 / Chny / 2025
2018-19	225 / Chny / 2025

58. It is observed that the factual circumstances relating to the issue u/s.153C of the Act in the case of L.Karuppusamy are identical to those in the case of P.Palanisamy. Accordingly, the ratio of the decision in the case of P.Palanisamy as held in para 28 to 28.2 (supra) shall apply mutatis mutandis to the appeals of L.Karuppusamy for assessment years 2017-18 and 2018-19. Consequently, the assessment proceedings in the case of the assessee for AYs 2017-18 and 2018-19 are hereby quashed on the ground that the satisfaction u/s.153C of the Act are consolidated in nature, thereby contravening the statutory provisions and having been issued without application of mind.

59. Since the assessments are quashed on the basis of Grounds No.3, the other grounds raised by the assessee are not required to be adjudicated and are accordingly left open.

60. The ld.AR has also contended that the enhanced rate of tax u/s.115BBE cannot be invoked for assessment years prior to AY 2018-19. Although this issue is academic in the present proceedings, following the decision of the Hon'ble Madras High Court in S.M.I.L.E. Microfinance Limited v. ACIT (SCC OnLine Mad 8416), we have held in the case of P. Palanisamy that the enhanced rate of 60% u/s.115BBE is not applicable to transactions occurring before 01.04.2017. The ratio of that decision shall apply mutatis mutandis to the present case.

V. P.Kuppuchamy – AY 2014-15 to 2018-19

A.Y.	ITA NO.
2014-15	223 / Chny / 2025
2015-16	215 / Chny / 2025
2016-17	216 / Chny / 2025
2017-18	217 / Chny / 2025
2018-19	218 / Chny / 2025

61. It is observed that the factual matrix pertaining to the issue u/s.153C of the Act in the case of P. Kuppuchamy is identical to that in the case of P.Palanisamy. Consequently, the ratio of the decision in the case of P.Palanisamy as held in para 28 to 28.2 (supra) shall apply mutatis mutandis to the appeals of P.Kuppuchamy for assessment years 2014-15 to 2018-19. Accordingly, the assessment proceedings in the case of the assessee for AYs 2014-15 to 2018-19 are hereby quashed on the ground that both the satisfaction u/s.153C of the Act were issued on a consolidated basis, thereby contravening the statutory provisions and having been granted without application of mind.

62. Since the assessments are quashed on the basis of Grounds No.3, the remaining grounds raised by the assessee need not be examined and are accordingly left open.

63. We note that the ld.AR has raised several grounds on merits but has not made any substantial submissions with regard to the cash seized from the assessee's premises. Accordingly, we hold that the cash belongs to the assessee from whose premises it was

recovered, and this ground of the assessee is dismissed. However, the addition cannot be sustained, as the assessment proceedings have been held to be void for the reasons stated above.

64. The ld.AR has also contended that the higher rate of tax u/s.115BBE cannot be invoked for assessment years prior to AY 2018-19. Although this issue is rendered academic, following the decision of the Hon'ble Madras High Court in S.M.I.L.E. Microfinance Limited v. ACIT (SCC OnLine Mad 8416), we have held in the case of P. Palanisamy that the enhanced rate of 60% prescribed u/s. 115BBE is not applicable to transactions occurring prior to 01.04.2017. The ratio of that decision shall apply mutatis mutandis to the present case.

VI. PP Financiers (Oddanchatram) – AYs 2010-11 to 2018-19

A.Y.	ITA NO.
2010-11	220 / Chny / 2025
2011-12	201 / Chny / 2025
2012-13	202 / Chny / 2025
2013-14	203 / Chny / 2025
2014-15	204 / Chny / 2025
2015-16	205 / Chny / 2025
2016-17	206 / Chny / 2025
2017-18	207 / Chny / 2025
2018-19	208 / Chny / 2025

65. Since we have refrained from adjudicating the legal issue of approval u/s.153D of the Act for the reason that the issue is kept open as held in the case of P.Palanisamy in para 42 and 43(supra),

we proceed to adjudicate the appeal on merits of the case. The year-wise additions made by the Assessing Officer are tabulated as follows:

A.Y.	Undisclosed investment u/s.69	Undisclosed business income u/s.28	Unexplained money u/s.69A
	Outstanding loan as per Ready Run Baki Book	Interest income and chit commission as per seized material	Cash seized
2010-11	3,75,82,000	52,25,677	-
2011-12	2,14,35,000	1,22,21,964	-
2012-13	6,93,10,000	2,18,32,467	-
2013-14	1,58,67,000	3,61,51,172	-
2014-15	5,33,000	3,87,64,907	-
2015-16	1,63,10,665	4,03,71,296	-
2016-17	1,78,44,300	4,61,36,950	-
2017-18	-	4,27,25,426	-
2018-19	-	4,68,07,051	79,56,500
Total	17,88,81,965	29,02,36,910	79,56,500

66. Before the lower authorities and before this Tribunal, the assessee has contended that the seized material does not belong to the assessee firm, but instead belongs to a consortium of lenders called the People Public Fund. However, there is no reference to the said "People Public Fund" in the seized material or in any of the sworn statements recorded from various persons, including partners and third parties. Conversely, the Assessing Officer has concluded that the seized books and documents belong to the assessee firm

primarily because the 'thittam books' bear the signature of Shri P.Palanisamy, who is the principal partner of the assessee firm. The Assessing Officer has also relied upon sworn statements of the partners and other third-party statements to substantiate this conclusion.

67. The Ld.AR strongly argued that the seized material, which forms the basis of the additions, does not belong to the assessee firm. He pointed out various inconsistencies and anomalies in the seized documents relied upon in the assessment order and submitted that there is no evidence to establish that the seized material belongs to or pertains to the assessee firm. He further submitted that even assuming, for the sake of argument, that the material pertains to the firm, no addition can be sustained in the hands of the firm because the alleged capital/contribution on which the proposed additions are based is not unexplained. The seized material itself records the names of the contributors, a fact which the Assessing Officer has acknowledged at several places in the assessment order.

68. The written submissions of the Ld.AR are reproduced below:

> *"Based on the following points, it is most humbly submitted that there is no evidence to establish that the seized material belongs to or pertains to the assessee firm.*
>
> 1. *The seized pages referred to by the Assessing Officer do not contain any reference to the firm's name, business details, address, PAN, or any other identifying particulars. The mere presence of the word "Partners" or initials does not ipso facto establish that the material belongs to the assessee firm. In absence of exclusive identification, mere mentioning of*

individuals who are partners in multiple entities cannot be used to attribute ownership of the documents to a particular firm.

2. *The Assessing Officer has attempted to establish ownership on the footing that some seized documents bear signatures purportedly belonging to one of the partners i.e, Shri.P.Palanisamy. However, the signatures appearing across different pages are inconsistent and do not match each other, nor do they correspond to the signatures appearing in the partnership deed. When the alleged signatures are visibly different and unverified, no legal inference of ownership can be drawn merely based on the same.*

3. *One page of the seized material makes a stray reference to a bank account and contains only a Swastik mark without any corresponding entries, accounting narration, or identifiable linkage. Such random notings, devoid of context, accounting relevance, or corroborative entries, cannot form the basis for presuming ownership or maintenance of books by the assessee firm.*

4. *The Assessing Officer's reliance on minutes of the meeting to state that the seized material belongs to the firm is not tenable. The minutes contain signatures of multiple persons who are not partners of the assessee firm. Only a few correspond to partners of the firm. This shows that the document relates to a wider group or unconnected entities and not to the assessee firm. The presence of signatories who are not partners goes blatantly against the inference of the Assessing Officer that the seized books pertain to the assessee firm and consequently the seized books cannot be used to determine the income of the assessee firm. This coupled with point no.2 elaborated above clearly proves that the seized material does not belong to the assessee firm.*

5. *The individuals mentioned in the seized documents are partners in several entities and not exclusively in the assessee firm. Merely their names appearing in seized material does not conclusively prove that the books belong to the assessee firm.*

6. *The Ld.DR in the course of submissions stated that in a few instances, statements were recorded from the purported borrowers who confirmed that they had borrowed monies and repaid to the assessee firm. However, it may be noted that intentionally the Department has chosen not to take any action against such person for violation of sections 269SS & 269ST, which clearly shows that the statements have not even been relied on completely by the Department and that the Department is only trying to use a pick and choose to attack the assessee firm and let go of the persons who gave the statements. This can also be understood as some kind of an inducement given to the persons who gave the statement by not using it against them. Further these statements recorded in terms of section 131 lack evidentiary value.*

7. *The Ld.DR in the course of his submissions explained the modus operandi by stating that Shri.P.Palanisamy was the controlling person and that the books belong to the firm and these are regular books and not mere loose sheets. In this connection, it is most humbly submitted that these are not regular books maintained by the firm as alleged by the Ld.DR and it cannot be taken as belonging to the firm, particularly in the light of demonstrable evidence to show that the books do not belong to the firm in the preceding paras and the tables annexed to this submission. Though the Ld.DR in the course of his submissions urged that the books found in the firm's premises must be taken as belonging to the firm, it is humbly submitted that no evidence was produced to show which books were belonging to which firm. At any rate, section 292C is only a presumption which is rebuttable and in the light of the overwhelming evidence to show that the books do not belong to the firm, the presumption u/s.292C cannot be*

pressed into service to treat the books as belonging to the firm.

Without prejudice to the above, even if it is presumed that the seized material belong to the assessee, the addition cannot be made in the hands of the firm since the amounts brought in as capital / contribution, which form the basis of addition, is not unexplained as the seized material clearly refers to the names of the contributors which the Assessing Officer himself states in various places in the assessment order.

8. *The Assessing Officer has alleged that unexplained capital was introduced "under the guise of depositors." However, a bare perusal of the seized material reference made by the Assessing Officer shows capital introduced as "PP" and "Partners". There is nothing whatsoever in the seized material to suggest that the monies were introduced in the guise of depositors. The allegation is purely based on assumption and surmise, not on any concrete evidence. When the documents explicitly record partner contributions, attributing those amounts to fictitious depositors is beyond the contents of the seized material and legally untenable.*

9. *The Assessing Officer has referred to a statement recorded u/s.132(4), wherein it was affirmed that capital was introduced only by partners and unsecured loans were taken by partners from their own friends and relatives. This admission establishes that the funds, if at all, are traceable to the partners (even where it is not known how much belongs to each partner) and not to the firm. When the source and nature of funds are clearly stated to be personal contributions, such amounts cannot be added as unexplained income in the hands of the assessee firm, even where it is not known how much belongs to each partner.*

10. ***Without prejudice*** *to the above contentions, even if the presumption u/s.292C is invoked and it is presumed that the seized papers reflect true contents then any addition based on such presumption, cannot be made in the hands of the*

*assessee firm as the amounts appearing in the seized material only belong to the **partners** (even where it is not known how much belongs to each partner) **appearing in the seized material**, and not the firm as a whole. The firm cannot be taxed for contributions made by others. When the material itself identifies the contributors, there is neither scope nor justification for adding the amounts as unexplained income in the firm's hands.*

11. *Copy of seized material named as "THITTAM DOC1 DDGL to THITTAM DOC5 DDGL" in the Pen Drive given by the Department is kept in S.No.2 of Paper Book 3 (Pages 2 to 50 of Paper Book 3). It is not known whether these documents belong to PP Financiers, Oddanchatram or PP Enterprises, Oddanchatram. It is unclear as to how the Assessing Officer has arrived at the quantum of addition based on the above documents is unclear.*

12. *Without prejudice to the above, amendment in section 115BBE increasing the rate of tax to 60% is not retrospectively applicable. The Hon'ble Madras High Court in S.M.I.L.E Microfinance Limited v ACIT 2024 SCC OnLine Mad 8416 (Pages 248 – 259 of Case Law Book 1) has categorically held that the rate of 60 percent is to be imposed only for the transactions from 01.04.2017. The above order of the Hon'ble Madras High Court has been followed in Naranbhai Samatbhai Bharwad, through legal heir Devrajbhai Naranbhai Bharwad v ITO in ITA No.272 Ahd 2024 Ahmedabad ITAT (Pages 260 – 270 of CL book). Therefore the Ld. CIT(A) erred in upholding the rate of 60 percent for the A.Ys.2010-11 to 2017-18 when the same would be applicable only for the transactions from 01.04.2017 onwards i.e., from assessment year 2018-19.*

The reference to relevant page numbers in the assessment orders for assessment years 2010-11 to 2018-19 in connection with the above points are enclosed in a table format along with explanation as annexures 1 to 9 to this submissions."

69. The Ld.DR advanced detailed submissions regarding the modus operandi of the assessee group. It was submitted that Shri P.Palanisamy established multiple firms to conduct money-lending and chit business across various States. Although Shri P.Palanisamy was the principal shareholder in all such firms, he included other partners who were local persons as well as family members or friends of the managing partners. The local partner acted as the working partner and was responsible for day-to-day operations. The Ld.DR further submitted that the assessee group maintained a well-structured accounting system, with separate registers for each accounting domain, such as loan registers, loan repayment registers, etc. It was submitted that all firms followed a uniform two-digit suppression system, as evidenced from the assessment order, where receipts, expenditures, loan accounts and capital contributions were recorded using the same two-digit suppression method. This system was also reflected in the personal books of Shri P.Palanisamy and was confirmed by partners in their sworn statements. It was further submitted that upon verification of accounts, Shri P.Palanisamy initialed the monthly thittam books as "PP". The Ld.DR also referred to the first appellate order where the full signature of Shri P.Palanisamy was extracted from a sale deed and compared with the initials in the thittam books to establish that Shri P. Palanisamy had signed the books, thereby indicating that the books belonged to the assessee firm.

70. During the hearing, the Ld.DR explained the accounting system maintained by the assessee, relying on the seized material from PP Financiers, Karur, and submitted that the same system was followed by all entities in the Group. It was explained that the assessee maintained a comprehensive accounting system consisting of daily registers, weekly registers, and monthly consolidated books containing profit and loss account and balance sheet. It was submitted that the books were maintained in proper format and consolidated figures were readily available. It was further submitted that the seized material reflected meticulous and accurate accounting across all firms and individual businesses, and demonstrated that the main partner, Shri P.Palanisamy, ensured thorough examination and monthly approval of accounts that he exercised complete control over the business and that no funds were siphoned off by employees or partners. The Ld.DR relied on the assessment order and the ld.CIT(A) order, and submitted that the Assessing Officer had invoked the presumption u/s.292C with detailed reasoning, asserting that the seized material found at the premises of the concerned assessee belonged to them. The Ld.DR also submitted that the retractions made by the partners of the assessee firms were recorded two years after their initial statements, and that the fictional entity was introduced only at that later stage; therefore, it was submitted that such retractions were not reliable on the facts of the case.

71. The relevant portions of the submissions of the Ld.DR, which are common to the assessee group, are reproduced below:

"3. Submission on Establishment, management and Control of the business entities by Shri P. Palanisamy and the non-existence of the fictional entity:

Facts of the case:

[All the Assessment Orders, Ld. CIT(A) orders and Paper books (I to VI) filed by the Department and the submissions made during the hearings may be considered as a part and parcel of this Written Submissions.]

The search and seizure operation U/s.132 of the Act conducted at the business premises of M/s.PP Group of firms, proprietorship concerns and the residential premises of Mr.P.Palanisamy and related persons on 10.08.2017. During the search and seizure operation, Incriminating materials were seized from the premises and sworn statements were recorded from the Partners, Employees and the debtors present at the premises. The modus operandi of the business operations and the extent of the unaccounted income was unearthed during the search and seizure operations.

Modus operandi and control of the businesses by P Palanisamy.

[The paper book - I need to be read along with this part.]

Shri P Palanisamy is the managing partner and major shareholder who established the money lending business across south Indian States of Tamil Nadu, Karnataka, Kerala and Andhra Pradesh. Apart from these, the assessee runs line business in many States/Cities. The assessee established the money lending business and chit business in these States. The assessee has established the following firms apart from his line investments & proprietary concerns.

M/s.PP Financiers, Oddanchatram
M/s.PP Enterprises, Oddanchatrrm
M/s.PP Financiers, Karur
M/s.PP Financiers, Chennai
M/s.PP Construction, Bangalore
M/s.PP Enterprises, Bangalore

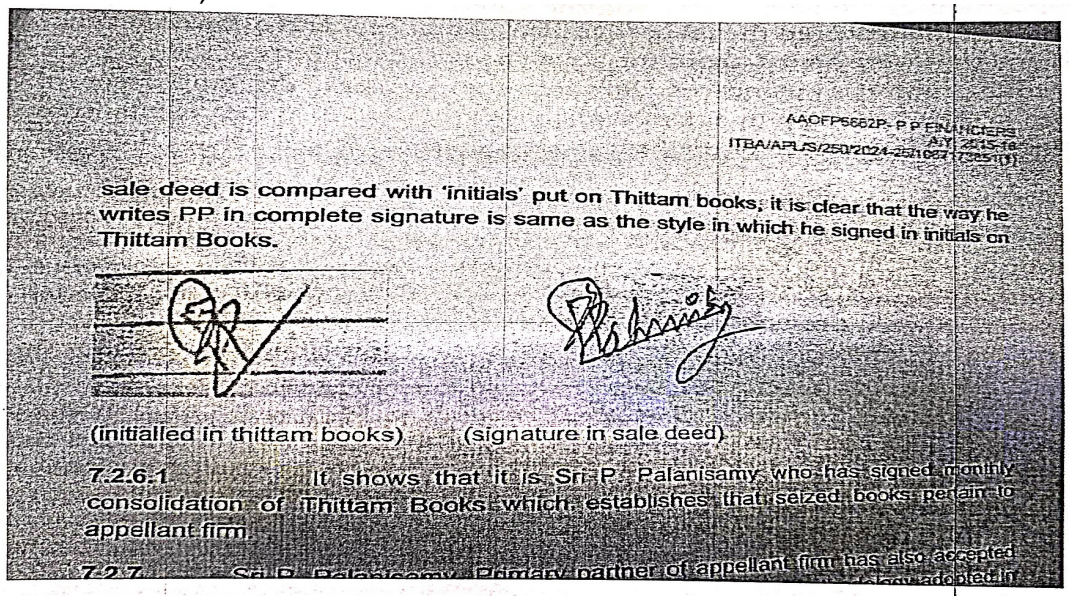
Shri P.Palanisamy has established firms to run the businesses in different places. Shri Palanisamy has been the major shareholder in all these firms and takes along others as partners who are the local persons as well as the family members / friends of the managing partner. A local partner -would be the working partner in these firms

who handles the day-to-day operations. The assessee has established a robust accounting system to maintain every firm's books of accounts and the separate registers are maintained for each domain of the accounting like loan register, loan repayment etc etc. The books maintained are daily, weekly and monthly basis for receipts and payments and the monthly books are named as thittam books. This modus of accounting system is followed in all the firms of the group in different places. This is very evident from the fact that the two-digit system of suppression is established by the assessee in all the business firms and the same modus of the two-digit suppression system the assessee has followed in his personal accounts as well. This is very evident from the facts narrated in the assessment order that the expenditures of mobile recharge, petrol charge etc are in single digits with two-digit suppression in the personal accounts of P Palanisamy. The receipts, expenditure and the loan accounts, capital contribution etc are all entered with two-digit suppression mode which was confirmed by the partners/ employees who were present during the search in different firms and the statements were recorded u/s. 132(4) of the Income Tax Act 1961. In the sworn statement recorded u/s 132(4) from N Sundaramoorthy, partner of PP Enterprises Oddanchatram dated 11.08.2017 in Q No. 18, the partner has confirmed the two-digit suppression system with example. The same was confirmed by Shri Palanisamy in the statement recorded u/s. 132(4) as well. The same was corroborated by the debtors who were present at the premises of the two firms and whose statements were recorded by the search parties u/s.132(4) also proved the loan amounts were entered in the loan accounts in the books of the firms with two-digit suppression.

Shri Palianisamy established total control of the businesses of various firms that were established at different places by making sure that every month the books of accounts were sent to Bangalore, the place of residence of Shri Palanisamy to get the accounts verified and approved. After the verification of the accounts, Shri Palanisamy put his initials "PP" in the monthly thittam books. This ensures that every month the books are getting examined and approved by him and ensures that no siphoning of the money or any other malpractice is happening in various firms in which he has the major stake. This is money lending business and a defect in oversight will cost dearly to the partners and the major partner Shri P Palanisamy. From the sworn statements recorded and the books and documents seized it is seen that all the business premises like M/s. P.P. Financiers, M/s. P.P.

Enterprises and M/s. P.P. Construction etc had Mr. P. Palanisamy as the Primary partner and at the end, all the final decisions were made by Mr. P. Palanisamy. Apart from being a partner in all the firms, Mr. P. Palanisamy runs finance business under his individual capacity too. V- PPF and O- PPF are money lending in the proprietorship concerns and similar types of nomenclature is being followed by the assessee like PPF- 1, PPF- 2, PPF- 3 in the firms also. Apart from the business through the firms, he has major stakes in line business and the assessee runs/invested approximately 120 / 170 line businesses in various cities of India. The assessee P. Palanisamy is the owner of P.P. Complex where he receives rental income and he further runs two business units viz., M/s. P. P. Financiers Karur and M/s. P.P. enterprises karur in the said P.P.Complex.

The assessee Shri Palanisamy has regular signature and the initials, where he Initals as "PP". The same has been extracted by the CIT(A) in the appellate order. The signature in partnership deed is long signature whereas Mr. P. Palanisamy had signed his initial "PP" on the pages of seized thittam notes. The extract of the same is attached herewith, wherein the Ld.AR compared the signature of Mr.P.Palanisamy with in the thittam books with that of his signature in Sale deed, the same is extracted herewith for clarification.



A bare look at the signatures clarifies the initials and the regular signature.

The assessee's claim of existence of a different entity
Apart from-the detailed discussion of the above paragraphs of establishment, management and total control of the entire entities of the Group by Shri P Palanisamy, the modus operandi and why and how the books of accounts seized from the respective firm's premises belong to the respective business firms/entities are also explained pointwise in the CIT(A) order in the case of Palanisamy in the paragraphs 7.2.4 to 7.2.6. This is apart from the plethora of the documents, evidences and books off accounts that were seized during the search find brought out by the Assessing Officer during the assessment proceedings of which the sample documents were scanned and made part of the assessment order, along with the Sworn statements recorded from the partners, employees and debtors in each of the firms. It is to be noted that in every statement recorded during the search u/s.132(4) of the Act from the employees, these partners and employees were asked questions about the respective firms and the partners and employees answered about the respective firms with absolute clarity. The documents/books seized were put to the partners and employees and asked various questions about the documents/books and the partners and employees answered the questions describing the various entries in the seized books of accounts. The partners and employees and P Palanisamy and the debtors all unanimously referred / discussed and answered the respective firm's business, and answered various questions that were asked about the seized books of accounts of the respective firms and proprietary concerns. Nowhere the partners, the employees, the debtors or Shri Palanisamy referred about any other entity that exists in any of the places or premises of the firms/prop.concerns.

During the assessment proceedings, the assessee was provided all the seized documents, satisfaction notes and the sworn statements. The Notices, various questionnaires and show cause notices were issued periodically. Sufficient opportunities were provided to the assessee which is evident and recorded in the assessment orders. The assessee has made submissions disowning the books of accounts that were seized from the premises of various firms and the proprietary concerns stating that there belong to another entity namely "People Public Fund". The same was made its way first time in the submissions during the assessment proceedings and the Assessing Officer has rebutted this afterthought with very sound reasoning. The CIT(A) has also dealt with the submission and discussed and rebutted the said submission in the appellate order with absolute clarity. Combining the entire detailed discussion on the establishment, management and control of the firms

along with the det ailed discussion under the heading of assessee's new claim of the a fictional entity fictional entity, conclusively establish that the claim of namely fictional entity "People Public Fund" is a complete afterthought.

Apart from the cumulative evidences, the presumption u/s. 292C is invoked by the Assessing Officer and the same is absolutely applicable in the case of the assessee firms and individuals.

4. Submission on the maintenance of accounting system of assessee group - As example PP Financiers, Karur:
The Accounting Systems /Modus operandi maintained in the Group Entities:

M/s.P.P.Financiers Karur (AY 2018-19):
The accounting system and the modus operandi that are followed in all the entities are same and therefore one entity is detailed here discussion, PP Financiers, Karur.

It is to be submitted that the Ld.AR during the hearings had raised doubts about the scanned sample copies of seized documents in overall context in few instances. In this connection, it is submitted that the scanned copies are sample pages of the seized books of accounts which are daily, weekly, monthly books and thittam books which are running ledgers for many years. Incriminating material namely "Thittam Books" which were seized, are nothing but monthly ledger accounts of the business. The entire books of accounts were scanned and provided to the assessee Counsel as per the directions of the Tribunal. These documents are running ledgers in each of the firms and businesses and the scanned copies in the assessment order reflects the crux of the unaccounted accounts of the assessee firms and prop, concerns. Therefore, during the hearings, the accounting system maintained by the assessee was elaborated using the firm PP Financiers, Karur and it is submitted that the same system has been followed by all the entities of the Group. Since all the firms are operating in similar modus and system for clarification the modus operandi of one firm is discussed below.

It is to be noted that the proper books of accounts and registers are kept by the entities for correct maintenance of the receipts, expenditures, loans given, loans interest charged, loan repayment, capital introduced etc. The entities followed proper accounting and

distinct Profit and Loss account and Balance sheets are maintained in the form of the monthly books along with other daily, weekly books. The Assessing officer has incorporated scanned copies of sample pages of the different pages of the seized books / seized Profit and Loss account and Balance Sheets in the assessment orders.

The firm PP Financiers Karur has 3 money lending lines PPF I, PFF II and PPF III. In the PP Financiers Karur, the Table in page No.5 of the assessment order reflects the receipts side of the business which has interest income and the chit commission income which are the cumulative amount that is available in the thittam books of the assessee. This is backed by the daily books and the weekly books and as submitted, the running ledgers for the years since the establishment of the businesses. The same table in page No.5 represents expenditure that is available in the books of the assessee. The details of expenditures and the two-digit suppression of the entries is elaborated by the Assessing Officer in the page No.9 of the assessment order and the consolidated expenditure in each line of the business (PPF I, PPFII and PPF III) are taken and stated in the order.

In page no 11, B-6 represents the balance sheet figures of the business. It has the consolidated figures of loan, outstanding loan, loan repayment details etc which are month wise entries and again reflects the precise and correct format in which the assessee has established the accounting system and meticulously and perfectly maintained in each of the business concerns. The table in page No. 11 reflects the cash balance and loan balance in teach of the lines PPF I, PPF II and PPF III.

In page No17, the working partner Shri DS Palanisamy in the sworn statement u/s 132(4) of the Act admitted the seized books of accounts and the total outstanding loan of the assessee firm. The Table in page 19 represents the debtors whose statements were recorded and whose loan amounts are reflected in the assessee's books of accounts with the two-digit suppression system. The assessee firm has the modus of last two digits in the paisa column to suppress the income/ profits and other entries in the accounts. This was also confirmed by one of the managing Partner of the firm Mr. D.S Palanisamy. This practice of suppression of two- digits did not just stop with the firm alone this it was the similar practice happening all across the firms as the system established by P Palanisamy. Further, the page No.27 the order reflects the total loan outstanding in the 3 business lines of the firm and

consolidated monthly books of the three money lending businesses. The pages 28 and 29 reflects the breakup and the outstanding debtors and the scanned copies of the seized books of the accounts. Also, the entire loan register is available and the same is referred in the assessment order in page No.30.

In the last part of the assessment order, the Assessing Officer has given the seized documents used, statements recorded and the opportunities given to the assessee during the course of the assessment proceedings.

It is to be noted that the assessee has maintained a solid accounting system in the form of daily registers, weekly registers and monthly consolidated books with Profit and Loss account and Balance sheet. The same is maintained in proper books format and the consolidated figures are readily available. It is to be noted that the assessee has established an accounting system which reflects the meticulous and proper nature of accounting in all the firms and individual businesses. It also reflects that the main Partner Shri P Palanisamy ensures that by examining and approving these accounts on monthly basis, complete control of the business is with him and no single paisa is siphoned off by the employees or any of the partners. This robust system of the accounts which are unaccounted, were seized by the Department during the search and seizure operations in each of the firm's/prop.Concerns/entities premises. The modus of accounting maintained in each of the firms and the individual business is same and proper accounting is maintained in all the firm's places and other business premises/proprietary concerns of the Group.

5. <u>The assessee submission before the AO and CIT(A)</u>
<u>Assessee submission during the Assessment Proceedings and the findings of the Assessing Officer - on various legal matters:</u>

The Assessing Officer has issued summons to the partners assessment proceedings to examine them under the oath. However, none of the partners appeared before the Assessing Officer and the same is detailed in the assessment order. The assessee's submission and the findings of the Assessing Officer, the discussion about the fictional entity, the retraction of the statements after two years, and the invoking of the presumption u/s.292C along with, various case laws are detailed in each assessment order by the Assessing Officer. In the case of PP Financiers Karur (AY 2018-19), under the heading C, from page number

37 to page number 44 the discussion is available. The detailed discussion conclusively brings about the concrete nature of the evidences, the lack of value in the present submissions of the assessee, why and how the retraction is not valid and the solid presumption u/s. 292C of the Income Tax Act. The Assessing Officer has invoked the presumption u/s.292C of the Act with elaborate reasoning in the assessment orders.

Detailed Discussions made by the Ld. CIT(A)

The legal issues and the grounds pertaining to the fictional entity, presumption u/s 292C etc was discussed in very detail by the Ld. CIT(A) in the appellate order. The detailed discussion is included in the paragraphs starting from 7.2.1 to 7.2.40 (PP Financiers Karur AY 2018-19) of the appellate order. The Ld CIT(A) has considered all the submissions made by the assessee and made detailed findings on all the issues that are raised by the assessee. The CIT(A) has discussed about the retraction that was made after two years,' the fictional entity that was brought as afterthought by the assessee, the presumption u/s.292C of the Act etc and with detailed discussion dismissed the grounds."

72. The specific rebuttal advanced by the Ld.DR to the contentions raised by the Ld.AR, with respect to PP Financiers (Oddanchatram), is reproduced below:

"M/s. P.P. Financiers Oddanchatram,

The money lending License issued by the Tehsildar, Oddanchatram for money lending business was scanned and made part of the assessment order. The partnership deed, the seized books and documents at the business premises and registered office of the firm along with the sworn statements based on the seized materials clearly establishes the money lending and chit business of the firm.

In the Swastik page which was scanned and made part of the assessment order, there is a bank account number, which was verified by the Assessing Officer. The bank account is the official bank account of the firm M/s PP Financials Oddanchatram in the Return of Income and the relevant page of ROI where this bank account is entered/ appeared also scanned and attached in the assessment order. Such

conclusive and corroborative evidences are scanned and made part of the order by the Assessing Officer."

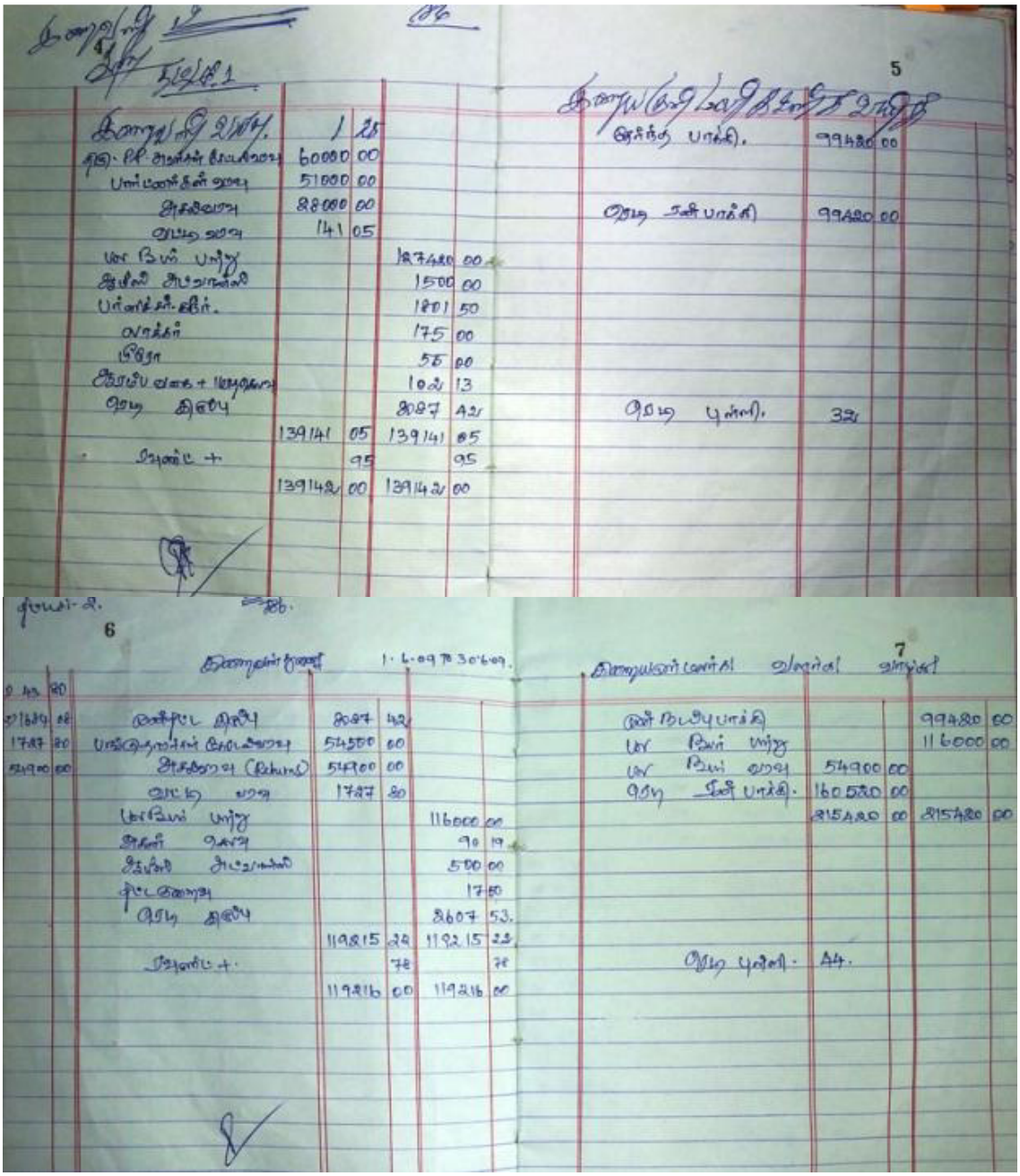
73. We have heard the submissions of both parties and perused the written submissions, paper books and all materials placed on record. On a careful appraisal of the contentions advanced by the Ld.DR and the evidentiary materials available on record, it is manifest that even the Ld.DR has acknowledged that Shri P.Palanisamy was managing and controlling multiple entities/firms across different locations, which purportedly followed a uniform accounting pattern across the group. We are of the view that such admission, in itself, lends support to the assessee's primary contention that mere references such as "PP / Partners" cannot, by themselves, conclusively establish that the seized documents belong to or pertain to the assessee firm, when there are multiple firms operating from each of the different locations (each of them having a different set of partners as is evidenced by the partnership deeds of the different firms furnished as part of the paper books filed by the assessee), unless there exists a clear and exclusive identification connecting the documents to the assessee, such as the firm's name, address, PAN, business particulars, etc. The Ld. DR's reference to bank account of the assessee being mentioned in one of seized materials cannot be taken as a conclusive evidence of books belonging to the assessee as we notice that the particular reference is to a page which has a big 'swasthik symbol' with no

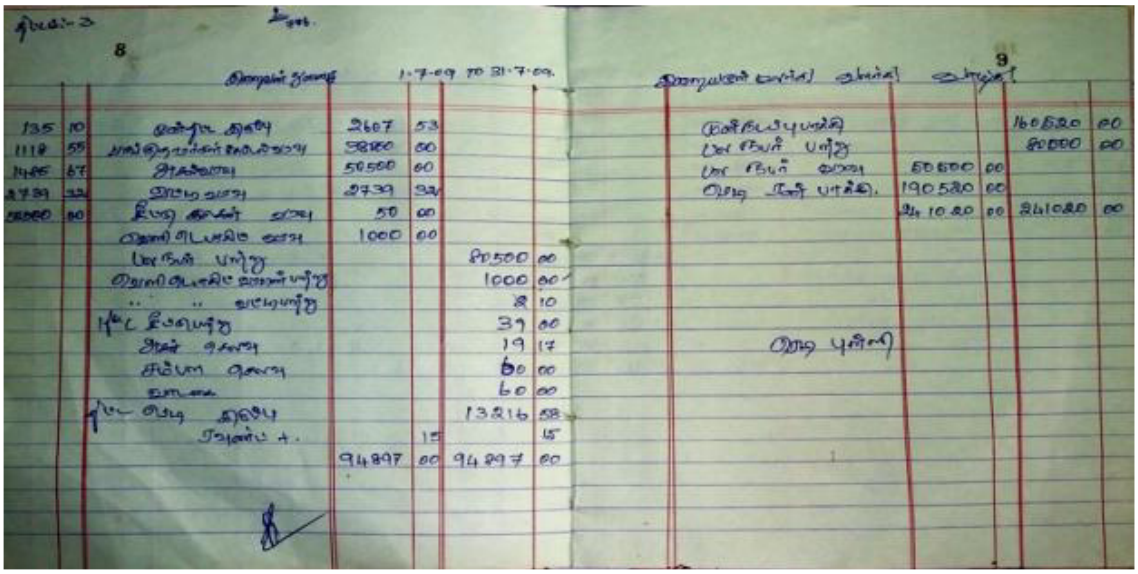
other details except the bank account 'SBI-ODC Current A/c No.31162298466' handwritten on top of the page. When the referred seized material is a blank page, merely on account of bank account number being handwritten on one of the pages out of the bulk of materials seized along with the fact that there is no other corroborative reference in the rest of the seized materials pointing towards the assessee makes the attribution of seized material to the assessee is untenable.

74. Further, the Ld.DR has pointed to the minutes of the meeting signed by Shri P.Palnisamy and S.Kabilan who are partners of the assessee firm and urged that this was a clear piece of evidence to show that the books belonged to the assessee firm. However, we find that on comparison of signatures in Page 2 of the Paper Book which has the partnership deed containing signature of all partners of the firm with the minutes of meeting at page 44 of Paper book, it can be seen that the minutes of the meeting has more signatories who are not partners of the assessee firm. We find that signatures in S.No.3,4,5 and 7 & 9 are not that of the partners of the assessee firm. When we questioned this, the Ld.DR responded that the minutes could have been signed by proxies. We find contradiction in the argument of the Ld.DR when on one hand reliance is placed on the signatures of partners in the minutes of the meeting as evidence of books belonging to the assessee and on the other hand other signatures that are there in the same seized material that does not

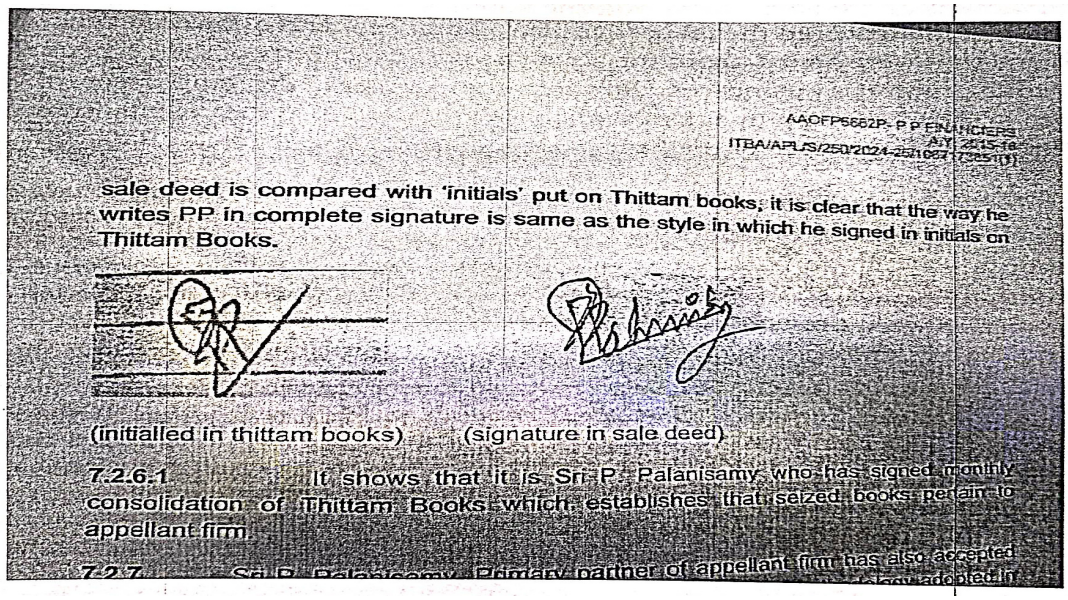
belong to the partners are dismissed on an assumption that it could be proxys' signature. The presumption u/s.292C requires that contents of the seized material is to be taken as true and therefore the signatures of the non-partners cannot be dismissed as proxys' signature.

75. We further find that reliance on the "thittam books" initialled as "PP" is not a reliable basis to connect the books to the assessee, for the reason the P.Palanisamy is partner in various firms across various locations and therefore presence of his initials alone does not conclusively prove that the books belong to the assessee. Additionally, the initials appearing on the pages referred to in the assessment order are not uniform, which further undermines the reliance placed on them. The pages referred to in the assessment order are reproduced below:





76. We note that these signature are not uniform and also do not match with the comparison of signatures made by the ld.CIT(A) (Comparing signature is not the domain of the ld.CIT(A), it is left to handwriting experts) which is reproduced below:



77. In the present matter, we find that the seized documents, as reproduced and relied upon in the assessment order, do not contain any explicit or specific reference to the assessee firm. It is an admitted fact that Shri P.Palanisamy is a partner in the assessee firm as well as in several other entities. Consequently, the conclusion that the seized books pertain to the assessee firm solely because they bear purported initials of Shri P.Palanisamy cannot be sustained in law, particularly when the said initials are not uniform and appear to differ across the seized material.

78. On the presumption u/s.292C we find that Section 292C uses the words "it may be presumed" and the Hon'ble Apex Court in P. R. Metrani v. CIT 287 ITR 209 (SC) explained the concept of presumptions and expression "may be presumed" as under-

> *"22. A presumption is an inference of fact drawn from other known or proved facts. It is a rule of law under which courts are authorized to draw a particular inference from a particular fact. It is of three types, (i) "may presume", (ii) "shall presume" and (iii) "conclusive proof". "May presume" leaves it to the discretion of the Court to make the presumption according to the circumstances of the case. "Shall presume" leaves no option with the Court not to make the presumption. The Court is bound to take the fact as proved until evidence is given to disprove it. In this sense such presumption is also rebuttable. "Conclusive proof gives an artificial probative effect by the law to certain facts. No evidence is allowed to be produced with a view to combating that effect. In this sense, this is irrebuttable presumption"*

Relying on the above decision of the Hon'ble Supreme Court, we find that the presumption u/s.292C by usage of the word "may" gives discretionary powers to adopt the presumption and also makes the presumption rebuttable.

79. The surrounding circumstances, namely i) the absence of any exclusive identification of the assessee firm, ii) the admitted multiplicity of entities where Shri P.Palanisamy is a partner, iii) the unreliability of sole reference to a bank number referred in a blank page of the seized material as evidence, iii) presence of signature of non-partners in the minutes of the meeting and iv) the initials relied upon not being uniform in the seized materials, render the attribution of the seized material to the assessee firm speculative at best. Therefore, in the instant case, while there is evidence to the contrary, there is no evidence to show that the seized material belongs to or pertains to the assessee. More importantly, the seized

material itself records the names of individuals who introduced funds by way of capital contribution. Once the documents identify the contributors, the foundational basis for treating such funds as "unexplained" in the hands of the assessee firm collapses. Accordingly, any addition, if warranted and if at all permissible on the basis of such entries, can only be examined in the hands of the respective contributors and not in the hands of the assessee firm. For the foregoing reasons, we hold that additions based on the seized material cannot be sustained in the hands of the assessee. Consequently, we allow the assessee's case on Ground Nos.5 and 9 of the modified grounds on merits, and the remaining grounds on merits are not adjudicated and are kept open.

80. However, it is noted that although the Ld.AR has raised several grounds on merits, no substantive submissions were made regarding the cash seized from the premises of the assessee amounting to Rs.79,56,500/- which has been added as unexplained money u/s.69A in the A.Y.2018-19. In view thereof, we hold that the cash belongs to the assessee from whose premises it was seized, and this ground of the assessee is accordingly dismissed.

81. On the next issue, the Ld.AR has contended that the enhanced rate of tax u/s.115BBE cannot be invoked for assessment years prior to AY 2018-19. Although this issue has become academic, following the decision of the Hon'ble Madras High Court in S.M.I.L.E Microfinance Limited v ACIT (SCC OnLine Mad 8416), we have held

in the case of P.Palanisamy that the enhanced rate of 60% prescribed u/s.115BBE of the Act is not applicable to transactions occurring before 01.04.2017. The ratio of the decision on this issue in the case of P. Palanisamy shall apply mutatis mutandis to the present case.

VII. PP Financiers (Karur) – AYs 2014-15 to 2018-19

A.Y.	ITA NO.
2014-15	3388 / Chny / 2024
2015-16	3389 / Chny / 2024
2016-17	3390 / Chny / 2024
2017-18	3391 / Chny / 2024
2018-19	3392 / Chny / 2024

82. Since we have refrained from adjudicating the legal issue of approval u/s.153D of the Act for the reason that the issue is kept open as held in the case of P.Palanisamy in para 42 and 43(supra), we proceed to adjudicate the appeal on merits of the case. The year-wise additions made by the Assessing Officer are tabulated as follows:

A.Y.	Undisclosed investment u/s.69	Undisclosed business income u/s.28	Unexplained money u/s.69A
	Outstanding loan as per Thittam Note	Chit income, Interest income less salary expenses computed by AO	Cash balance as per Thittam Books added. Cash seized included in the year of search

2014-15	-	36,90,225	-
2015-16	-	1,62,93,605	-
2016-17	6,40,88,000	3,15,64,230	15,750
2017-18	15,65,82,300	5,23,40,904	7,90,835
2018-19	2,18,12,000	6,18,47,746	87,59,025
Total	24,24,82,300	16,57,36,710	95,65,610

83. The Ld.AR contended, with considerable emphasis, that the seized materials relied upon by the Assessing Officer for making the aforementioned additions do not belong to, nor pertain to, the assessee firm. It was further submitted that the seized documents, as referred to in the assessment order, contain several inconsistencies and infirmities which undermine any inference that they relate to the assessee firm. Consequently, there is no cogent evidence to establish the nexus of the seized material with the assessee firm. Even assuming, arguendo, that the seized material is attributable to the assessee firm, it was submitted that no addition can be sustained in the hands of the firm since the entries relating to capital contributions/funds are not "unexplained", given that the seized material itself records the names of the contributors. This aspect has also been acknowledged by the Assessing Officer at various places in the assessment order. The written submissions of the Ld.AR are reproduced below:

> *"Based on the following points, it is most humbly submitted that there is no evidence to establish that the seized material belongs to or pertains to the assessee firm.*

1. *The AO contends that Shri.D.S.Palanisamy in response to Question 6 has stated that the books seized belong to PP Financiers, Karur. However the actual statement (English translation filed in the Paper Book) does not make any such admission. Even otherwise, the alleged statement stands retracted, nullifying any evidentiary value. Hence, reliance on such a statement to attribute ownership of books to the firm is both factually incorrect and legally untenable.*

2. *The Assessing Officer has attempted to establish ownership on the footing that some seized documents bear signatures purportedly belonging to one of the partners i.e, Shri.P.Palanisamy. However, the signatures appearing across different pages are inconsistent and do not match each other, nor do they correspond to the signatures appearing in the partnership deed. When the alleged signatures are visibly different and unverified, no legal inference of ownership can be drawn merely based on the same.*

3. *The AO has alleged that the seized material reflects attendance of partners in meetings, signatures, and payment of sitting fees, which allegedly proves that the books belong to the firm. However the partnership deed (Page 2 of the Paper Book) shows that the assessee firm has only 19 partners. In contrast, the seized documents record participation of 32, 28, and 29 individuals, including several persons who are not partners of the assessee firm, as established by comparing Page 23 (list of partners) with Pages 112, 113, and 114 (pages containing alleged meeting attendance records).*

   This inconsistency clearly demonstrates that the seized book does not belong to the assessee firm.

   The presence of signatures of persons who are not partners of the assessee firm in the "meeting of partners" further goes against the presumption that these records pertain to the assessee firm.

4. *The seized material shows that profits are being equally divided among 18 individuals under the notation "Messiar's Drawing." As against this, the partnership deed expressly sets out specific profit-sharing ratios among partners, which are unequal and distinct, thus establishing that the seized material does not belong to the assessee firm.*

5. *The individuals mentioned in the seized documents are partners in several entities and not exclusively in the assessee firm. Merely their names appearing in seized material does not conclusively prove that the books belong to the assessee firm.*

6. *The AO further relies on certain promissory notes (pronotes) found along with seized material to hold that the books belong to the assessee firm. It is most humbly submitted that at best, any addition based on such pronotes can be sustained only to the extent of pronotes found.*

7. *The Ld.DR in the course of submissions stated that in a few instances, statements were recorded from the purported borrowers who confirmed that they had borrowed monies and repaid to the assessee firm. However, it may be noted that intentionally the Department has chosen not to take any action against such person for violation of sections 269SS & 269ST, which clearly shows that the statements have not even been relied on completely by the Department and that the Department is only trying to use a pick and choose to attack the assessee firm and let go of the persons who gave the statements. This can also be understood as some kind of an inducement given to the persons who gave the statement by not using it against them. Further these statements recorded in terms of section 131 lack evidentiary value.*

8. *The Ld.DR in the course of his submissions explained the modus operandi by stating that Shri.P.Palanisamy was the controlling person and that the books belong to the firm and these are regular books and not mere loose sheets. In this connection, it is most humbly submitted that these are not regular books maintained by the firm as alleged by the Ld.DR and it cannot be taken as belonging to the firm, particularly in the light of demonstrable evidence to show that the books do not belong to the firm in the preceding paras and the tables annexed to this submission. Though the Ld.DR in the course of his submissions urged that the books found in the firm's premises must be taken as belonging to the firm, it is humbly submitted that no evidence was produced to show which books were belonging to which firm. At any rate, section 292C is only a presumption which is rebuttable and in the light of the overwhelming evidence to show that the books do not belong to the firm, the presumption u/s.292C cannot be pressed into service to treat the books as belonging to the firm.*

Without prejudice to the above, even if it is presumed that the seized material belong to the assessee, the addition cannot be made in the hands of the firm since the amounts brought in as capital / contribution, which form the basis of addition, is not unexplained as the seized material clearly refers to the names of the contributors which the Assessing Officer himself states in various places in the assessment order.

9. *The Assessing Officer has alleged that unexplained capital was introduced "under the guise of depositors." However, there is nothing whatsoever in the seized material to suggest that the monies were introduced in the guise of depositors. The allegation is purely based on assumption and surmise, not on any concrete evidence. When the documents explicitly record partner contributions, attributing those amounts to fictitious depositors is beyond the contents of the seized material and legally untenable.*

10. *Without any loan outstanding, interest alone has been computed for A.Ys.2014-15 and 2015-16, which clearly shows that the addition based on alleged seized material is without any logic or reasoning.*

11. *Without prejudice to the above contentions, even if the presumption u/s.292C is invoked and it is presumed that the seized papers reflect true contents then any addition based on such presumption, cannot be made in the hands of the assessee firm as the amounts appearing in the seized material only belong to the partners (even where it is not known how much belongs to each partner) appearing in the seized material, and not the firm as a whole. The firm cannot be taxed for contributions made by others. When the material itself identifies the contributors, there is neither scope nor justification for adding the amounts as unexplained income in the firm's hands.*

12. *Copy of seized material named as "Thittam1 Karur and Thittam2 Karur" in the Pen Drive given by the Department is kept in S.No.3 of Paper Book 3 (Pages 51 to 97 of Paper Book 3). The above documents are just reproductions of assessment order. The Thittam books based on which the additions have been made are not available and it is not known how the Assessing Officer arrived at the amount of addition for each year.*

13. Without prejudice to the above, amendment in section 115BBE increasing the rate of tax to 60% is not retrospectively applicable. The Hon'ble Madras High Court in S.M.I.L.E Microfinance Limited v ACIT 2024 SCC OnLine Mad 8416 (Pages 248 – 259 of Case Law Book 1) has categorically held that the rate of 60 percent is to be imposed only for the transactions from 01.04.2017. The above order of the Hon'ble Madras High Court has been followed in Naranbhai Samatbhai Bharwad, through legal heir Devrajbhai Naranbhai Bharwad v ITO in ITA No.272 Ahd 2024 Ahmedabad ITAT (Pages 260 – 270 of CL book). Therefore the Ld. CIT(A) erred in upholding the rate of 60 percent for the A.Ys.2014-15 to 2017-18 when the same would be applicable only for the transactions from 01.04.2017 onwards i.e., from assessment year 2018-19.

The reference to relevant page numbers in the assessment orders for assessment years 2014-15 to 2018-19 in connection with the above points are enclosed in a table format along with explanation as annexures 1 to 5 to this submissions."

84. The submissions advanced by the Ld.DR, which are common to the entire assessee group, have already been reproduced in Paras 69, 70 and 71 of this order. For the sake of brevity, these submissions are not reiterated herein. However, the submissions recorded in Paras. 69, 70 and 71 are taken on record and shall be treated as the submissions in respect of the assessee under consideration.

85. We have heard the rival arguments and perused the written submissions, paper books and all other materials placed on record. Upon careful consideration of the submissions of the Ld.DR and the material on record, it is apparent that even the Department acknowledges that Shri P.Palanisamy was operating and controlling multiple entities/firms across various locations, following a common accounting methodology. Such a fact, by itself, lends support to the

assessee's primary contention that mere references such as "PP/Partners" cannot, without more evidence, establish that the seized material relates exclusively to the assessee firm when there are multiple firms operating from each of the different locations (each of them having a different set of partners as is evidenced by the partnership deeds of the different firms furnished as part of the paper books filed by the assessee). The documents must contain clear and exclusive identification, such as the firm's name, address, PAN, business particulars, etc., to enable attribution to the assessee firm. We find that the AO has referred to the statement of Shri.D.S.Palanisamy, partner of the assessee firm, which is in Tamil and has been reproduced in the assessment order to state that Shri.D.S.Palanisamy in response to question no.6 has deposed that the books belong to the Assessee Firm. However, we find that the English translation of the relevant parts of the statement has been provided by the Ld. AR in the Paper Book and Shri.D.S.Palanisamy did not make any statement to the effect that the books seized belong to the assessee firm. The Ld.AR has pointed this out in his submissions which was not controverted by the Ld.DR.

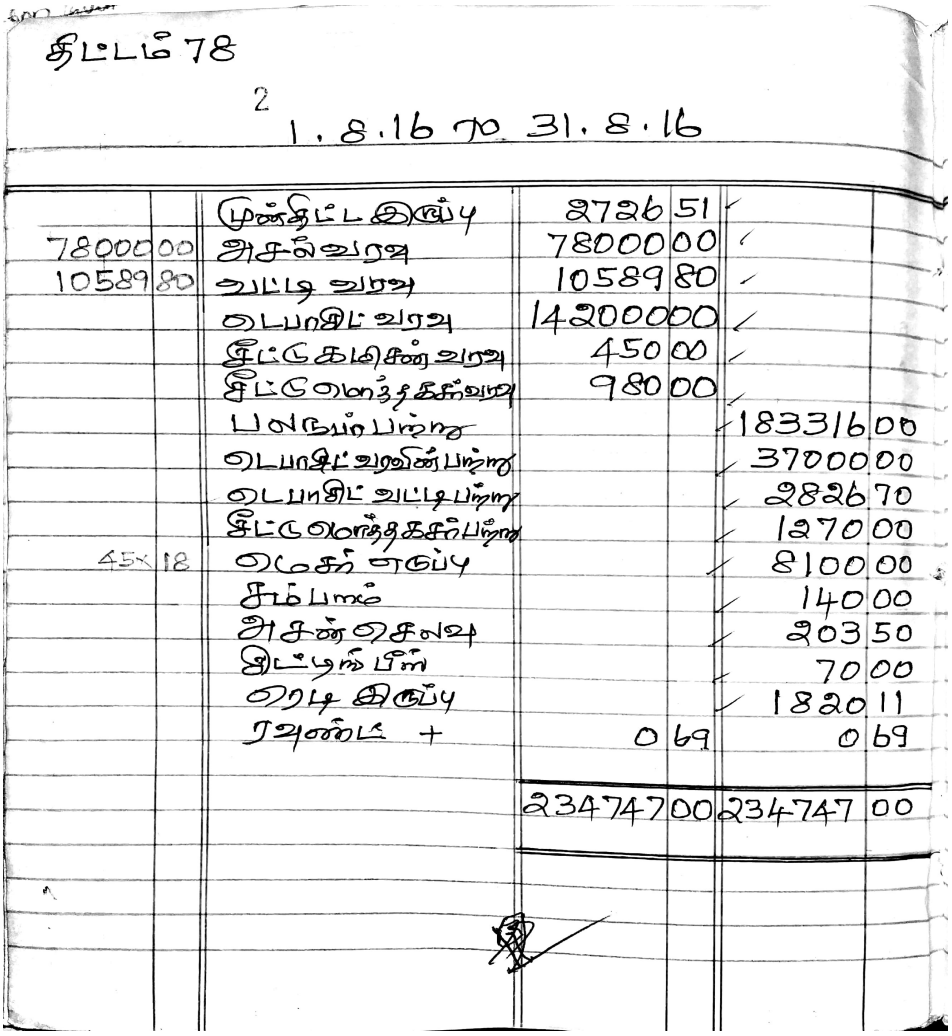
86. The Ld.DR further drew reference to seized material vide reference ANN/KN/PPF/B7D/S dated 11.08.2017 of Sl.No.41 as evidence that partners have been appearing for meeting and collecting sitting fees. It was submitted that the books contain names of Partners of the assessee firm and other related person

along with their signature. Further image of partners meeting held and sitting fee paid as appearing in the seized material has also been reproduced in the assessment order. We find that page 23 of Paper Book has English translation of the partnership deed listing out the partners of the assessee firm. Pages 112, 113 and 114 of the Paper Book has English translation of relevant pages of Assessment Order where AO refers to seized material having list of partners to whom sitting fees has been paid. From the partnership deed, we note that the assessee firm has 19 partners whereas meeting of partners held shows record of 32 partners, 28 partners and 29 partners having attended the meeting. Therefore, if we apply presumption u/s.292C, then the conclusion that can be drawn is that the seized books does not belong or pertain to the assessee firm (which has only 19 partners) since the seized books indicate present of more than 19 partners. This proves that the books does not belong to or pertain to the assessee. Further on comparison of page 23 with pages 112, 113 and 114, we find that many persons such as V.Muthusamy, V.Murugesan, R.K.Kathirvel, V.Raja, M.Periyasamy, PML Kumar, PMS Kumar, P.Chellamuthu, K.Duraisamy, K.Kalimuthu, K.Karthik. P.Cheyyan, JPT Baskaranm, C.Karthik, K.Sivasamy and many others names in the seized material are not actually partners of the assessee firm. The presence of signatures of non-partners in a document purporting to record meeting of partners and payment of sitting fees to non-

partners goes against the presumption u/s.292C that the seized material belongs to or pertains to the assessee firm.

We further find that there is a noting against the entry "Messiar's drawing" in the seized material indicating that profit is equally split between 18 partners whereas the share of profit as per partnership deed is different as we can see from Page 12 & 13 of the Paper Book and also there are 19 partners in the appellant as against 18 mentioned against in the noting against the entry "Messiar's drawing"

87. We further find that reliance on the "thittam" books being initialed as "PP" is not a reliable basis to connect the books to the assessee, for the reason the P.Palanisamy is partner in various firms across various locations and therefore presence of his initials alone does not conclusively prove that the books belong to or pertain to the assessee. Moreover, the initials appearing in the seized material are not uniform and differ from page to page, including the pages relied upon in the assessment order. Therefore, the reliance placed on such initials is legally untenable. The page referred to in the assessment order is reproduced below, which demonstrates that the signature of the Shri.P.Palanisamy does not correspond with the signature reproduced below:



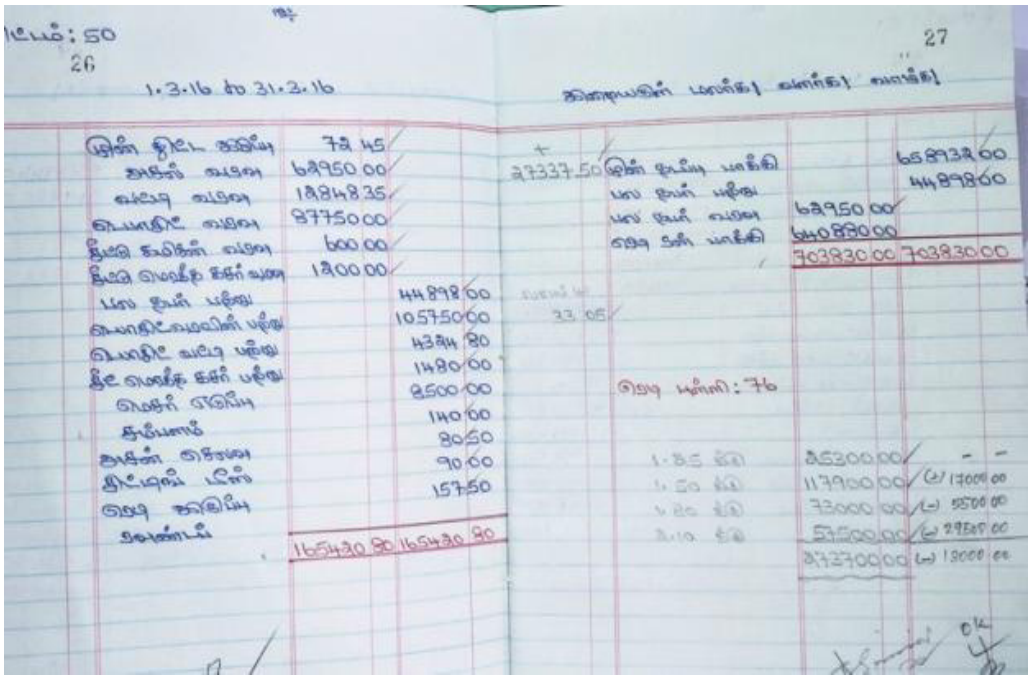
திட்டம் 78

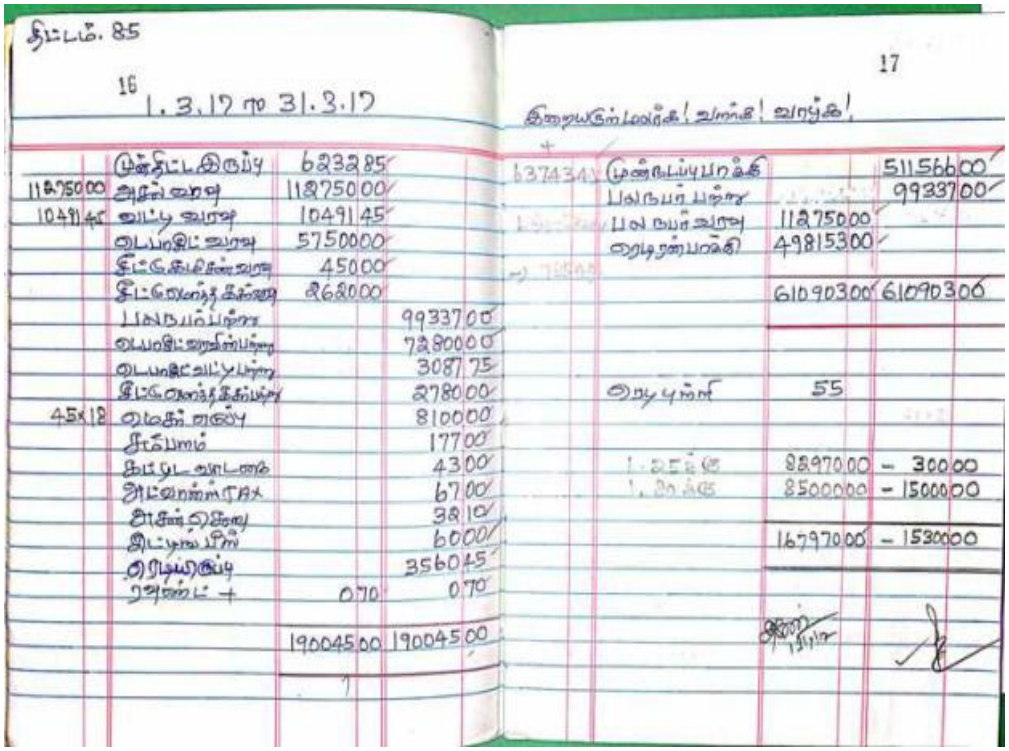
2

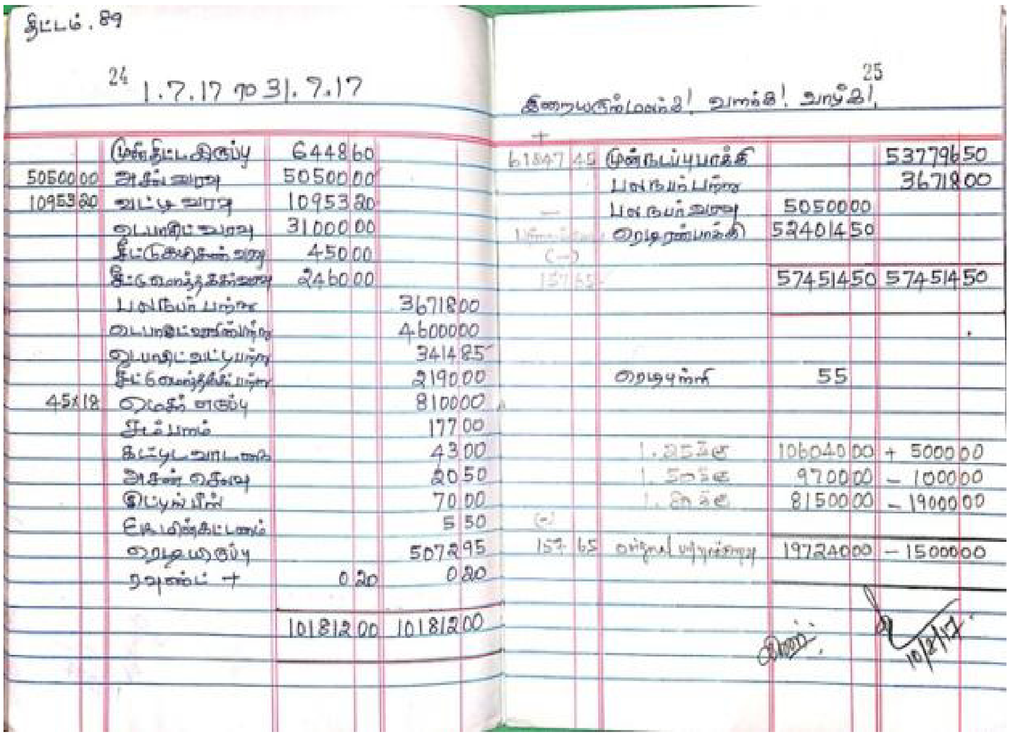
1.8.16 to 31.8.16

	முன்திட்ட இருப்பு	2726	51		
7800000	அசல்வரவு	7800000			
1058980	வட்டி வரவு	1058980			
	டெபாசிட் வரவு	14200000			
	தீட்டுகழிவுக்கு வரவு	45000			
	தீட்டுமைத்துகழிவு	98000			
	பலநேரம்பற்று			1833160	00
	டெபாசிட்வரவுபற்று			3700000	
	டெபாசிட் வட்டிபற்று			282670	
	தீட்டுமைத்துகழிபற்று			127000	
45×18	மேஸ்திருப்பு			810000	
	சம்பளம்			14000	
	அசன்ஷெனவு			20350	
	திட்டிங்பீஸ்			7000	
	ரொக்க இருப்பு			182011	
	ரவுண்ட் +		069		069
		23474700		23474700	

88. Apart from the above, there are several pages of thittam books reproduced in the assessment order itself, which either does not contain any signature at all or the signature does not correspond to the signature of Shri.P.Palanisamy, which is reproduced below:







திட்டம். 89

24 1.7.17 to 31.7.17

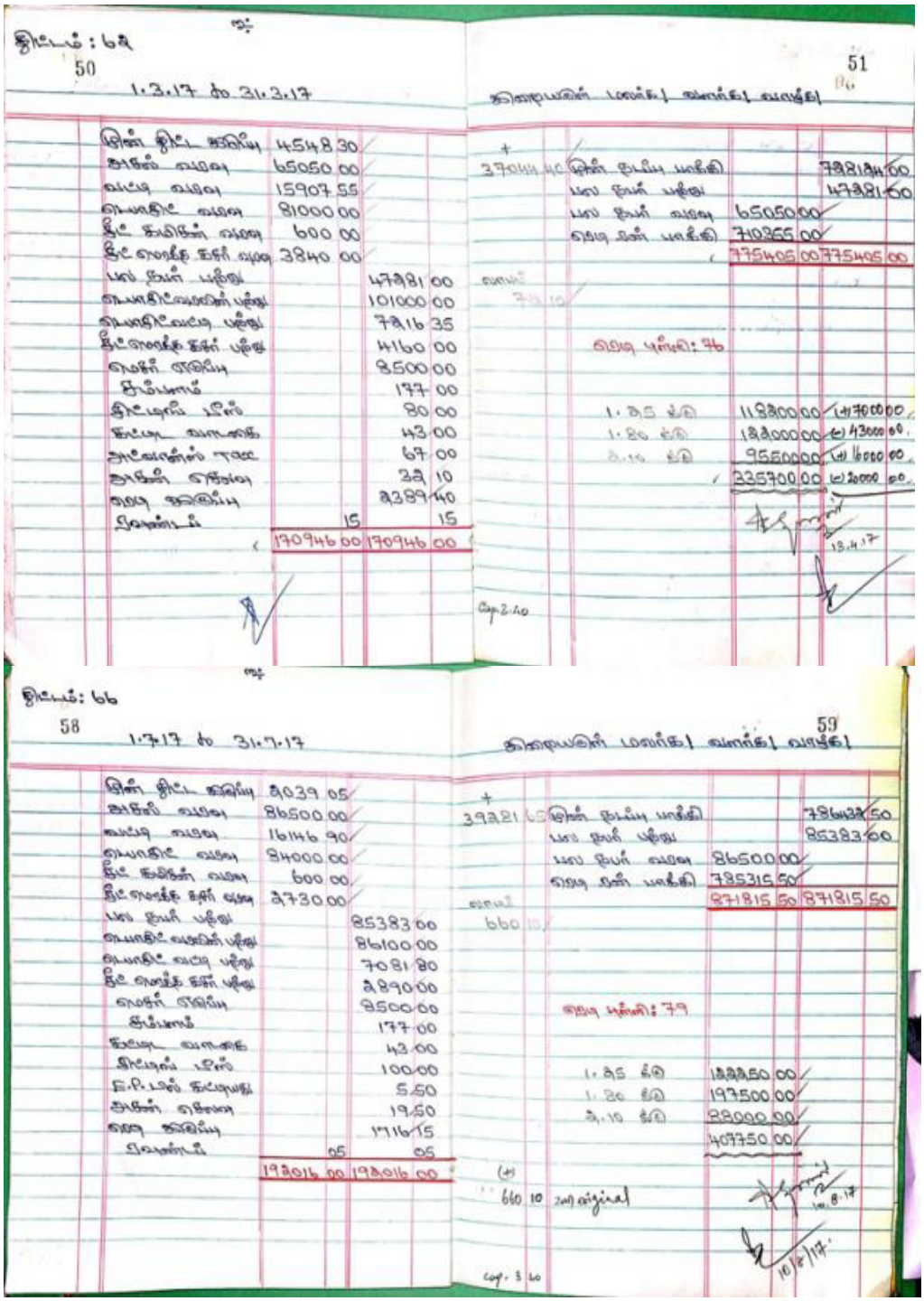
	முன்திட்ட இருப்பு	6448.60	
50500.00	அசல் வரவு	50500.00	
10953.20	வட்டி வரவு	10953.20	
	டெபாசிட் வரவு	31000.00	
	[illegible] வரவு	450.00	
	[illegible] வரவு	2460.00	
	பைனான்ஸ் பற்று		36718.00
	டெபாசிட் [illegible] பற்று		46000.00
	டெபாசிட் வட்டி பற்று		3414.85
	[illegible] பற்று		2190.00
45x18	[illegible]		8100.00
	சம்பளம்		177.00
	கட்டிட வாடகை		43.00
	[illegible]		20.50
	[illegible]		70.00
	EB மின்கட்டணம்		5.50
	ரொக்க இருப்பு		5072.95
	ரவுண்ட் +	0.20	0.20
		101812.00	101812.00

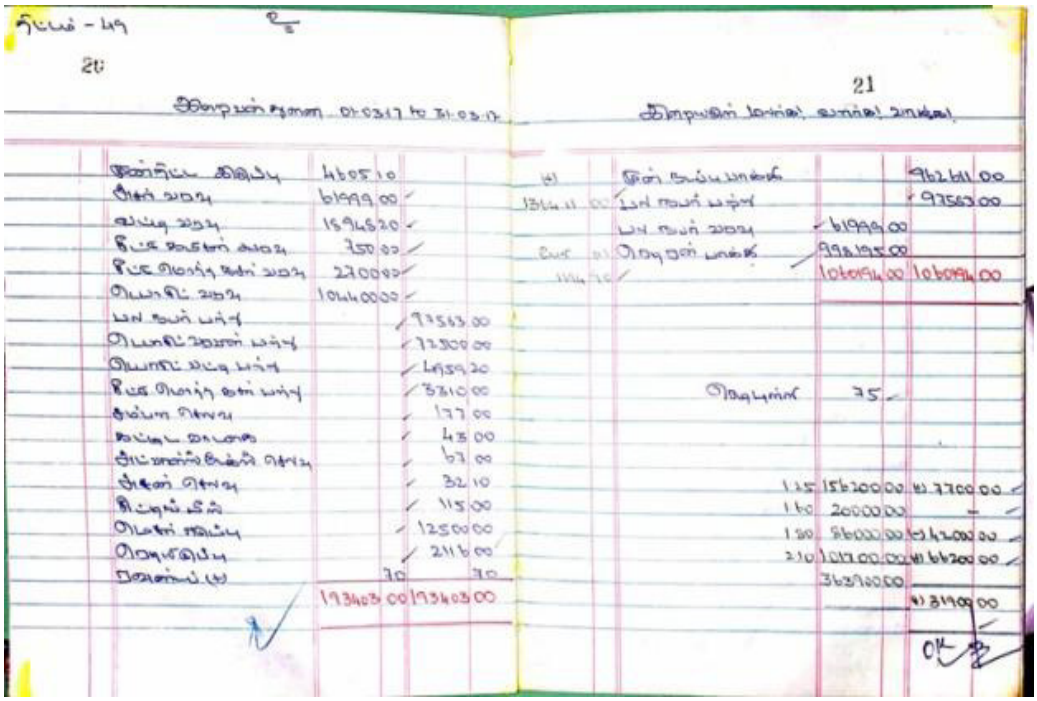
25

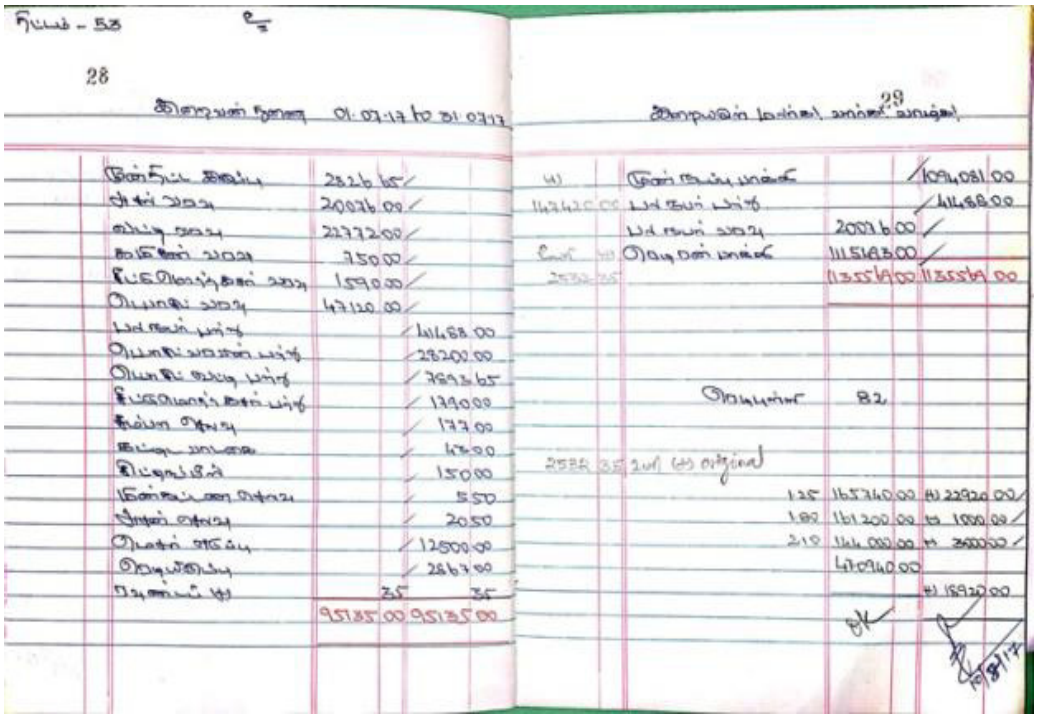
[illegible]! வாழ்க! வாழ்க!

+			
61847.45	முன் நடப்பு பாக்கி (?)		537796.50
	பைனான்ஸ் பற்று		36718.00
—	பைனான்ஸ் வரவு	50500.00	
[illegible]	ரொக்கம் பாக்கி (?)	524014.50	
(—)			
157.65		574514.50	574514.50
	[illegible]	55	
	1.25 [illegible]	106040.00	+ 5000.00
	1.5 [illegible]	9700.00	− 1000.00
	1. [illegible]	8150.00	− 19000.00
(−)			
157.65	[illegible]	197240.00	− 15000.00

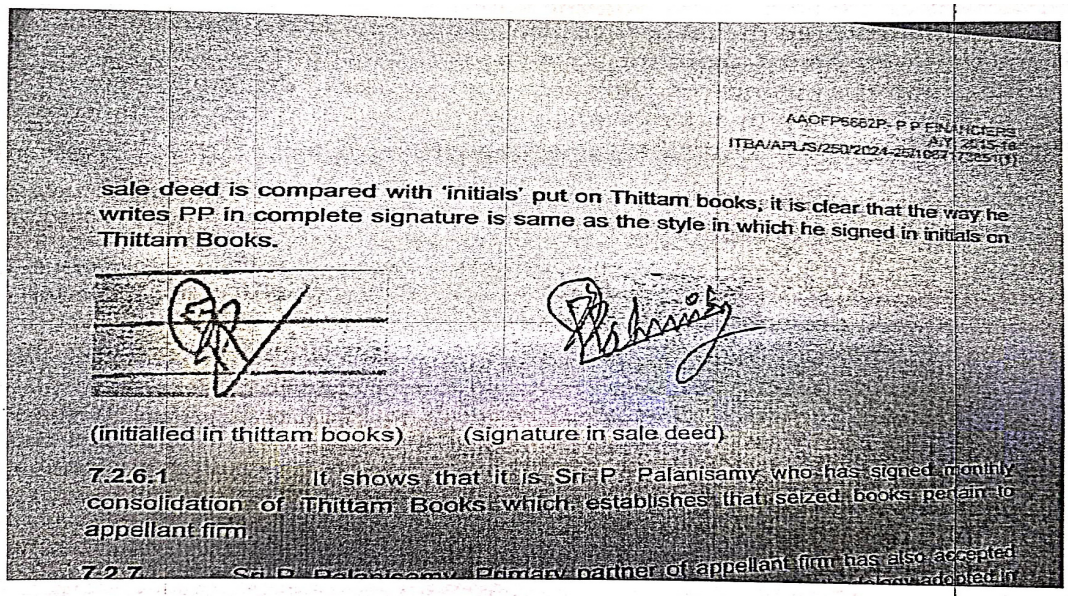
10/8/17







89. We note even where there are signatures, they are not uniform and also do not match with the comparison of signature made by the ld.CIT(A) (Comparing signature is not the domain of the ld.CIT(A), it is left to handwriting experts) which is reproduced below:



90. In the present matter, we find that the seized documents, as reproduced and relied upon in the assessment order, do not contain any explicit or specific reference to the assessee firm. It is an admitted fact that Shri P. Palanisamy is a partner in the assessee firm as well as in several other entities. Consequently, the conclusion that the seized books belong to or pertain to the assessee firm solely because they bear purported initials of Shri P. Palanisamy cannot be sustained in law, particularly when the said initials are not uniform and appear to differ across the seized material.

91. On the presumption u/s.292C we find that Section 292C uses the words "it may be presumed" and the Hon'ble Apex Court in P. R. Metrani v. CIT 287 ITR 209 (SC) explained the concept of presumptions and expression "may be presumed" as under-

> *"22. A presumption is an inference of fact drawn from other known or proved facts. It is a rule of law under which courts are authorized to draw a particular inference from a particular fact. It is of three types, (i) "may presume", (ii) "shall presume" and (iii) "conclusive proof". "May presume" leaves it to the discretion of the Court to make the presumption according to the circumstances of the case. "Shall presume" leaves no option with the Court not to make the presumption. The Court is bound to take the fact as proved until evidence is given to disprove it. In this sense such presumption is also rebuttable. "Conclusive proof gives an artificial probative effect by the law to certain facts. No evidence is allowed to be produced with a view to combating that effect. In this sense, this is irrebuttable presumption"*

Relying on the above decision of the Hon'ble Supreme Court, we find that the presumption u/s.292C by usage of the word "may" gives discretionary powers to adopt the presumption and also makes the presumption rebuttable.

92. The surrounding circumstances, namely i) the absence of any exclusive identification of the assessee firm, ii) the admitted multiplicity of entities where Shri P. Palanisamy is a partner iii) presence of signature of non-partners in the meeting of partners and payment of sitting fees to non-partners and iv) the initials relied upon not being uniform in the seized materials and further being absent in some sized materials, render the attribution of the seized

material to the assessee firm speculative at best. Therefore, in the instant case, while there is evidence to the contrary, there is no evidence to show that the seized material belongs to or pertains to the appellant. We further note that without any outstanding loan, interest alone has been computed for A.Ys. 2014-15 & 2015-16 at Rs.36,90,225/- and Rs.1,62,93,605/-, respectively which points towards unreliability of the seized material. Further, the seized documents themselves record the names of persons who introduced monies as capital contributions or funds. Once the documents identify the contributors, the foundational premise of treating such monies as "unexplained" in the hands of the assessee firm becomes untenable. Consequently, any addition, if warranted and if at all permissible on the basis of such entries, can only be examined in the hands of the respective persons who introduced the capital or funds, and not in the hands of the assessee firm. For the foregoing reasons, we hold that the additions based on the seized material cannot be sustained in the hands of the assessee. Accordingly, the appeal of the assessee is allowed on Ground Nos.5 and 9 of the modified grounds on merits, and the remaining grounds on merits are not adjudicated and are left open.

93. We note that the Ld.AR has raised various grounds on merits but has not made any serious submissions regarding the cash seized from the premises of the assessee amounting to Rs.87,59,025/- which has been added as unexplained money u/s.69A in the

A.Y.2018-19. Accordingly, we hold that the cash belongs to the assessee from whose premises it was recovered, and therefore this ground of the assessee is dismissed.

94. The Ld.AR has further contended that the enhanced rate of tax u/s.115BBE cannot be invoked for assessment years prior to AY 2018-19. Although this issue has become academic, following the decision of the Hon'ble Madras High Court in S.M.I.L.E. Microfinance Limited v. ACIT (SCC OnLine Mad 8416), we have held in the case of P. Palanisamy that the enhanced rate of 60% prescribed u/s. 115BBE is not applicable to transactions that occurred before 01.04.2017. The ratio of the decision on this issue in P. Palanisamy shall apply mutatis mutandis to the case of the assessee.

VIII. PP Financiers (Chennai) – AYs 2015-16 to 2018-19

A.Y.	ITA NO.
2015-16	219 / Chny /2025
2016-17	200 / Chny /2025
2017-18	221 / Chny /2025
2018-19	222 / Chny /2025

95. Since we have refrained from adjudicating the legal issue of approval u/s.153D of the Act for the reason that the issue is kept open as held in the case of P.Palanisamy in para 42 and 43(supra), we proceed to adjudicate the appeal on merits of the case. The year-wise additions made by the Assessing Officer are tabulated as follows:

A.Y.	Undisclosed investment u/s.69	Undisclosed business income u/s.28	Unexplained money u/s.69A
	Outstanding loan as per Ready Run Baki Book and Nippu Baki Book	Interest income as per seized material	Cash seized
2015-16	1,15,47,219	49,97,408	-
2016-17	16,84,756	1,26,12,474	-
2017-18	18,02,995	1,10,64,554	-
2018-19	3,97,480	46,34,647	6,18,560
Total	1,54,32,450	3,33,09,083	6,18,560

96. The Ld.AR argued forcefully that the documents seized, upon which the Assessing Officer has based the impugned additions, do not belong to the assessee firm. It was contended that the seized records referred to in the assessment order are replete with inconsistencies and therefore do not provide any evidence to establish that they pertain to the assessee firm. It was further submitted that even if it is presumed that the seized material belongs to the assessee firm, no addition can be sustained on the basis of capital contributions or funds, which form the foundation of the additions, since the seized documents themselves disclose the identities of the contributors. This fact has also been acknowledged by the Assessing Officer at various points in the assessment order. The written submissions of the Ld.AR are reproduced below:

"Based on the following points, it is most humbly submitted that there is no evidence to establish that the seized material belongs to or pertains to the assessee firm and even if it is presumed so, the addition cannot be made in the hands of the firm since the amounts brought in as capital / contribution, which form the basis of addition, is not unexplained as the

seized material clearly refers to the names of the contributors which the Assessing Officer himself states in various places in the assessment order.

- *The Assessing Officer has attempted to attribute ownership of the seized books and loose sheets to the assessee firm based on alleged statements of Shri G.Periasamy, Manager of the firm. However, a careful reading of the sworn statement, as reproduced in the assessment order and as translated in the Paper Book, clearly shows that nowhere has the manager stated that the seized material belong to the assessee firm. The statement merely explains the general nature of the finance business and the sharing of profits among partners, it does not attribute ownership of the seized papers to the assessee firm. Thus, the AO's claim is an incorrect inference not supported by any express or implied admission.*

- *Similarly, in another instance, the AO again asserts that Shri G.Periasamy confirmed the books are maintained by the assessee firm, but even in that reproduced statement, there is no reference to the assessee firm's involvement in maintaining or owning such material. The statements do not identify the seized loose sheets as belonging to the firm, nor do they reflect that such records form part of the firm's books of accounts. Therefore, the AO's conclusion is contrary to the record and lacks factual and legal foundation.*

- *The seized material comprises unsigned, unauthenticated sheets, some of which merely have initials without date or identification, and the initials do not even belong to any partner or authorized person of the assessee-firm. In certain pages, a signature appears, but it is undated, unverified, and not that of any person connected with the assessee. None of these seized material bear the firm's name, PAN, letterhead, or any indication linking them to the assessee. The AO has not discharged the burden of proving that the documents belong to, or were maintained by, the assessee firm nor has the AO been able to prove the justification for addition with corroborative evidence. Therefore, it is most humbly submitted that the addition is not warranted in the facts and circumstances of the case.*

- *Without prejudice to the above, amendment in section 115BBE increasing the rate of tax to 60% is not retrospectively applicable. The Hon'ble Madras High Court in S.M.I.L.E Microfinance Limited v ACIT 2024 SCC OnLine Mad 8416 (Pages 248 – 259 of Case Law Book 1) has*

categorically held that the rate of 60 percent is to be imposed only for the transactions from 01.04.2017. The above order of the Hon'ble Madras High Court has been followed in Naranbhai Samatbhai Bharwad, through legal heir Devrajbhai Naranbhai Bharwad v ITO in ITA No.272 Ahd 2024 Ahmedabad ITAT (Pages 260 – 270 of CL book). Therefore the Ld. CIT(A) erred in upholding the rate of 60 percent for the A.Ys.2015-16 to 2017-18 when the same would be applicable only for the transactions from 01.04.2017 onwards i.e., from assessment year 2018-19.

The reference to relevant page numbers in the assessment orders for assessment years 2015-16 to 2018-19 in connection with the above points are enclosed in a table format along with explanation as annexure 1 to 4 to this submissions."

97. The submissions advanced by the Ld.DR, which are common to the group of assessees, have already been reproduced in Paras 69, 70 and 71 of this order. For the sake of brevity, they are not reiterated herein. However, the submissions recorded in Paras 69, 70 and 71 are taken on record as the submissions in respect of the assessee currently under consideration.

98. We have heard the arguments advanced by both parties and perused the written submissions, paper books, and all materials on record. On a careful consideration of the submissions of the Ld.DR and the evidentiary material, it is apparent that even the Department concedes that Shri P.Palanisamy operated and controlled multiple entities/ firms across various locations, all of which purportedly followed a uniform accounting methodology. This admission, in itself, lends support to the assessee's primary argument that mere references such as "PP / Partners" cannot, in the absence of exclusive and specific identification, cannot be

themselves, conclusively establish that the seized documents belong to or pertain to the assessee firm, when there are multiple firms operating from each of the different locations (each of them having a different set of partners as is evidenced by the partnership deeds of the different firms furnished as part of the paper books filed by the appellant). For the documents to be attributable to the assessee, there must be clear and exclusive identification such as the firm's name, address, PAN, or other business particulars.

99. In the present case, the seized material reproduced and relied upon in the assessment order does not contain any direct or specific reference to the assessee firm. Shri P.Palanisamy is admittedly a partner in the assessee firm as well as in several other firms; therefore, the inference that the seized books belong to or pertain to the assessee firm merely because they bear purported initials of Shri P.Palanisamy is not legally sustainable. This is particularly so when the alleged initials are not uniform and appear to vary across the seized material.

100. We further note that the Ld.DR has not specifically controverted the submission of the Ld.AR that the Assessing Officer sought to link the seized books/ loose sheets to the assessee firm by relying on the sworn statements of Shri G. Periasamy. A plain reading of the reproduced statements, along with the translations furnished by the Ld.AR, shows that Shri G.Periasamy does not admit that the seized material belongs to the assessee firm or forms part

of its books of account. The statements refer only generally to the finance business and profit-sharing arrangements. Although the Assessing Officer contends that Shri G.Periasamy "confirmed" that the books were maintained by the assessee firm, there is no such confirmation in the statements, nor does Shri G.Periasamy identify the seized loose sheets/ books as connected with the firm or forming part of its accounts. Consequently, the Assessing Officer's conclusion is contrary to what is recorded in the statement and therefore reliance on the statement of Shri G. Periasamy is not relevant. Accordingly, in the instant case there is no evidence to show that the books belong to or pertain to the assessee firm.

101. On the presumption u/s.292C we find that Section 292C uses the words "it may be presumed" and the Hon'ble Apex Court in P. R. Metrani v. CIT 287 ITR 209 (SC) explained the concept of presumptions and expression "may be presumed" as under-

> *"22. A presumption is an inference of fact drawn from other known or proved facts. It is a rule of law under which courts are authorized to draw a particular inference from a particular fact. It is of three types, (i) "may presume", (ii) "shall presume" and (iii) "conclusive proof". "May presume" leaves it to the discretion of the Court to make the presumption according to the circumstances of the case. "Shall presume" leaves no option with the Court not to make the presumption. The Court is bound to take the fact as proved until evidence is given to disprove it. In this sense such presumption is also rebuttable. "Conclusive proof gives an artificial probative effect by the law to certain facts. No evidence is allowed to be produced with a view to combating that effect. In this sense, this is irrebuttable presumption"*

Relying on the above decision of the Hon'ble Supreme Court, we find that the presumption u/s.292C by usage of the word "may" gives discretionary powers to adopt the presumption and also makes the presumption rebuttable.

102. Therefore, even assuming that the presumption u/s.292C is invoked, it remains a rebuttable presumption, and the surrounding circumstances namely, i) the absence of exclusive identification of the assessee firm ii) the admitted multiplicity of entities where Shri P.Palanisamy is a partner and iii) contrary to the contention of the AO, G.Periasamy having not stated that the books belong to appellant, render the attribution of the seized material to the assessee firm speculative at best. Therefore in the instant case, there is no evidence to show that the seized material belongs to or pertains to the appellant. Most importantly, the seized material itself records the names of persons who introduced monies by way of capital contribution or funds. Once the documents identify the contributors, the foundational premise of treating such monies as "unexplained" in the hands of the firm becomes untenable. Consequently, any addition, if warranted and if at all permissible on the basis of such entries, can only be examined in the hands of the respective persons who introduced the capital or funds, and not in the hands of the assessee firm. Based on the foregoing, we hold that the additions based on the seized material cannot be sustained in the hands of the assessee. Accordingly, the assessee's appeal is

allowed on Ground Nos.5 and 9 of the modified grounds on merits, and the remaining grounds on merits are not adjudicated and are left open.

103. However, it is noted that the Ld.AR has raised several grounds on merits but has not made any substantive submissions regarding the cash seized from the premises of the assessee amounting to Rs.6,18,560/- which has been added as unexplained money u/s.69A in the A.Y.2018-19. Therefore, we hold that the cash belongs to the assessee from whose premises it was seized and dismiss this ground of the assessee.

104. On the next issue, the Ld.AR has contended that the provisions of section 115BBE, which prescribe higher rates of tax, cannot be invoked for assessment years prior to AY 2018-19. Although this issue has become academic, following the decision of the Hon'ble Madras High Court in S.M.I.L.E Microfinance Limited v. ACIT (SCC OnLine Mad 8416), we have held in the case of P. Palanisamy that the enhanced rate of 60% prescribed u/s. 115BBE is not applicable to transactions that occurred prior to 01.04.2017. The ratio of the decision on this issue in P. Palanisamy shall apply mutatis mutandis to the case of the assessee.

IX. PP Enterprises (Bengaluru) – AYs 2016-17 to 2018-19

A.Y.	ITA NO. (Assessee)	ITA NO. (Department)
2016-17	-	2528 / Chny / 2024
2017-18	3382 / Chny / 2024	2529 / CHNY / 2024
2018-19	3383 / Chny / 2024	2530 / Chny / 2024

105. Since we have refrained from adjudicating the legal issue of approval u/s.153D of the Act for the reason that the issue is kept open as held in the case of P.Palanisamy in para 42 and 43(supra), we proceed to adjudicate the appeal on merits of the case. The year-wise additions made by the Assessing Officer are tabulated as follows:

A.Y.	Unexplained interest income u/s.28 (Protective addition)	Incremental loan during the year added as unexplained investment u/s.69 (Protective addition)	Undisclosed investment u/s.69 (Substantive addition)	Undisclosed business income u/s.28 (Substantive addition)	Unexplained money u/s.69A (Substantive addition)
			Sum mentioned as loans and advances for the period 01.04.2016 to 05.02.2017 – as per ANN/ A3PP/1	Unexplained interest income on loan of Rs.2,17,45,000/- at 2.4% p.m	Cash Seized
2016-17	3,30,78,903	-	-	-	-
2017-18	7,97,59,770	44,60,120	2,17,45,000	62,62,560	-
2018-19	6,95,89,691	22,92,67,570	-	-	37,01,940
Total	18,24,28,364	23,37,27,690	2,17,45,000	62,62,560	37,01,940

106. The Ld.AR vehemently contended that the impugned addition has been made solely on the basis of loose sheets, without any corroborative material or supporting evidence. It was submitted

that, in the absence of any independent or reliable evidence, the addition cannot be sustained and is liable to be deleted. The written submissions filed by the learned Authorized Representative are reproduced below:

- *"The copy of the seized material marked as "A-A3PP-1", as referred to in the assessment order and supplied in the Pen Drive by the Department, has been placed at Serial No. 5 of Paper Book 3 (Page 23 of Paper Book 1). This material comprises a bunch of loose, unsigned sheets, and the entry relied upon by the Assessing Officer to make the substantive addition is extracted only from one of these unverified, unauthenticated loose papers. The seized sheet does not bear any signature. Loose sheets, being merely "dumb documents", have no evidentiary value unless supported by corroborative material. In absence of any linkage between this loose sheet and the assessee firm, no substantive addition can legally be sustained merely on such loose, unsigned, uncorroborated document.*

  Reliance is placed on the following cases where it has been held that addition cannot be made based on loose sheets, in S.No.1 to 5 of Case Law Book - 1:

Particulars	*Page No.*	*Para No.*
DCIT v Sunil Kumar Sharma [2024] 165 taxmann.com 846 (SC)	*3*	*-*
DCIT v Sunil Kumar Sharma [2024] 159 taxmann.com 179 (Karnataka)	*19*	*26*
Common Cause (A Registered Society) v UOI [2017] 77 taxmann.com 245 (SC)	*49 to 52*	*16 to 21*
CBI v V.C.Shukla and Others (1998) 3 SCC 410	*85, 86*	*37, 38, 39*
Shri Rajeshbhai Jivraj Desai v DCIT in ITA No.2291 / AHD / 2017 – Ahmedabad ITAT	*103, 105, 106*	*7, 10.5*

- *It is further submitted that the addition cannot be made in the hands of the firm since the amounts mentioned in the loose sheet clearly refers to the names of the contributors. It is submitted that, even if the presumption u/s.292C is invoked and it is presumed that the seized papers reflect true contents then any addition based on such presumption, cannot be made in the hands of the assessee firm as the amounts appearing in the seized material only belong to the other persons appearing in the seized material, and not the firm. The firm cannot be taxed for contributions made by others. When the material itself identifies the contributors, there is neither scope nor justification for adding the amounts as unexplained income in the firm's hands.*

- *With reference to the seized material provided by the Department during the course of hearing before the Hon'ble Income Tax Appellate Tribunal, the assessee wishes to submit that copy of seized material in "A-A3PP-1" as named in the Pen Drive given by the Department and referred in the Assessment Order of P.P.Enterprises, Bangalore is kept in S.No.5 of Paper Book 3 (Page 23 of Paper Book 1). The seized material in "A-A3PP-1" is a bunch of loose sheets and the material based on which the addition is made is a part of these random loose sheet. It is unsigned and refers to an odd period 01.04.2016 to 05.02.2017.*

Protective Addition

- *The protective addition made by the Assessing Officer is based solely on entries allegedly found in the books of PP Enterprises, which is the proprietary concern of Shri.P.Palanisamy, and is an entirely separate legal entity distinct from the assessee-firm, PP Enterprises, Bangalore having different address. It fact the Assessing Officer himself notes that the address of PP Enterprises, Bangalore (assessee firm) and that of PP Enterprises (Proprietary concern) are different in many places and also notes that the impugned addition is made based on documents found in the premises of PP Enterprises (Proprietary concern). It is most humbly*

submitted that the assessee firm cannot be taxed for entries appearing in the books of an independent proprietary concern of an individual and therefore the CIT(A) has rightly deleted the additions.

- *With reference to the seized material provided by the Department during the course of hearing before the Hon'ble Income Tax Appellate Tribunal, the assessee wishes to submit that the addition based on books of PP Enterprises (Proprietorship concern of Shri.P.Palanisamy) cannot be made in the hands of the assessee firm i.e., PP Enterprises, Bangalore. Further seized material referred in the assessment order being ANN/PPE/14, ANN/PPE/15 & ANN/PPE/18 has not been available and therefore it is not known how the Department has arrived at the assessed income.*

Without prejudice to the above, amendment in section 115BBE increasing the rate of tax to 60% is not retrospectively applicable. The Hon'ble Madras High Court in S.M.I.L.E Microfinance Limited v ACIT 2024 SCC OnLine Mad 8416 (Pages 248 – 259 of Case Law Book 1) has categorically held that the rate of 60 percent is to be imposed only for the transactions from 01.04.2017. The above order of the Hon'ble Madras High Court has been followed in Naranbhai Samatbhai Bharwad, through legal heir Devrajbhai Naranbhai Bharwad v ITO in ITA No.272 Ahd 2024 Ahmedabad ITAT (Pages 260 – 270 of CL book). Therefore the Ld. CIT(A) erred in upholding the rate of 60 percent for the A.Ys.2016-17 to 2017-18 when the same would be applicable only for the transactions from 01.04.2017 onwards i.e., from assessment year 2018-19.

The reference to relevant page numbers in the assessment orders for assessment years 2016-17 to 2018-19 in connection with the above points are enclosed in a table format along with explanation as annexure 1 to this submissions."

107. The submissions advanced by the Ld.DR, which are common to the entire assessee group, have been reproduced in Paras 69, 70 and 71 of this order. For the sake of brevity, these submissions are not reiterated herein. However, the submissions recorded in Paras 69, 70 and 71 are taken on record and are treated as submissions made in respect of the assessee presently under consideration.

108. The Ld.DR's specific rejoinder to the contentions raised by the Ld.AR, as they pertain to PP Enterprises (Bengaluru), is reproduced below:

"M/s. P.P. Enterprises Bangalore

The document marked a A-A3PP-1.
Those seized documents are not loose sheets and the Hon'ble bench itself during the course of argument remarked that those are not loose sheets but extracts from tally software. Due to the huge volume of the books and documents, only sample pages were taken from each books and documents and scanned copies were made part of the assessment orders. Therefore, the argument of the assessee is devoid of any merits. The long standing employee and Manager Shri Karuppasamy had admitted that the accounts of Firm are in Tally. Hence the unaccounted loan based on the Tally ledger was added in PP Enterprises Firm."

109. We have considered the arguments advanced by both parties and perused the written submissions, paper books, and all materials on record. On examining the substantive addition, it is observed that the complete set of documents constituting the seized material marked "A-A3PP-1", as provided by the Department to the Ld.DR via pen drive, has been placed before this Tribunal in its entirety as

part of Paper Book-3. A careful review of the documents reveals that although the contested page is a tally print-out, it does not form part of any continuous or coherent tally accounts or accounting record. Instead, it is merely one of several loose, random documents lacking continuity, authentication, or any connection that would qualify it as regular books of account. In other words, it does not constitute a running extract of the assessee's books of account but is an isolated loose sheet contained within a mixed bundle of miscellaneous papers. Accordingly, this loose sheet cannot be relied upon as admissible evidence merely because it is in tally print-out format.

110. On the presumption u/s.292C we find that Section 292C uses the words "it may be presumed" and the Hon'ble Apex Court in P. R. Metrani v. CIT 287 ITR 209 (SC) explained the concept of presumptions and expression "may be presumed" as under-

> *"22. A presumption is an inference of fact drawn from other known or proved facts. It is a rule of law under which courts are authorized to draw a particular inference from a particular fact. It is of three types, (i) "may presume", (ii) "shall presume" and (iii) "conclusive proof". "May presume" leaves it to the discretion of the Court to make the presumption according to the circumstances of the case. "Shall presume" leaves no option with the Court not to make the presumption. The Court is bound to take the fact as proved until evidence is given to disprove it. In this sense such presumption is also rebuttable. "Conclusive proof gives an artificial probative effect by the law to certain facts. No evidence is allowed to be produced with a view to combating that effect. In this sense, this is irrebuttable presumption"*

Relying on the above decision of the Hon'ble Supreme Court, we find that the presumption u/s.292C by usage of the word "may" gives discretionary powers to adopt the presumption and also makes the presumption rebuttable. The surrounding circumstances, including the absence of exclusive identification of the assessee firm and the admitted existence of multiple entities where Shri P.Palanisamy is a partner, render the attribution of the seized material to the assessee firm speculative at beat. Therefore, in the instant case, there is no evidence to show that the seized material belongs to or pertains to the appellant. More importantly, the seized material itself records the names of persons who introduced funds as capital contributions. Where the documents identify the contributors, the foundational premise of treating the funds as "unexplained" in the hands of the firm becomes unsustainable. Consequently, any addition if warranted and if at all permissible on the basis of such entries, can only be examined in the hands of the respective contributors and not in the hands of the assessee firm. For the foregoing reasons, we hold that the addition based on the seized material cannot be sustained in the hands of the assessee. Accordingly, the assessee's appeal is allowed on Ground Nos.5 and 9 of the modified grounds on merits, and the remaining grounds on merits are not adjudicated and are left open.

111. Regarding the protective addition, it is noted that its foundation is the alleged entries found in the books/materials of PP Enterprises (a proprietary concern of Shri P.Palanisamy), which is a separate and distinct legal entity from the assessee firm, PP Enterprises, Bengaluru. The assessee firm has a different address and separate existence, a fact acknowledged even in the assessment order. The address of PP Enterprises, Bengaluru (firm) is 21, 1st Floor, 17th E Cross, LBS Nagar, Indiranagar 2nd Stage, Bengaluru–560038, whereas the address of PP Enterprises (proprietary concern) is No.22/1, 18th Cross, Lakshmipuram, Ulsoor, Bengaluru–560008. The protective addition was made based on materials seized from the premises of the proprietary concern and therefore are not based on any seized material that belongs to or pertains to the appellant firm. Therefore, the protective addition in the hands of the assessee firm was rightly deleted by the ld.CIT(A). We accordingly uphold the ld.CIT(A)'s decision and dismiss the Revenue's appeals on this issue.

112. It is further noted that the Ld.AR raised several grounds on merits but did not advance substantial submissions regarding the cash seized from the premises of the assessee amounting to Rs.37,01,940/- which has been added as unexplained money u/s.69A in the A.Y.2018-19. Consequently, we hold that the cash belongs to the assessee from whose premises it was seized, and this ground of the assessee is dismissed.

113. On the next issue, the Ld.AR contended that the enhanced rate of tax u/s.115BBE cannot be invoked for assessment years prior to AY 2018-19. Although this issue has become academic, relying on the decision of the Hon'ble Madras High Court in S.M.I.L.E. Microfinance Limited v. ACIT (SCC OnLine Mad 8416), we have held in the case of P. Palanisamy that the higher rate of 60% prescribed u/s. 115BBE is not applicable to transactions occurring prior to 01.04.2017. The ratio of that decision is applied mutatis mutandis to the facts of the present case.

X. PP Enterprises (Oddanchatram) – AYs 2017-18 & 2018-19:

A.Y.	ITA NO.
2017-18	3365 / Chny / 2024
2018-19	3366 / Chny / 2024

114. The facts pertaining to the issue u/s.153C in the case of PP Enterprises (Oddanchatram) mirror those in the case of P.Palanisamy, particularly with regard to the issuance of a combined satisfaction for assessment years 2017–18 and 2018–19, which is invalid. Accordingly, the ratio of the decision in P.Palanisamy as held in paras 28 to 28.2 (supra) applies mutatis mutandis to the present case. Having regard to the fact that the Hon'ble Supreme Court has dismissed the Special Leave Petition filed by the Revenue in DCIT v. Sunil Kumar Sharma (supra), we follow the decision of the Hon'ble Karnataka High Court in the same matter and hold that the

combined satisfaction issued in the present case for AYs 2017-18 and 2018-19 is contrary to the requirements of section 153C, which mandates separate satisfaction for each assessment year. Consequently, the entire assessment proceedings are vitiated. In reaching this conclusion, reliance is also placed on the decision of the Hon'ble Supreme Court in CIT v. Vegetable Products Ltd. [1973] 88 ITR 192 (SC), wherein it was held that where two interpretations are possible, the interpretation favourable to the assessee must be adopted. Therefore, since the satisfaction recorded u/s.153C is not in accordance with law by virtue of being a combined satisfaction, the assessment proceedings for AYs 2017-18 and 2018-19 are quashed.

115. Since we have refrained from adjudicating the legal issue of approval u/s.153D of the Act for the reason that the issue is kept open as held in the case of P.Palanisamy in para 42 and 43(supra), we proceed to adjudicate the appeal on merits of the case. The year-wise additions made by the Assessing Officer are tabulated as follows:

A.Y.	Undisclosed investment u/s.69	Undisclosed business income u/s.28	Unexplained money u/s.69A
Description	Outstanding loan as per Ready Run Baki Book	Interest income as per seized material	Expenses claimed in ROI disallowed for not providing bills and vouchers

2017-18	6,06,66,210	39,78,455	-
2018-19	1,52,09,540	2,05,09,714	35,68,039
Total	7,58,75,750	2,44,88,169	35,68,039

116. The Ld.AR strongly contended that the seized materials, upon which the Assessing Officer based the impugned additions, do not belong to or relate to the assessee firm. He highlighted various discrepancies and inconsistencies in the seized documents that were relied upon in the assessment order and argued that there is no evidence to connect the seized material exclusively to the assessee firm. Even if it is assumed, arguendo, that the seized material pertains to the assessee, the additions cannot be sustained because the alleged capital contributions or funds reflected in the seized material are not "unexplained." The documents themselves clearly record the names of the persons who made the contributions, a fact which the Assessing Officer has also acknowledged at several places in the assessment order. The written submissions filed by the Ld.AR are reproduced below:

> *"Based on the following points, it is most humbly submitted that there is no evidence to establish that the seized material belongs to or pertains to the assessee firm.*
>
> 4. *The Assessing Officer relies upon a statement of N.Sundaramoorthy referring to the alleged commencement of regular business of assessee firm on 04.09.2016. This is factually incorrect because the partnership deed itself was executed only on 19.12.2016. Hence, no business could have been carried out by the assessee firm before that date. The statement relied upon has been subsequently retracted and therefore reliance on this statement to attribute seized books*

to the assessee firm is both factually incorrect and legally untenable.

In this connection, reliance is placed on the following cases where it has been held that addition cannot be made solely based on statement recorded during search, in S.No.6 to 11 of Case Law Book - 1:

Particulars	*Page No.*	*Para No.*
CBDT's Instruction F.NO. 286/2/2003-IT (INV. II), dated 10.3.2003	*109*	*-*
CBDT Letter in F.No.286/98/2013 – IT(Inv.II) dated 18.12.2014	*110*	*-*
Ramachandra Setty & Sons [2024] 163 taxmann.com 666 (Bangalore - Trib.)	*179*	*13.50, 13.51*
Kailashben Mangarlal Chokshi Vs. CIT [2008] 174 Taxman 466 (Guj.)	*205*	*26*
Shree Chand Soni v DCIT [2006] 101 TTJ (JD) 1028	*215*	*46, 47*
Basant Bansal v ACIT [2015] 63 Taxmann.com 199 (Jaipur - trib.)	*240, 241*	*2.26, 2.27*

5. *The AO relies on a "consortium of lenders" list, which contains names of 38 persons. This fundamentally disproves that the books relate to the assessee firm, because as per the partnership deed, the assessee firm has only 18 partners. None of the firms in the assessee group has 38 partners. Therefore, the seized records do not pertain to the assessee firm or any firm within the group. This is conclusive proof that the seized records are not the books of the assessee firm*

6. *The AO has categorically stated that the firm "failed to explain source of capital introduced through Partners and through Depositors found in Thittam Notes," thereby acknowledging that the source of the entries is partners. The seized entries do not represent transactions of the firm.*

7. The individuals mentioned in the seized documents are partners in several entities and not exclusively in the assessee firm. Merely their names appearing in seized material does not conclusively prove that the books belong to the assessee firm.

14. The Ld.DR in the course of submissions stated that in a few instances, statements were recorded from the purported borrowers who confirmed that they had borrowed monies and repaid to the assessee firm. However, it may be noted that intentionally the Department has chosen not to take any action against such person for violation of sections 269SS & 269ST, which clearly shows that the statements have not even been relied on completely by the Department and that the Department is only trying to use a pick and choose to attack the assessee firm and let go of the persons who gave the statements. This can also be understood as some kind of an inducement given to the persons who gave the statement by not using it against them. Further these statements recorded in terms of section 131 lack evidentiary value.

15. The Ld.DR in the course of his submissions explained the modus operandi by stating that Shri.P.Palanisamy was the controlling person and that the books belong to the firm and these are regular books and not mere loose sheets. In this connection, it is most humbly submitted that these are not regular books maintained by the firm as alleged by the Ld.DR and it cannot be taken as belonging to the firm, particularly in the light of demonstrable evidence to show that the books do not belong to the firm in the preceding paras and the tables annexed to this submission. Though the Ld.DR in the course of his submissions urged that the books found in the firm's premises must be taken as belonging to the firm, it is humbly submitted that no evidence was produced to show which books were belonging to which firm. At any rate, section 292C is only a presumption which is rebuttable and in the light of the overwhelming evidence to show that the books do not belong to the firm, the presumption u/s.292C cannot be pressed into service to treat the books as belonging to the firm.

Without prejudice to the above, even if it is presumed that the seized material belong to the assessee, the addition cannot be made in the hands of the firm since the amounts brought in as capital / contribution, which form the basis of addition, is not unexplained as the seized material clearly refers to the names of the contributors which the Assessing Officer himself states in various places in the assessment order.

8. *The Assessing Officer has alleged that unexplained capital was introduced "under the guise of depositors." However, there is nothing whatsoever in the seized material to suggest that the monies were introduced in the guise of depositors. The allegation is purely based on assumption and surmise, not on any concrete evidence. From books seized it can be seen that the credit entries are mentioned as receipt from Partners, PP & Anonymous When the documents explicitly record partner contributions, attributing those amounts to fictitious depositors is beyond the contents of the seized material and legally untenable*

9. *The Assessing Officer himself has reproduced the statement recorded u/s. 132(4) from Shri.N.Sundaramoorthy, wherein it is clearly admitted that the firm is funded only by Partners, and unsecured loans are arranged by partners from their own contacts, friends, and relatives. Therefore the capital / contributions to the firm stands fully explained and there is no scope to add any sum as unexplained in the hands of the firm.*

10. *Without prejudice to the above contentions, even if the presumption u/s.292C is invoked and it is presumed that the seized papers reflect true contents then any addition based on such presumption, cannot be made in the hands of the assessee firm as the amounts appearing in the seized material only belong to the partners (even where it is not known how much belongs to each partner) appearing in the seized material, and not the firm as a whole. The firm cannot be taxed for contributions made by others. When the material itself identifies the contributors, there is neither scope nor*

justification for adding the amounts as unexplained income in the firm's hands.

11. Copy of seized material named as "THITTAM DOC1 DDGL to THITTAM DOC5 DDGL" in the Pen Drive given by the Department is kept in S.No.2 of Paper Book 3 (Pages 2 to 50 of Paper Book 3). It is not known whether these documents belong to PP Financiers, Oddanchatram or PP Enterprises, Oddanchatram. It is unclear as to how the Assessing Officer has arrived at the quantum of addition based on the above documents.

12. Without prejudice to the above, amendment in section 115BBE increasing the rate of tax to 60% is not retrospectively applicable. The Hon'ble Madras High Court in S.M.I.L.E Microfinance Limited v ACIT 2024 SCC OnLine Mad 8416 (Pages 248 – 259 of Case Law Book 1) has categorically held that the rate of 60 percent is to be imposed only for the transactions from 01.04.2017. The above order of the Hon'ble Madras High Court has been followed in Naranbhai Samatbhai Bharwad, through legal heir Devrajbhai Naranbhai Bharwad v ITO in ITA No.272 Ahd 2024 Ahmedabad ITAT (Pages 260 – 270 of CL book). Therefore the Ld. CIT(A) erred in upholding the rate of 60 percent for the A.Y.2017-18 when the same would be applicable only for the transactions from 01.04.2017 onwards i.e., from assessment year 2018-19.

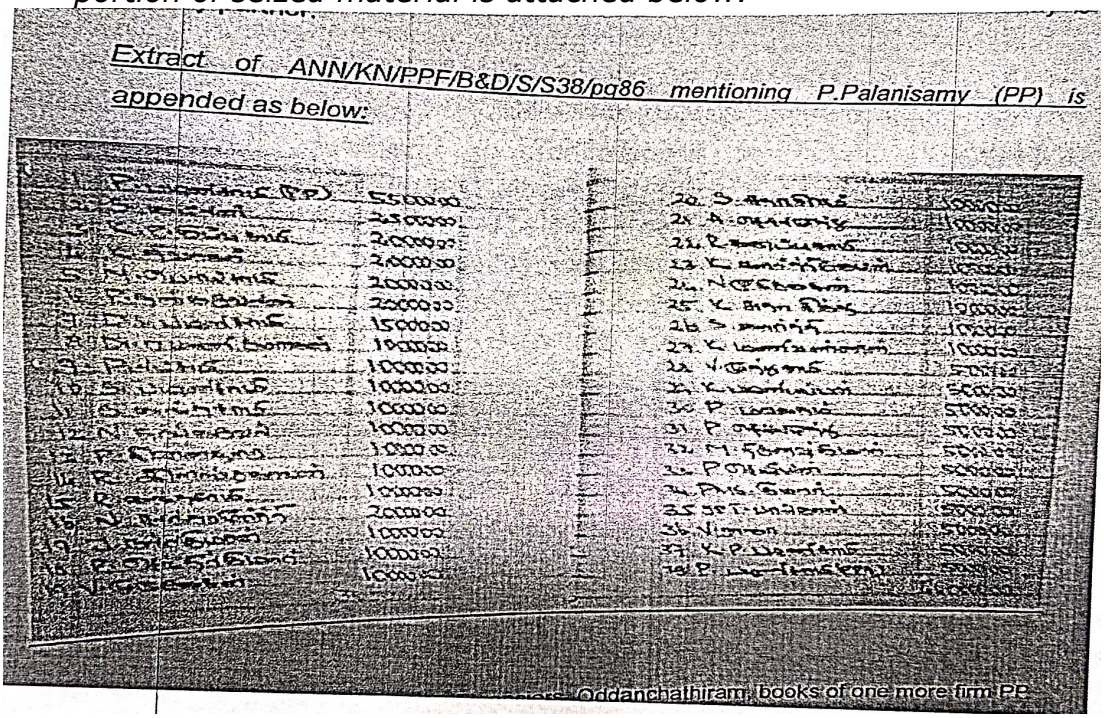
The reference to relevant page numbers in the assessment orders for assessment years 2017-18 to 2018-19 in connection with the above points are enclosed in a table format along with explanation as annexures 1 & 2 to this submissions."

117. The submissions of the Ld.DR that are common to the assessee group have already been reproduced in Paras 69, 70 and 71 of this order. For the sake of brevity, they are not reiterated

here. However, those submissions are taken on record and apply to the present assessee as well.

118. The Ld.DR's specific rebuttal to the contentions raised by the Ld.AR in respect of PP Enterprises (Oddanchatram) is reproduced below:

"M/s. P. P. Enterprises Oddanchatram.
In one of seized document termed as ANN/KN/PPF/B&D/S/S38/Pg86 there was a mention as P.Palanisamy and (PP) written next to it. It is not out of place to state that the Assessee/ Partner's name is P.Palanisamy and "PP" is nothing but an acronym of his name. The relevant portion of seized material is attached below:



The loan borrower's sworn statements were also recorded during the search wherein the loan is found to be part of the seized books of accounts of the firm. The statement recorded from one Mr. A. Murugasen confirmed that he had deposited a sum of Rs.

3,70,000/- whereas the same was recorded in the books of accounts as Rs. 3,700/- against his name. This statement recorded from the debtor was just confirmation and corroborative evidence.

119. After hearing the rival contentions and perusing the written submissions, paper books and all other material on record, it is apparent that even the Ld.DR has acknowledged that Shri P.Palanisamy was managing and controlling multiple entities/firms across various locations, all of which purportedly followed a uniform accounting methodology. This admission, in itself, lends support to the assessee's primary argument that mere references such as "PP / Partners" cannot, in the absence of exclusive and specific identification, establish that the seized documents belong to or pertain to the assessee firm, when there are multiple firms operating from each of the different locations (each of them having a different set of partners as is evidenced by the partnership deeds of the different firms furnished as part of the paper books filed by the assessee). For the documents to be attributable to the assessee, there must be clear indication such as the firm's name, address, PAN, or other business particulars. The Ld. DR relied on the statement of Shri.N.Sundaramoorthy who has said in his statement that the regular business of the appellant commenced on 04.09.2016 and stated that the entries in the seized material also start from 04.09.2016 and therefore the books belong to be appellant firm. The Ld. AR has controverted this by enclosing the partnership deed in the Paper Book which shows that the appellant

firm was formed only on 19.12.2016. Therefore, we find that the statement of Shri.N.Sundaramoorthy does not hold credence as it is factually incorrect and seized material cannot be taken to belonging to appellant based on the statement of Shri.N.Sundaramoorthy alone. Further the Ld. DR relied upon a document referring to the same as "Consortium of lenders" and stated that the name of Shri P.Palanisamy and other partners are forming part of it thereby making it clear that the seized material belonged to the assessee. We find that the "Consortium of lenders" mentioned by AO in Page 42 of the Paper Book contains names of 38 persons. As against this, the appellant firm has only 18 partners as we can see from page 2 of the Paper Book. In fact none of the firms of assessee group has 38 partners. Therefore, it we were to take the seized material as belonging to the firm because the "consortium of lenders" has the name of Shri P.Palanisamy, then extending the same logic it must belong to the Shri P.Palanisamy and the 37 others mentioned in the documents. Therefore, going by this logic as well we not able to persuade ourselves to come to a conclusion that the seized material belongs to or pertains to the appellant. Some of the loan borrowers have given statements which purportedly supports that their loans are part of seized material. But when there is no identification directly linking the seized material to the appellant while to the contrary, there are facts to suggest it does not belong to the

appellant, the loan borrowers' statement with reference to the seized material becomes irrelevant.

120. In the instant case, the seized material relied upon in the assessment order does not contain any direct or specific reference to the assessee firm. Since Shri P.Palanisamy is admittedly a partner in the assessee firm as well as in several other firms, the conclusion that the seized documents belong to the assessee firm merely because they bear alleged initials of Shri P.Palanisamy is not legally tenable. This is especially so where the purported initials are not consistent and vary across the seized documents.

143. On the presumption u/s.292C we find that Section 292C uses the words "it may be presumed" and the Hon'ble Apex Court in P. R. Metrani v. CIT 287 ITR 209 (SC) explained the concept of presumptions and expression "may be presumed" as under-

> *"22. A presumption is an inference of fact drawn from other known or proved facts. It is a rule of law under which courts are authorized to draw a particular inference from a particular fact. It is of three types, (i) "may presume", (ii) "shall presume" and (iii) "conclusive proof". "May presume" leaves it to the discretion of the Court to make the presumption according to the circumstances of the case. "Shall presume" leaves no option with the Court not to make the presumption. The Court is bound to take the fact as proved until evidence is given to disprove it. In this sense such presumption is also rebuttable. "Conclusive proof gives an artificial probative effect by the law to certain facts. No evidence is allowed to be produced with a view to combating that effect. In this sense, this is irrebuttable presumption"*

Relying on the above decision of the Hon'ble Supreme Court, we find that the presumption u/s.292C by usage of the word "may" gives discretionary powers to adopt the presumption and also makes the presumption rebuttable.

121. The surrounding circumstances namely, i) the absence of exclusive identification of the assessee firm, ii) the admitted existence of multiple entities where Shri P.Palanisamy is a partner iii) Unreliability of statement of Shri.N.Sundaramoorthy iv) the consortium of lenders referring to 38 people while the assessee firm has only 18 partners, render any attribution of the seized documents to the assessee firm speculative at best. Therefore, in the instant case, there is no evidence to show that the seized material belongs to or pertains to the assessee. More importantly, the seized material itself records the names of persons who introduced funds as capital contributions. Where the documents identify the contributors, the foundational premise of treating such amounts as "unexplained" in the hands of the firm collapses. Consequently, any addition, if warrant and if at all permissible, can only be examined in the hands of the respective contributors and not in the hands of the assessee firm. In view of the above, the additions founded on the seized material cannot be sustained against the assessee. Accordingly, the appeals of the assessee are allowed on Ground Nos.6 and 10 of the modified grounds on merits,

and the remaining grounds on merits are not adjudicated and are left open.

122. On the subsequent issue, the Ld.AR has contended that the enhanced rate of tax u/s.115BBE cannot be invoked for assessment years prior to AY 2018-19. Although this issue is now academic, following the decision of the Hon'ble Madras High Court in S.M.I.L.E. Microfinance Limited v. ACIT (SCC OnLine Mad 8416), we have held in P. Palanisamy that the enhanced rate of 60% u/s. 115BBE is not applicable to transactions occurring prior to 01.04.2017. The ratio of that decision applies mutatis mutandis to the present case.

XI. PP Constructions – AYs 2015-16 to 2018-19:

A.Y.	ITA NO. (Assessee)	ITA NO. (Department)
2015-16	3384 / Chny / 2024	-
2016-17	3385 / Chny / 2024	-
2017-18	3386 / Chny / 2024	-
2018-19	3387 / Chny / 2024	2531 / Chny / 2024

123. Since we have refrained from adjudicating the legal issue of approval u/s.153D of the Act for the reason that the issue is kept open as held in the case of P.Palanisamy in para 42 and 43(supra), we proceed to adjudicate the appeal on merits of the case. The year-wise additions made by the Assessing Officer are tabulated as follows:

A.Y.	Undisclosed investment u/s.69 (substantive addition)	Unexplained investment u/s.69 (Protective addition)
Description	Day Book PP Construction reveal credit entries from Partners	Cash Advance aggregating to Rs.10,12,50,000/- for purchase of property to various persons
2015-16	2,30,20,000	
2016-17	3,32,50,000	
2017-18	3,66,00,000	
2018-19	1,27,50,000	10,12,50,000
Total	10,56,20,000	10,12,50,000

124. The Ld.AR contended with emphasis that the seized documents relied upon for making the impugned additions do not belong to, nor pertain to, the assessee firm. It was submitted that the seized material, as referred to in the assessment order, contains several inconsistencies and defects, and therefore does not furnish any evidence capable of establishing that the material is connected with the assessee firm.

125. It was further argued that even assuming, for the sake of argument, that the seized material belongs to the assessee firm, the additions cannot be sustained because the alleged capital contributions/advances on which the additions are based are not "unexplained". The seized records themselves specifically identify the names of the persons who made such contributions, a fact that

has been acknowledged by the Assessing Officer at various places in the assessment order.

126. The written submissions of the Ld.AR are reproduced hereunder:

> *"Based on the following points, it is most humbly submitted that there is no evidence to establish that the seized material belongs to or pertains to the assessee firm and even if it is presumed so, the addition cannot be made in the hands of the firm since the amounts brought in as capital / contribution, which form the basis of addition, is not unexplained as the seized material clearly refers to the names of the contributors which the Assessing Officer himself states in the assessment order.*
>
> 1. *On the substantive addition, it is most humbly submitted that the seized day book extracted by the Assessing Officer itself bears the heading "Amount credited as partners' investment", clearly demonstrating that the entries represent capital contributions made by individual partners, and not investments made by the assessee-firm. In absence of any nexus or evidence demonstrating that the firm has actually invested in Karur Apartment construction, the addition u/s. 69 in the hands of the firm is not sustainable.*
>
> 2. *Further, the Assessing Officer attempts to apply the "last two digits represent paisa" theory based on unrelated statements recorded in respect of Thittam notings, which are in no manner connected to PP Construction. Moreover, the AO himself has not applied the two digits theory while making the protective addition in assessee's case. Having accepted its inapplicability in the protective addition, the AO cannot adopt it selectively to justify a substantive addition. Such contradictory application renders the addition arbitrary, speculative, and unsustainable.*
>
> 3. *Without prejudice to the above contentions, even if the presumption u/s.292C is invoked and it is presumed that the seized papers reflect true contents then any addition based on*

such presumption, cannot be made in the hands of the assessee firm as the amounts appearing in the seized material only belong to the partners (even where it is not known how much belongs to each partner) appearing in the seized material, and not the firm as a whole. The firm cannot be taxed for contributions made by others. When the material itself identifies the contributors, there is neither scope nor justification for adding the amounts as unexplained income in the firm's hands.

4. *With respect to the protective addition of Rs.10,12,50,000 allegedly advanced towards purchase of land, the entire addition is based solely on loose sheets, which are unsigned, unverified, unauthenticated, and not correlated to the assessee firm. Loose papers do not constitute books of account and cannot by themselves form the basis of an addition without independent corroboration. There is no evidence of any such lands and being purchased, registered, or even of any agreement having been executed and therefore it is beyond preponderance of probabilities to assume the assessee has paid huge advance without any having executed any document in this regard. When no transaction has materialized, there is no "investment" capable of being taxed u/s. 69.*

   Reliance is placed on the following cases where it has been held that addition cannot be made based on loose sheets, in S.No.1 to 5 of Case Law Book - 1:

Particulars	*Page No.*	*Para No.*
DCIT v Sunil Kumar Sharma [2024] 165 taxmann.com 846 (SC)	*3*	*-*
DCIT v Sunil Kumar Sharma [2024] 159 taxmann.com 179 (Karnataka)	*19*	*26*
Common Cause (A Registered Society) v UOI [2017] 77 taxmann.com 245 (SC)	*49 to 52*	*16 to 21*
CBI v V.C.Shukla and Others (1998) 3 SCC 410	*85, 86*	*37, 38, 39*

Shri Rajeshbhai Jivraj Desai v DCIT in ITA No.2291 / AHD / 2017 – Ahmedabad ITAT	*103, 105, 106*	*7, 10.5*

5. *The Assessing Officer states that Shri.P.Ragupathy admitted that payment of Rs.10,12,50,000/- to land owners as advance to mark / reserve the property. It is most humbly submitted that the alleged admission of Shri.P.Ragupathy was recorded during survey u/s.133A and therefore the statement has no evidentiary value in law.*

   Reliance is placed on the following cases where it has been held that sworn statements recordd during survey cannot be a basis for making addition, in S.No.14 to 16 of Case Law Book - 1:

Particulars	*Page No.*	*Para No.*
CIT v S.Khader Khan Son [2012] 25 taxmann.com 413 (SC)	*271*	*-*
CIT v S.Khader Khan Son [2018] 300 ITR 0157 (Mad)	*278, 279*	*-*
Paul Mathews & Sons v CIT [2003] 129 Taxman 416 (Kerala)	*286*	*11*

Even otherwise, the statement was made in the capacity of Managing Partner of a different concern i.e., PP International and cannot therefore be related to assessee firm. In fact, Shri.P.Ragupathy himself clarified that the land project was undertaken by him and his friends, and that related records were kept at an address unrelated to the assessee firm, which clearly establishes that the assessee firm is in no way related to the transaction. Therefore, it is most humbly submitted that the CIT(A) has correctly deleted the protective addition in the hands of the assessee firm.

6. *With reference to the seized material provided by the Department during the course of hearing before the Hon'ble Income Tax Appellate Tribunal, the assessee wishes to submit as follows:*

   - *<u>On the substantive addition</u> - Copy of seized material in Ann/KN/PPF/B&D/S-53 referred in the Assessment order of P.P.Constructions is kept in S.No.4 of Paper Book 3. This material is a mere loose sheet. This material has amounts that only add up to Rs.37,500/- (Page 12 of Paper Book-1 of assessment order of AY 2015-16) whereas the total addition made based on reference to this sheet is 10,56,20,000/-.*

   - *<u>On the protective addition</u> - Copy of sworn statement of P.Raghupathy dated 11.08.2017 taken during survey proceedings u/s.133A is kept in S.No.6 of Paper Book 3. This is a statement recorded during the course of survey and signed by P.Raghupathy as Managing Partner of PP International. Therefore this statement cannot be relied upon to make addition in the hands of PP Constructions (Pages 123 to 138 of Paper Book 3).*

   Without prejudice to the above, P.Raghupathy has stated that this project has been undertaken by him and his friends – in Q.No.20, 21, 22 (Pages 129, 130, 131 of Paper Book 3). P.Raghupathy refers to the details of transaction being recorded in the books of accounts available at head office at No.21, First Floor, 17th E Cross, LBS Nagar, Indira Nagar 2nd Stage (Page 131 of Paper Book 3), which is not the address of PP Constructions which is located at Karur. Further the AO has assumed that the entire consideration for the project of Rs.10,12,50,000/- has been paid in cash which is impossible Further, having chosen to let go of the persons who have received the purported moneys, the Department cannot use a pick and choose method to take action only against the assessee by assessing the same as income of the assessee.

7. Without prejudice to the above, amendment in section 115BBE increasing the rate of tax to 60% is not retrospectively applicable. The Hon'ble Madras High Court in S.M.I.L.E Microfinance Limited v ACIT 2024 SCC OnLine Mad 8416 (Pages 248 – 259 of Case Law Book 1) has categorically held that the rate of 60 percent is to be imposed only for the transactions from 01.04.2017. The above order of the Hon'ble Madras High Court has been followed in Naranbhai Samatbhai Bharwad, through legal heir Devrajbhai Naranbhai Bharwad v ITO in ITA No.272 Ahd 2024 Ahmedabad ITAT (Pages 260 – 270 of CL book). Therefore the Ld. CIT(A) erred in upholding the rate of 60 percent for the A.Ys.2015-16 to 2017-18 when the same would be applicable only for the transactions from 01.04.2017 onwards i.e., from assessment year 2018-19.

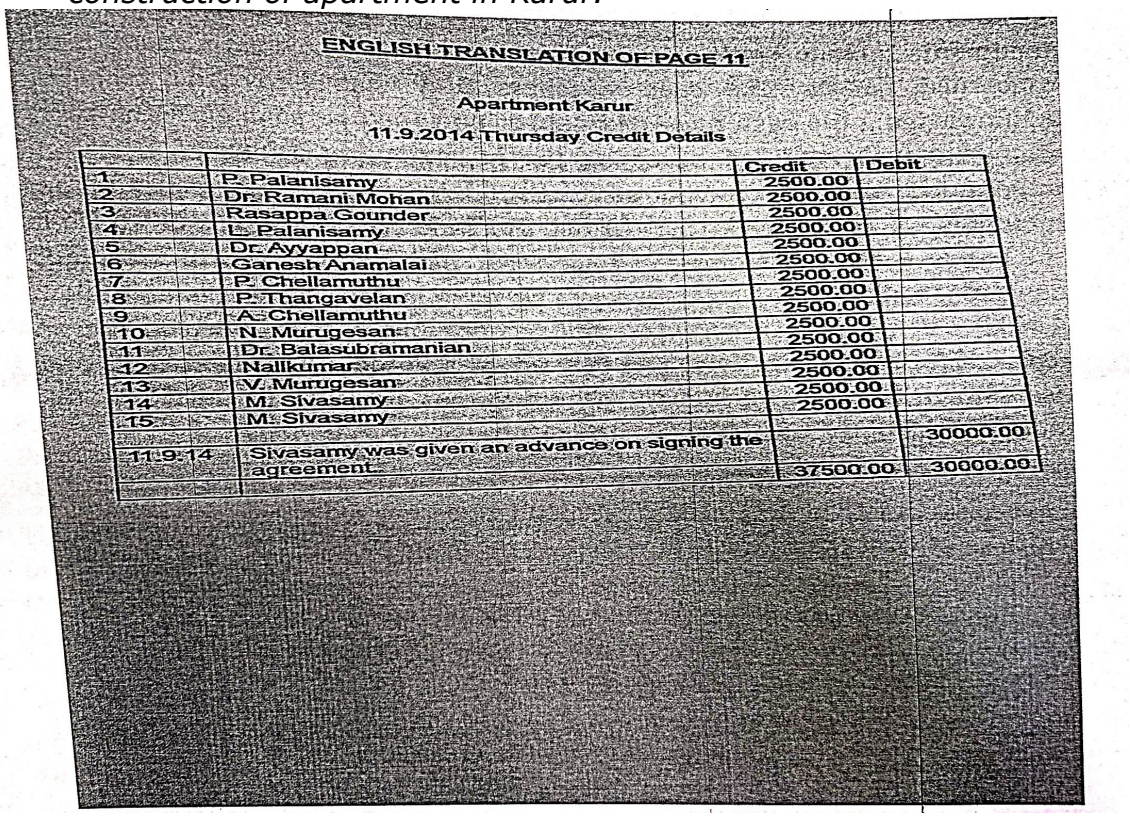
The reference to relevant page numbers in the assessment orders for assessment years 2015-16 to 2018-19 in connection with the above points are enclosed in a table format along with explanation as annexures 1 to this submissions."

127. The submissions advanced by the Ld.DR, which are common to the entire assessee group, have already been reproduced in Paras 69, 70 and 71 of this order. For the sake of brevity, the same are not reiterated herein. However, the Tribunal records that the submissions set out in Paras 69, 70 and 71 are taken on record and are deemed to apply to the present assessee as well.

128. The specific rebuttal submitted by the Ld.DR in response to the contentions of the Learned Authorised Representative in the case of PP Constructions (Karur) is reproduced below:

"M/s. P. P. Construction Karur.
The assessee stated that the suppression of two- digit system will not be possible here as this is a construction company. The

contention of the assessee is without any basis as it is seen from the incriminating material seized and reference of a page number with heading "Apartment Karur". Shri DS Palanisamy had also confirmed that books and construction materials of PP Constructions are maintained at PP Financiers Karur premise. Shri Ragupathy admitted that PP Constructions is involved in construction of apartment in Karur.



ENGLISH TRANSLATION OF PAGE 11

Apartment Karur

11.9.2014 Thursday Credit Details

		Credit	Debit
1	P. Palanisamy	2500.00	
2	Dr. Ramani Mohan	2500.00	
3	Rasappa Gounder	2500.00	
4	L. Palanisamy	2500.00	
5	Dr. Ayyappan	2500.00	
6	Ganesh Anamalai	2500.00	
7	P. Chellamuthu	2500.00	
8	P. Thangavelan	2500.00	
9	A. Chellamuthu	2500.00	
10	N. Murugesan	2500.00	
11	Dr. Balasubramanian	2500.00	
12	Nallkumar	2500.00	
13	V. Murugesan	2500.00	
14	M. Sivasamy	2500.00	
15	M. Sivasamy		30000.00
11.9.14	Sivasamy was given an advance on signing the agreement	37500.00	30000.00

It is further stated that the seized books No. 52 is the suppressed two-digit book and book no. 53 is the actual book with the exact rate of construction material and the same may be considered as part and parcel of this written submission for better clarification and the same is discussed in order. For e.g. the price of 10 bags of cement was written as 35 rupees while actual rate of 3500 was written in the actual day book. For every amount credited in firms as Partners Capital book, equal amount was debited for construction material in the firm's book as well.

<u>Investment in Land</u>

The Addition was based on seized documents and admission of the same by Ragupathy. The incriminating documents are seized by the Department and the sworn statements recorded are based on the seized documents. The same is corroborative to the seized documents and has the evidentiary value. The arguments of the assessee do not have any merits as it omits the seizure of the incriminating documents. The complete details of land transactions and the cumulative corroborative evidences impounded were elaborately detailed in the page number 16 (B-l) of the Assessment order of Shri Raghupathy (AY 2018-19). The impounded documents include bank statements, details of the payments made to the concerned parties, the cash vouchers duly signed by the recipients acknowledging the cash received by the concerned persons etc. The sworn statement was recorded based on the incriminating evidences; that impounded materials and the sworn statement corroborative incriminating material are evidences as per the Act. The land consideration was added in the hands of Mr. P. Ragupathy Protectively, as he did not provide cash and bank reconciliation. All these deposits were made during the demonetization period to be transferred through bank account and all these are available record. The cumulative evidences that are part of the seized documents and assessment record conclusively establish that there is no merit in the submission of the assessee.

The Addition was made based on seized documents and admission of the same u/s 132(4) by Ragupathy. He never appeared for summons to admit who are all the friends who invested in the respective areas. The onus of providing the correct information and the complete details is on the assessee who has not discharged the onus at any point of time. Therefore, the addition has been made by the Assessing Officer based on the seized incriminating documents and the same is as per the law.

The case laws are distinguishable on the facts of the case and not applicable in the given facts and circumstances."

129. We have heard the submissions of both parties and examined the written submissions, paper books, and all materials on record. On a careful analysis of the submissions of the Ld.DR and the material placed before us, it is apparent that even the Ld.DR acknowledges that Shri P.Palanisamy was managing and controlling multiple entities/firms across different locations, all following a common accounting pattern. This, by itself, supports the assessee's principal contention that mere references such as "PP/Partners" in the seized material do not, by themselves, establish that the documents belong to the assessee firm when there are multiple firms operating from each of the different locations (each of them having a different set of partners as is evidenced by the partnership deeds of the different firms furnished as part of the paper books filed by the assessee). For such a conclusion to be drawn, there must be clear and exclusive identification linking the seized documents to the assessee, such as the firm's name, address, PAN, business details, etc.

130. In the present case, we observe that the seized material relied upon in the assessment order does not contain any direct or specific reference to the assessee firm. It is an admitted fact that Shri P.Palanisamy is a partner in the assessee firm as well as in several other firms. Therefore, the inference that the seized books belong to the assessee firm merely because name of Shri P.Palanisamy appears in them is not legally sustainable. Moreover, the seized

material relied upon by the AO, clearly shows that the entries represent contributions made by individual persons, and not investments made by the assessee firm. In absence of any nexus or evidence demonstrating that the firm has actually invested in Karur Apartment construction, and in the presence of evidence to the contrary available in the seized material, the addition u/s.69 of the Act in the hands of the assessee firm does not have any justification.

131. On the presumption u/s.292C we find that Section 292C uses the words "it may be presumed" and the Hon'ble Apex Court in P. R. Metrani v. CIT 287 ITR 209 (SC) explained the concept of presumptions and expression "may be presumed" as under-

> "22. A presumption is an inference of fact drawn from other known or proved facts. It is a rule of law under which courts are authorized to draw a particular inference from a particular fact. It is of three types, (i) "may presume", (ii) "shall presume" and (iii) "conclusive proof". "May presume" leaves it to the discretion of the Court to make the presumption according to the circumstances of the case. "Shall presume" leaves no option with the Court not to make the presumption. The Court is bound to take the fact as proved until evidence is given to disprove it. In this sense such presumption is also rebuttable. "Conclusive proof gives an artificial probative effect by the law to certain facts. No evidence is allowed to be produced with a view to combating that effect. In this sense, this is irrebuttable presumption"

Relying on the above decision of the Hon'ble Supreme Court, we find that the presumption u/s.292C by usage of the word "may"

gives discretionary powers to adopt the presumption and also makes the presumption rebuttable.

132. The surrounding circumstances, namely the absence of exclusive identification of the assessee firm and the admitted multiplicity of entities where Shri P. Palanisamy is a partner, render the attribution of the seized material to the assessee firm merely speculative at best. Therefore, in the instant case, there is no evidence to show that the seized material belongs to or pertains to the assessee. Further, the seized material itself records the names of individuals who introduced monies as capital contribution or funds. Once the documents themselves identify the contributors, the foundational premise of treating the amounts as "unexplained" in the hands of the firm becomes untenable. Consequently, any addition, if at all warranted and if permissible on the basis of such entries, can only be examined in the hands of the respective persons who introduced the capital or funds, and not in the hands of the assessee firm. For the above reasons, we hold that the additions based on seized material cannot be made in the hands of the assessee. Accordingly, we allow the appeal of the assessee on Ground Nos.5 and 9 of the modified grounds on merits. The remaining grounds on merits are not adjudicated and are left open.

133. Regarding the protective addition of Rs.10,12,50,000/-, we find it to be wholly unsustainable both in law and on fact. The entire addition is based solely on loose sheets which are unsigned,

unverified, unauthenticated, and not connected to the assessee firm. Such loose papers do not qualify as books of account and, without independent corroboration, cannot form the basis for an addition. Further, the alleged admission of Shri P.Ragupathy was recorded during a survey u/s.133A, which has no evidentiary value to sustain an addition. In any event, the statement was made in the capacity of Managing Partner of another concern, PP International, and not on behalf of the assessee firm. The statement shows that the land project was undertaken personally by him and his associates and that the records were maintained at an address unrelated to the assessee. Further, the Ld. AR stated that even to the date of hearing, the impugned land has not been registered in the name of the assessee and this has not be controverted. We find it against preponderance of probabilities to image that such huge money would have been given without property being registered in the names of the persons alleged to have given such money. Therefore, the protective addition based on the impugned loose sheet cannot be sustained and the ld.CIT(A) has rightly deleted the same.

134. On the next issue, the Ld.AR has contended that the enhanced tax rate u/s.115BBE cannot be invoked for assessment years prior to AY 2018–19. Although this issue becomes academic, following the decision of the Hon'ble Madras High Court in S.M.I.L.E Microfinance Ltd. v. ACIT (SCC OnLine Mad 8416), we have held in

the case of P.Palanisamy that the enhanced rate of 60% u/s.115BBE is not applicable for transactions occurring before 01.04.2017. The ratio of that decision shall apply mutatis mutandis to the present case.

135. In the result, appeal filed by the assessee and department are allowed or dismissed as per chart below.

Appeal Number	[A] Assessee / [D] Deptt.	AYs	VERDICT
ITA 200/CHNY/2025	[A] M/s. P.P. Financiers	2016-17	Allowed
ITA 201/CHNY/2025	[A] P.P.Financiers	2011-12	Allowed
ITA 202/CHNY/2025	[A] P.P. Financiers	2012-13	Allowed
ITA 203/CHNY/2025	[A] P.P. Financiers	2013-14	Allowed
ITA 204/CHNY/2025	[A] P.P. Financiers	2014-15	Allowed
ITA 205/CHNY/2025	[A] M/s. P.P. Financiers	2015-16	Allowed
ITA 206/CHNY/2025	[A] M/s. P.P.Financiers	2016-17	Allowed
ITA 207/CHNY/2025	[A] M/s. P.P. Financiers	2017-18	Allowed
ITA 208/CHNY/2025	[A] M/s. P.P.Financiers	2018-19	Partly Allowed
ITA 209/CHNY/2025	[A] P. Palanisamy	2010-11	Allowed
ITA 210/CHNY/2025	[A] P. Palanisamy	2011-12	Allowed
ITA 211/CHNY/2025	[A] P Palanismay	2012-13	Allowed
ITA 212/CHNY/2025	[A] P Palanisamy	2013-14	Allowed
ITA 213/CHNY/2025	[A] P. Palanisamy	2014-15	Allowed
ITA 214/CHNY/2025	[A] P Palanisamy	2016-17	Allowed
ITA 215/CHNY/2025	[A] P Kuppuchamy	2015-16	Allowed
ITA 216/CHNY/2025	[A] P Kuppuchamy	2016-17	Allowed
ITA 217/CHNY/2025	[A] P Kuppuchamy	2017-18	Allowed
ITA 1119/CHNY/2025	[A] P. Palanisamy	2015-16	Allowed
ITA 1120/CHNY/2025	[A] P. Palanisamy	2017-18	Allowed
ITA 1121/CHNY/2025	[A] P. Palanisamy	2018-19	Allowed
ITA 218/CHNY/2025	[A] P Kuppuchamy	2018-19	Allowed
ITA 219/CHNY/2025	[A] M/s. P.P. Financiers	2015-16	Allowed
ITA 220/CHNY/2025	[A] P.P. Financiers	2010-11	Allowed
ITA 225/CHNY/2025	[A] L Karuppusamy	2018-19	Allowed

ITA 221/CHNY/2025	[A] M/s. P.P. Financiers	2017-18	Allowed
ITA 222/CHNY/2025	[A] M/s. P.P. Financiers	2018-19	Allowed
ITA 3365/CHNY/2024	[A] M/s. P.P. Enterprises	2017-18	Allowed
ITA 3366/CHNY/2024	[A] M/s. P.P. Enterprises	2018-19	Allowed
ITA 3367/CHNY/2024	[A] Palanisamy Raghupathy	2011-12	Allowed
ITA 3368/CHNY/2024	[A] Palanisamy Raghupathy	2012-13	Allowed
ITA 3369/CHNY/2024	[A] Palanisamy Raghupathy	2013-14	Allowed
ITA 3370/CHNY/2024	[A] Palanisamy Raghupathy	2014-15	Allowed
ITA 3371/CHNY/2024	[A] Palanisamy Raghupathy	2015-16	Allowed
ITA 3372/CHNY/2024	[A] Palanisamy Raghypathy	2016-17	Allowed
ITA 3373/CHNY/2024	[A] Palanisamy Raghupathy	2017-18	Allowed
ITA 3374/CHNY/2024	[A] Palanisamy Raghupathy	2018-19	Allowed
ITA 3375/CHNY/2024	[A] Sellamuthu Kabilan	2012-13	Allowed
ITA 3376/CHNY/2024	[A] Sellamuthu Kabilan	2013-14	Allowed
ITA 3377/CHNY/2024	[A] Sellamuthu Kabilan	2014-15	Allowed
ITA 3378/CHNY/2024	[A] Sellamuthu Kabilan	2015-16	Allowed
ITA 3379/CHNY/2024	[A] Sellamuthu Kabilan	2016-17	Allowed
ITA 3380/CHNY/2024	[A] Sellamuthu Kabilan	2017-18	Allowed
ITA 3381/CHNY/2024	[A] Sellamuthu Kabilan	2018-19	Allowed
ITA 3382/CHNY/2024	[A] P.P. Enterprises	2017-18	Allowed
ITA 3383/CHNY/2024	[A] M/s. P.P. Enterprises	2018-19	Allowed
ITA 3384/CHNY/2024	[A] M/s. P.P. Constructions	2015-16	Allowed
ITA 3385/CHNY/2024	[A] M/s. P.P. Constructions	2016-17	Allowed
ITA 3386/CHNY/2024	[A] M/s. P.P. Constructions	2017-18	Allowed
ITA 3387/CHNY/2024	[A] M/s. P.P. Constructions	2018-19	Allowed
ITA 3388/CHNY/2024	[A] M/s. P.P. Financiers	2014-15	Allowed
ITA 3389/CHNY/2024	[A] M/s. P.P. Financiers	2015-16	Allowed
ITA 3390/CHNY/2024	[A] M/s. P.P. Financiers	2016-17	Allowed
ITA 3391/CHNY/2024	[A] M/s. P.P. Financiers	2017-18	Allowed
ITA 3392/CHNY/2024	[A] M/s. P.P. Financiers	2018-19	Allowed
ITA 2528/CHNY/2024	[D] P P ENTERPRISES	2016-17	Dismissed
ITA 2529/CHNY/2024	[D] P P ENTERPRISES	2017-18	Dismissed
ITA 2530/CHNY/2024	[D] P P ENTERPRISES	2018-19	Dismissed
ITA 2531/CHNY/2024	[D] P.P. CONSTRUCTIONS	2018-19	Dismissed
ITA 223/CHNY/2025	[A] P Kuppuchamy	2014-15	Allowed
ITA 224/CHNY/2025	[A] L Karuppusamy	2017-18	Allowed

Order pronounced on the 09th day of February, 2026 in Chennai.

Sd/-
(एस. आर. रघुनाथा)
(S.R.RAGHUNATHA)
लेखा सदस्य**/ACCOUNTANT MEMBER**

Sd/-
(मनु कुमार गिरि)
(MANU KUMAR GIRI)
न्यायिक सदस्य**/JUDICIAL MEMBER**

चेन्नई/Chennai,
दिनांक/Dated: 09th February, 2026.
SNDP, Sr. PS
आदेश की प्रतिलिपि अग्रेषित**/Copy to:**

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT, Chennai / Madurai / Salem / Coimbatore.
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF