

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

**PHYSICAL HEARING**

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

**1. आयकरअपीलसं. / ITA No.1230/Chandi/2025**  
**(निर्धारणवर्ष / Assessment Year: 2019-20)**

<b>Saraf The Jeweller</b> SCO 45, Pocket No.1 NAC Showroom, Manimajra Chandigarh – 160101	<b>बनाम/ Vs.</b>	<b>DCIT / ACIT (Central)-2</b> C.R. Building Himalaya Marg, Sector-17E, Chandigarh
स्थायीलेखासं./जीआइआरसं./PAN/GIR No. <b>ADAFS-2345-B</b>		
(अपीलार्थी/ <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )

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**2. आयकरअपीलसं. / ITA No.1592/Chandi/2025**  
**(निर्धारणवर्ष / Assessment Year: 2019-20)**

<b>DCIT / ACIT (Central)-2</b> C.R. Building Himalaya Marg, Sector-17E, Chandigarh	<b>बनाम/ Vs.</b>	<b>Saraf The Jeweller</b> SCO 45, Pocket No.1 NAC Showroom, Manimajra Chandigarh – 160101
स्थायीलेखासं./जीआइआरसं./PAN/GIR No. <b>ADAFS-2345-B</b>		
(अपीलार्थी/ <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )

<b>अपीलार्थीकीओरसे/Appellant by</b>	:	Sh. Sudhir Sehgal (Advocate) and Sh. Sahil Ratra (Advocate) – Ld. ARs
<b>प्रत्यर्थीकीओरसे/Respondent by</b>	:	Sh. Abhishek Pal Garg (CIT) & Dr. Ranjit Kaur (Addl. CIT) – Ld. DRs

<b>सुनवाईकीतारीख/Date of Hearing</b>	:	12.02.2026
<b>घोषणाकीतारीख /Date of Pronouncement</b>	:	10.03.2026

**आदेश / O R D E R**

**Per Bench**

1.1 Aforesaid cross-appeals for Assessment Year (AY) 2019-20arises out of an order passed by Ld. Commissioner of Income Tax (Appeals)-3,

Gurgaon [CIT(A)] on 27-08-2025 in the matter of an assessment framed by Ld. AO u/s 153A(1)(b) r.w.s. 143(3) of the Act on 28-12-2022.

### 1.2 The grounds raised by the assessee read as under: -

1. (a) That the Ld. CIT(A) Gurgaon has erred in confirming the addition of Rs.8,10,75,000/- as made by the Assessing Officer on account of alleged suppression of sales as per para 6.3.9 of the order.

(b) That the reliance by the Ld. CIT(A) on the unreliable data from the computer of the assessee was meant only for limited purpose of negotiating the price with the customers, and, as such, no reliance can be placed on such unsigned 'welcome letters'

(c) The Ld. CIT(A) has brushed aside the enquiries made by the investigation wing from the persons who had purchased the SCOs / DSS and nothing adverse has been admitted by such persons and there was no incriminating evidence with regard to the alleged suppression of sales price of SCOs / DSS.

(d) Notwithstanding the above said ground of appeal, Ld. CIT(A) has failed to appreciate that no compliance with Section 65B of the Indian Evidence Act in respect of digital data on the basis of which, certain uncalled for addition have been made and also at best for the sake of argument, it is stated that only appropriate net profit ratio could be applied on such alleged suppression of receipts, rather than confirming the entire addition of Rs.8,10,75,000/-.

2. That the Ld. CIT(A) has erred in making the addition of Rs.2,32,00,000/- on account of unsecured loan u/s 68 and applying the provisions of Sec.115BBE of the Income Tax Act and this addition was not called for as no incriminating evidence in respect of the unsecured loan have been found.

3. That the Ld. CIT(A) failed to appreciate that confirmation from creditors have been filed along with other details and as such, the assessee was not bound to explain the source of source of the lenders, for which, the amendment had come into effect only from Asstt. Year 2023-24 and thus, the confirmation of addition as per para 9.3.8 is against the facts and circumstances of the case.

4. That the Ld. CIT(A) has erred in rejecting the ground of appeal with regard to approval as granted u/s 153D which is without any application of mind of the Addl. CIT and he has failed to consider the judgment of Hon'ble Apex Court in the case of ACIT vs. Serajuddin & CO. (2024) 168 Taxmann.com 118 and many other judgments of different high courts and benches of the ITAT.

5. That the confirmation of addition is against the facts and circumstances of the case.

### 1.3 The revenue's grounds of appeal read as under: -

1. Whether on the facts and circumstances of the case and in law the Ld. CIT(A) erred in not appreciating the fact that the amount of Rs.3,50,16,335/- sale suppression during AY 2019-20 was to be considered as undisclosed income of the assessee.

2. Whether on the facts and circumstances of the case the Ld. CIT(A) failed to appreciate the fact that the assessee failed to declare the sale receipt of Rs.3,50,16,335/- in the books of account for the said year.

1.4 The Ld. AR advanced arguments on legal grounds as well as on merits by drawing our attention to various documents as placed on record. Reference has been made to various judicial decisions, the copies of which have been placed on record. The Ld. CIT-DR also advanced arguments supporting the assessment order of Ld. AO. Having heard rival submissions and upon perusal of case records, our adjudication would be as under.

### **Assessment Proceedings**

2.1 The assessee being resident-firm was subjected to search action u/s 132 on 21-01-2021 pursuant to which impugned assessment has been framed against the assessee. The search was conducted at various business premises of the assessee. The assessee-firm came into existence on 10-03-2016 and it was having two partners Shri Anil Goyal (67%) and Shri Ravi Goyal (33%). The regular return of income was filed by the assessee on 30-09-2019 which was revised on 15-09-2020 without change in declared figures. Post-search, a notice u/s 153A was issued on 20-10-2021. In response, the assessee filed return of income. During the course of assessment proceedings, statutory notices were issued u/s 142(1) from time to time calling for various details from the assessee. The assessee duly responded to the same. Considering the same, impugned assessment was framed on the assessee after making certain additions.

2.2 The first issue that was identified by Ld. AO was alleged unaccounted sales on various units as sold by the assessee during AYs 2019-20 to 2021-22. The units were in the shape of Double Story Showrooms (DSSs) / Shop-cum-offices (SCOs). The addition stem from a survey action u/s 133A which was conducted by the department at the site office viz. Mohali Citi

Centre, GMADA, Aerocity, Mohali wherein digital loose papers were found and impounded as Annexure-1 (Pages 16,17 & 18). The seized papers, *inter-alia*, contained list of customer's names, sale price, unit and address along with welcome letter-cum-receipt allegedly issued by the assessee against sale of Shop-cum-office (SCOs) / Double Story Shops (DSSs). The contents thereof have been extracted by Ld. AO in the assessment order.

2.3 During search on assessee, statement of Shri Anil Goyal was recorded wherein he acknowledged the paper but was unable to explain the exact sale price received on sale of SCOs / DSSs. The Ld. AO referred to *whatsapp* image which was stated to be recovered from back up of the computer / mobile at *STJ House*. The same was in the shape of a slip depicting sales price of a showroom DSS-109 as 2.15 Crores. It further depicted account of cash receipts of "135" having been received in connection with sale of DSS-109. The image, as per interpretation of Ld. AO, reflected cash received in 4 installments on different dates totalling to Rs.135 Lacs. It also depicted payment received by cheques though the assessee stated that DSS-109 was sold for Rs.80 Lacs which was duly recorded in the regular books of accounts.

2.4 The Ld. AO then referred to another *whatsapp image* which was recovered from *Samsung* mobile phone of Shri Pawan Goyal during search proceedings at his residence. This image was part of chat in *whatsapp* group namely "*STJ infra*" where Shri Anil Goyal (being one of the members of the *whatsapp* group), intimated to the group on 05-07-2018 that showroom number 01 was sold by him for 2.90 Crores less 14.6 Lacs thereby 2.754 Cr being the final sale price. Evidently, the 14.6 Lacs was

brokerage / discount and the actual sale price of the showroom was 2.754 crores. The assessee declared the same to be sold for Rs.170 Lacs leaving a difference of Rs.105.40 Lacs which was alleged to be nothing but cash received by the assessee on sale of above unit. Similar conversion happened on 28-07-2019. One of the units i.e., SCO 24 was allegedly sold but not reflected as sales during this year. In the said background, Ld. AO made allegation of receipt of cash against sale of units by the assessee.

2.5 The complete details of 126 units as sold by the assessee during FYs 2018-19 to 2020-21 at Mohali Citi Center and the prices declared by the assessee in the regular books has been tabulated Ld. AO at para 1.6 of the assessment order. In all, the assessee had sold 126 units (DSSs and SCOs) during FYs 2018-19 to 2020-21. The Ld. AO, at para 1.7, tabulated the registered value & sales value as per seized document and made allegation of cash receipt by the assessee on sale of various units during the three years.

2.6 The Ld. AO thereafter observed that the rate of property would depend on the location, size of the property and market demand. However, SCOs / DSSs of same size with near location were sold at different prices. The Ld. AO quoted few cases to bolster the same. The same has been enumerated at Para 1.8 of the assessment order.

2.7 The Ld. AO sought internal validation of the aforesaid conclusion by referring to welcome letter cum receipts mentioning the sale price per unit. The same were seized from Mohali Citi Center. The payment details as mentioned therein was compared with the payment details of the same customer for the same property as recorded in the regular Tally data. The

RTGS / Bank Payments as mentioned in these welcome letters matched with the bank account as well as Tally data of the assessee. This observation has been made for various units (DSS 114, 122, 99, 66, 138, 113, 94, 97 & 134). The same would prove receipt of excess sale consideration in cash.

2.8 For external validation, summons was issued by investigation wing to one Shri Santokh Singh who purchased a showroom DSS-99 in joint ownership and his statement was recorded. He confirmed having made payment in two parts i.e., one part to the assessee and the other part in the name of M/s DCS structure company. However, at the time of booking, the construction was already completed and therefore, the said arrangement was a clever arrangement made by the assessee company to bring down the cost of the showrooms and SCOs to enable billing at reduced price to evade Stamp Duty and GST. Shri Santokh Singh stated the for DSS-99, price of Rs.1.15 Crores was quoted at their first visit to Mohali Citi Centre. However, he was subsequently called by the salesman Shri Nitin Verma wherein Shri Anil Goyal settled the deal for Rs.84.2 Lacs including 11.2 Lacs construction cost in the name of M/s DCS structure company. He confirmed that he only paid Rs.73 Lacs only and he was not aware of the brochure price. The relevant portion of his statement was as under: -

*Ques.12 Did you enter into any contract with M/s DCS structure with respect to the construction of showroom number DSS-99 purchased by you?*

*Ans. 12 No Madam.*

*Ques.13 Did you have anything constructed from M/s DCS structure with respect to the showroom No. DSS-99 purchased by you?*

*Ans.13 No Madam*

*Ques.14 If no construction was done by DCS structure and no contract was entered to DCS structure and you, why you made a payment of Rs.11.2 Lakh to DCS structure?*

- Ans.14 We were advised by M/s Saraf The Jeweller's employee namely Shri Nitin Verma having mobile number 9646931007 to do this.*
- Ques.15 In answer to question number 10 you stated that the showroom DSS-99 had already been constructed when you struck the deal why a payment for construction was made by you once you bought an already constructed showroom?*
- Ans.15 I was asked by Shri Nitin Verma to do so.*
- Ques.16 Was any payment done in any mode (cash / bank / kind) to the Saraf The Jewellers apart from the 73,00,000/- as stated by you?*
- Ans.16 No Madam.*
- Ques.17 What price was initially quoted by Saraf The Jeweller for your showroom?*
- Ans.17 About 1.15 Crores was quoted in the beginning.*
- Ques.18 The brochure price of showroom number DSS-99 is 1.95 crore. How is it possible that you were quoted Rs.1.05 Crores for it and were finally given the aforesaid showroom at 72 Lakh Rupees?*
- Ans.18 I don't know we did not see the brochure. We went to the Mohali City Center and were shown the showroom and were quoted a price of Rs.1.15 Crore including construction because the showroom was already completely constructed. I don't know what is the price on brochure.*
- Ques.19 How is it possible that you were given discount of Rs.42 Lakh even if Rs.1.15 Crore is considered as its initial price?*
- Ans.19 I don't know I told him that we can arrange only up to 70-80 Lakh. We had returned home without making a deal and then Nitin Verma called us and invited to the office again to have a meeting with Shri Anil Goyal. We attended the meeting and the deal was finalized for 73 Lakh plus 11.2 Lakh for construction, a total of Rs.84.2 Lakh.*

Pertinently, Shri Santokh Singh confirmed that DSS-99 was purchased by him for Rs.73 Lacs only after negotiations and only that much of payment was made by him to the assessee. Initially, he was quoted a price of Rs.1.15 Crores but he was able to arrange funds only up to 70-80 Lakh. He had returned home without making a deal and thereafter, he was invited to the office of the assessee wherein the deal was finalized by Shri Anil Goyal for Rs.73 Lacs only for sale of plot and another Rs.11.2 Lakh was to be paid towards construction component. However, the sources of investment by Shri Santok Singh were doubted by Ld. AO and it was observed that every payment to the assessee was preceded by cash deposit in his bank account. The statement of Shri Roshan Singh (GM), DS Construction

company, was also recorded wherein he stated that completed construction plots were being sold to the customers. The Ld. AO observed that the assessee had declared that it was only selling plots. However, it got the units constructed from DS Construction Company. The constructed units were sold at a much higher rate than the declared sale price in the books. The price difference was received in cash which helped the assessee to evade taxes, GST and stamp duty.

2.9 In the above background, Ld. AO, at para 1.9.14, tabulated variation in 41 sale instances. The suppression of sales was quantified for AYs 2019-20 to 2021-22. The suppression for this year worked out to be Rs.810.75 Lacs. Though the assessee raised various objections including the averment that the welcome letter was nothing but roughly drafted letters only showing higher values to make better negotiations with the customers and strike good bargains with the customers, all these objections stood rejected by Ld. AO. Finally, the amount of Rs.810.75 Lacs was added as undisclosed income of the assessee.

2.10 The Ld. AO, thereafter, went on to extrapolate similar findings for the remaining units. The addition of Rs.810.75 Lacs covered 41 sale instances. The assessee had sold 126 units in the three years and similar estimation was to be made for remaining 85 sale instances also. The market price of the SCOs was searched in the public domain website i.e., *99acres.com* and average price per square yards was worked out at Rs.1,35,000/- (approx.). The same was applied to remaining 85 units as well and sale suppression was worked out for all the three years for

remaining units. The sale suppression for this year worked out to be Rs.350.16 Lacs which was further added to assessee's income.

2.11 The last of the addition was addition of unexplained cash credit u/s 68 for Rs.232 Lacs. It transpired that the assessee obtained unsecured loans from various entities. After rejecting assessee's submissions as well as documentary evidences, Ld. AO made addition of unexplained cash credit u/s 68 as tabulated below: -

No.	Name of Lender	Amount of Loan (Rs.)	Repayment during AY 2020-21	Repayment during AY 2021-22	Documents furnished by the assessee
1.	Shri Ajaib Singh s/o Basta Singh	Rs.60.00 Lacs			Copy of account, Assessee's bank statement, Aadhar Card, PAN and death certificate
2.	Gagan Sharma	Rs.25.00 Lacs			---
3.	Gora W/o Beeram Das	Rs.29.00 Lacs			----
4.	Jashanpreet Kaur	Rs.15.00 Lacs			Confirmed copy of accounts, Aadhar Card, PAN and Bank statement
5.	O.P. Dhingra	Rs.30.00 Lacs	Rs.10.00 Lacs	Rs.20 Lacs	
6.	Sarninder Singh Brar	Rs.69.00 Lacs	Rs.55 Lacs		
7.	SDRD Construction	Rs.4.00 Lacs	Rs.24.00 Lacs		Copy of Accounts, ITR, PAN, financial statements
	<b>Total</b>	<b>Rs.232.00 Lacs</b>	<b>Rs.89.00 Lacs</b>	<b>Rs.20.00 Lacs</b>	

2.12 Finally, the assessment was framed on 28-12-2022 which was subjected to assessee's challenge in first appeal.

### **Appellate Proceedings**

3.1 The assessee, by way of detailed written submissions, assailed the assumption of jurisdiction on legal grounds and also challenged quantum additions in merit. The substantive adjudication of Ld. CIT(A) is contained from para 6.3.3 onwards wherein Ld. CIT(A) rejected the claim that the

welcome letters were nothing but drats prepared by the assessee for better negotiations with the customers. The buyer's statement was recorded post search investigations wherein the purchaser admitted to paying a portion of the consideration in cash over and above the registered value. Some admitted splitting payment between the assessee and a related company to conceal the actual sale price. The statement was specific to the transaction in question and was in accordance with the seized documents. The sale price difference of Rs.810.75 Lacs as computed by Ld. AO was evidenced and not estimate-led. Therefore, the addition, to that extent, was confirmed. Aggrieved, the assessee is in further appeal before us.

3.2 On extrapolation of suppression of sales on 85 remaining units for which no direct seized documents showing the agreed price was available, Ld. AO applied the rates as depicted in online property portal *99acres.com*. This approach was legally impermissible in the absence of any seized material or independent evidences for majority of the transactions. The Ld. AO presumed that all the other sales suffered similar suppression and applied market rate to compute actual consideration. This rate was applied mechanically whereas no buyer was examined. No incriminating document was available for these units. The presumption of Ld. AO was speculative and contrary to the principle that additions in search cases must be based on cogent material. The extrapolation was flawed in methodology. The Ld. AO effectively replaced the assessee's declared turnover for 85 units with an artificial figure without rejecting the books u/s 145(3). The absence of any direct evidence for the alleged suppression of sales in these sales instances render the addition unsustainable. The rates displayed on the

property portal was not authenticated record of concluded transactions. These rates are posted by brokers, sellers or other users to advertise asking prices. There is no certainty that these rates correspond to actual deals and the rates are sensitive to range of variable including location, frontage, floor level, view, stage of construction, urgency of sale and buyer's negotiation strength etc. The assessee's books were not rejected u/s 145(3). No attempt was made to obtain comparable sale deeds for similar units sold during the year and no reference was made to Department's valuation cell for technical opinion on market rates. There was no corroboration of such extrapolation. Therefore, the addition of Rs.350.16 Lacs was deleted against which the revenue is in further appeal before us.

3.3 On the addition of Sec.68. the assessee contended that it furnished complete details of all the lenders including name, address, confirmation, PAN and bank statements. The loans were received through normal banking channels. There was no material to suggest that the same represent assessee's unaccounted money. No enquiry was made from any of the lender parties and there was no adverse material on record. However, Ld. CIT(A), at para 9.3.4, rejected the same on the ground that the assessee did not furnish ITR or bank statement of the lenders. There was mismatch of Rs.4 Lacs in loan of SDRD construction. Therefore, by endorsing the stand of Ld. AO, the impugned addition was confirmed. Aggrieved, the assessee is in further appeal before us.

## **Our findings and Adjudication**

4. We find that the assessee-firm came into existence on 10-03-2016. From the written submissions of Ld. AR, it emerges the assessee had entered into real estate business in February, 2018 and it enrolled for bid before statutory authority GMADA. The assessee was accorded permission by GMADA for construction of commercial site measuring 28348.87 Square meters in Block-F, Aero City, SAS Nagar, Mohali vide allotment letter dated 08-02-2018. The assessee paid 15% of the initial amount and the remaining 85% of consideration was to be paid in 12 half-monthly installments with interest of 9%. Any delay in payment would attract higher interest rate of 14%. The delay could be condoned for maximum period of 3 years from due date and in case of breach of conditions of allotment letter, 10% of total price plus interest due till date would be forfeited and the site or building would be liable to be resumed. These facts are borne out of allotment letter as issued by GMADA to the assessee which has been placed in the paper-book. It could also be seen that this was the first real estate project for the assessee and there was huge burden on the assessee to make payment to GMADA within stipulated time. At the same time, the project had to be completed well within time and the assessee was to sell DSSs / SCOs within the shortest possible of time on the basis of negotiation keeping in mind that substantial amount of payment that was to be made to GMADA besides constructing the site. The assessee majorly gave the contract for construction of SCOs / DSS to third-parties to speedily construct major portion so as to attract the customers and sell the same. In order to arrange funds, the assessee adopted various marketing and sales strategies for the

speedy sale of SCOs / DSSs and the assessee would negotiate with prospective buyers depending upon their willingness and financial capacity for purchasing a particular size and location of SCOs / DSSs. In such circumstances, difference prices were quoted to different customers depending upon marketing conditions and urgency and margin for negotiation so as to maximize sales. The same explain variation of sale prices amongst customers for various units. To collect higher advances from customers, the assessee apparently prepared welcome letters for individual SCOs / DSSs which were displayed at business premises so that the visiting customers could see that substantial advanced had already been received from other buyers thereby enhancing the confidence in the project. As per assessee, these letters were roughly drafted letters indicating higher amount of booking to build up confidence amongst customers regarding the demand of the project and so as to facilitate negotiations. These letters were used only as a marketing tool to demonstrate demand for SCOs / DSSs and to support negotiations. A sample copies of these welcome letters have already been extracted in the assessment order. Upon perusal of the same, it could be seen that there is no signature either of the assessee or of the customer and only certain rate and amount received has been mentioned. Pertinently, there is no mention of any cash component in the deal. The letter merely states the customer's name, unit number, rate and payment received. The same has not been acknowledged by any of the parties to the transaction. The same are not in the nature of any agreement, allotment letter, receipt or any legally enforceable document. No corroborative evidences such as cash receipt,

bank trail, agreement to sale or confirmation from buyer has been brought on record to substantiate the allegation of receipts of on-money. The payment so received as per welcome letters matches with assessee's regular books of accounts and the payments have been received through normal banking channels only. There is no mention of the fact in the welcome letter that the remaining consideration would be paid in cash and no such cash is shown to have exchanged between the parties. The findings of Ld. CIT(A) that post-search investigations, the buyers' statements were recorded wherein the purchaser admitted to paying a portion of the consideration in cash over and above the registered value, is factually incorrect. Nothing of that sort could be borne out of assessment order. Even if presuming that such statement was ever recorded, the same was never confronted to the assessee and the same, at the most, would be third-parties' statements. Unless the same are confronted to the assessee or the assessee is afforded opportunity of cross-examination of the so called buyers' as alleged by Ld. CIT(A), the same, on standalone basis, could not be relied upon to make the impugned additions in the hands of the assessee since the same would be violative of principles of natural justice. It is another fact that no such statement has otherwise been referred to by Ld. AO in the assessment order nor such a fact of recording of statements have been demonstrated before us. Therefore, these findings of Ld. CIT(A) could not be accepted. The only statement as referred to by Ld. AO is the statement of Shri Santokh Singh which, in fact, favors the case of the assessee that the consideration was mentioned in the welcome letter do not representation actual sale consideration for the assessee.

5. Proceeding further, the statement of Shri Santokh Singh (who purchased one of the units) as recorded by the department, would assume much significance. The relevant questions put to him and his answers thereto has already been extracted at preceding para 2.8. Upon perusal of the same, it could be observed that the welcome letter of Shri Santok Singh mentioned a rate of Rs.119 Lacs with receipt of Rs.11 Lacs through cheque on 19-11-2019. However, a perusal of his reply would show that the amount mentioned in the welcome letter is much higher than the actual sale consideration as admitted by him. He has categorically stated that the price quoted to him was only Rs.115 Lacs and no brochure was shown to him. Shri Santokh Singh confirmed that DSS-99 was purchased by him for Rs.73 Lacs only after negotiations and only that much of payment was made by him to the assessee. Initially, he was quoted a price of Rs.1.15 Crores but he was able to arrange funds only up to 70-80 Lakh. He had returned home without making a deal and thereafter, he was invited to the office of the assessee wherein the deal was finalized by Shri Anil Goyal for Rs.73 Lacs only for sale of plot and another Rs.11.2 Lakh was to be paid towards construction component. Therefore, the whole case of Ld. AO that the welcome letters represent actual sale consideration by the assessee fall flat on the ground. On these facts, the argument that these welcome letters were merely a marketing and negotiation tool to create perception of demand and booking momentum amongst new customers in view of heavy financial burden of GMADA installment and development commitments is to be accepted. The same would also explain sale of units by the assessee at varied rates. It is not the case of the revenue that any of the unit was sold at

a consideration which is less than the stamp duty value. The final price has been arrived by the assessee on case-to-case basis depending upon commercial negotiations and considering the immediate funds requirements. Further, none of the buyers is shown to have admitted paying higher sale consideration to the assessee than the recorded sales price. There is no corroboration of allegation of Ld. AO.

6. It could further be seen that the digital loose excel sheets which have been considered by Ld. AO are undated, unsigned bearing no details of receipt of alleged on-money by the assessee. These loose excel sheets have no corroboration with any other material on record. Similar is the case with *whatsapp* chats as relied upon by Ld. AO to fortify its allegation. The same are bereft of any third-party corroboration. It is trite law that no addition could be made merely on the basis of presumption, assumptions, conjectures or surmises. Pertinently, no enquiries have been made by Ld. AO from any of these buyers (except recording of statement of Shri Santokh Singh) to corroborate the allegations neither any such incriminating statement is borne out of the orders of lower authorities. It is settled law that no addition could be made merely on the basis of loose papers unless the same is corroborated by cogent evidences. It could be seen that no evidence of excess cash or unexplained investment by the assessee has been found during search proceedings since the only addition made is addition of alleged unaccounted sales. Therefore, the addition made by Ld. AO merely on the basis of welcome letters and loose sheets is misconceived and unjustified. The allegation that the units were sold at much higher price do not have any foundation.

7. Considering the facts and circumstances of the case and in the light of our findings, it is to be concluded that the allegation of Ld. AO remains unsubstantiated. We find substantial merits in the argument of Ld. AR and therefore, we delete the impugned addition of Rs.810.75 Lacs as made by Ld. AO and confirmed by Ld. CIT(A). The assessee succeeds in corresponding grounds of appeal. This being so, the addition of Rs.350.16 Lacs would also not survive since no incriminating material, in that respect, has been found from the assessee. The addition is merely an extrapolation by Ld. AO on the basis of probable market prices as gathered from portal *99acres.com*. As rightly observed by Ld. CIT(A), such an approach by Ld. AO is legally impermissible in the absence of any seized material or independent evidences. The Ld. AO has merely presumed that all the other sales suffered similar suppression and applied market rate to compute actual consideration. The rates have been applied mechanically whereas no buyer was examined. No incriminating document was available for these units. The presumption of Ld. AO was speculative and contrary to the principle that additions in search cases must be based on cogent material. The extrapolation was flawed in methodology. The Ld. AO effectively replaced the assessee's declared turnover for 85 units with an artificial figure without rejecting the books u/s 145(3). The absence of any direct evidence for the alleged suppression of sales in these sales instances render the addition unsustainable. The rates displayed on the property portal was not authenticated record of concluded transactions. These rates are posted by brokers, sellers or other users to advertise asking prices. There is no certainty that these rates correspond to actual deals and the

rates are sensitive to range of variable including location, frontage, floor level, view, stage of construction, urgency of sale and buyer's negotiation strength etc. The assessee's books were not rejected u/s 145(3). No attempt was made to obtain comparable sale deeds for similar units sold during the year and no reference was made to Department's valuation cell for technical opinion on market rates. There was no corroboration of such extrapolation. Therefore, the addition has rightly been deleted by Ld. CIT(A). In the result, the revenue's appeal stands dismissed.

8. Coming to the addition of unexplained cash credit u/s 68, the addition so made by lower authorities is again tabulated as under: -

No.	Name of Lender	Amount of Loan (Rs.)	Repayment during AY 2020-21	Repayment during AY 2021-22	Documents furnished by the assessee
1.	Shri Ajaib Singh s/o Basta Singh	Rs.60.00 Lacs			Copy of account, Assessee's bank statement, Aadhar Card, PAN and death certificate
2.	Gagan Sharma	Rs.25.00 Lacs			---
3.	Gora W/o Beeram Das	Rs.29.00 Lacs			----
4.	Jashanpreet Kaur	Rs.15.00 Lacs			Confirmed copy of accounts, Aadhar Card, PAN and Bank statement
5.	O.P. Dhingra	Rs.30.00 Lacs	Rs.10.00 Lacs	Rs.20 Lacs	
6.	Sarninder Singh Brar	Rs.69.00 Lacs	Rs.55 Lacs		
7.	SDRD Construction	Rs.4.00 Lacs	Rs.24.00 Lacs		Copy of Accounts, ITR, PAN, financial statements
	<b>Total</b>	<b>Rs.232.00 Lacs</b>	<b>Rs.89.00 Lacs</b>	<b>Rs.20.00 Lacs</b>	

In respect of Shri Ajaib Singh, the assessee has furnished copy of account, Aadhar Card and PAN details of the lender. The lender apparently has left for heavenly abode and therefore, there is no question of filing confirmation

from the lender. The assessee has furnished bank statement to establish that the funds have been received through banking channels.

The assessee has received loan of Rs.28 Lacs through banking channels from M/s SDRD construction which is evident from ledger extract of the lender as placed on record. The lender party has also furnished the ledger extract which matches with the ledger of the assessee. The assessee has furnished ITR and financial statements of that entity. Apparently, there is no difference in the accounts as alleged by lower authorities. The lender is a corporate entity. The financial statement reflect loan of Rs.28 Lacs to the assessee. The amount of Rs.28 Lacs has fully been repaid by the assessee in 30-01-2020. Therefore, the creditworthiness of this lender could not be doubted.

The loan of Rs.69 Lacs from Shri Sarninder Singh Brar has been repaid substantially to the extent of Rs.55 Lacs by the assessee during AY 2020-21 and the lender has closing balance of Rs.14 Lacs. The transactions are through normal banking channels only.

The assessee has obtained loan of Rs.15 Lacs from Ms. Jashanpreet Kaur on 20-07-2018 which is evident by ledger extract. The assessee has furnished PAN details as well as Aadhar Card of the lender. The loan is through normal banking channels only.

The assessee has obtained loan of Rs.30 Lacs from Shri O.P. Dhingra on 15-05-2018 which has fully been liquidated by 06-11-2020. The same is evident from ledger extracts. All the transactions are through banking channels only.

9. We find that as per the provisions of Section 68 of the Income Tax Act, 1961, where any sum is found credited in the assessee's books and assessee offers no explanation about the nature and source thereof or the explanation furnished is found to be unsatisfactory, the sum so credited may be charged to Income-Tax as the income of the assessee of that previous year. A proviso has been inserted to the said section by Finance Act, 2012 w.e.f. 01-04-2013 to provide that where the assessee is a company and the sum so credited consists of share application money, share capital, share premium etc., the explanation furnished by the assessee shall be deemed to be not satisfactory unless the person in whose name such credit is recorded also offers an explanation about nature and source of sum so credited and such explanation is found to be satisfactory. However, this proviso is not applicable to the facts of the present case since we are dealing with case of unsecured loans and advances. Such additional onus / requirement for unsecured loans / advances has been introduced by Finance Act, 2022 which is applicable only from AY 2022-23 and therefore, for the impugned AY 2019-20, there is no obligation on the assessee to establish the source of source of unsecured loans and advances. Proceeding further, it would be the primary onus of the assessee to establish the identity of the lender, creditworthiness of the lenders as well as genuineness of the loan transactions. Once all the supporting documents have been furnished by the assessee, the primary onus of the assessee would stand discharged and it would be the onus of Ld. AO to rebut the claim of the assessee by bringing on record cogent / concrete evidences to dislodge the claim of the assessee. Unless this

exercise is done by Ld. AO, no such addition of unexplained cash credit could be made in the hands of the assessee.

10. In the light of above settled legal position, we find that the assessee has duly furnished ample documentary evidences to discharge the required onus of Sec.68. Once these documents have been furnished, the onus of the assessee stood discharged. The Hon'ble Apex Court in the case of **Pr. CIT vs. New Video Pvt. Ltd. (2018; 7 TMI 1455 SLP No.18325/2018)** held that when the loans were repaid in subsequent years and the explanation offered by the assessee on repayment was accepted by revenue, the addition could not be sustained. The Hon'ble Punjab & Haryana High Court in the case of **CIT Vs Karaj Singh (15 Taxmann.com 70)** held that where the assessee filed completed details to prove the genuineness and creditworthiness of the loan creditors and the loans stood repaid through normal banking channels, Ld. AO was not justified in treating the said loan as unexplained cash credit u/s 68. Similar is the decision of Chandigarh Tribunal in the case of **Shri Rajiv Goyal vs. ITO (ITA No.481/Chd/2025)**. The decision of Agra Tribunal in the case of **Sh. Agarsen Logistic (ITA No. 108/Agra/2025 dated 24-06-2025)** has been rendered on identical facts. The Agra Tribunal held that addition u/s 68 could not be made on preponderance of probability and there has to be some evidence to establish the fact of unexplained cash credit. No addition could be made merely on the basis of suspicion. Once the assessee has filed all the details, the burden of proving the genuineness and creditworthiness of the creditor stood discharged by the assessee. The other decisions as quoted

by Ld. AR in the written submissions lay down similar propositions and duly support the case of the assessee.

11. It could further be seen that no incriminating material has been found during search on assessee to indicate that these unsecured loans represent assessee's own unaccounted money. Further, these loan creditors are not subjected to any independent enquiry by Ld. AO despite having on record sufficient details thereof.

12. Finally, considering the facts and circumstances of the case, it could very well be concluded that the assessee had discharged the initial onus of proving these transactions in terms of the requirements of Sec.68. Therefore, the onus had shifted on Ld. AO to dislodge the assessee's documentary evidences and bring on record cogent material to establish that the assessee generated unaccounted money and routed the same through banking channels in the garb of loans and advances. Unless such an investigation is shown to have been carried out, the additions would not be sustainable in law since it is trite law that no addition could be made on the basis of mere suspicion, conjectures and surmises. No independent enquiry has been carried out by Ld. AO to dislodge the documentary evidences of the assessee. Therefore, by deleting the impugned addition, we allow the corresponding grounds of assessee's appeal.

13. In one of the grounds, the assessee has raised the issue of mechanical approval u/s 153D. On the issue of approval u/s 153D, Ld. CIT(A) noted that Ld. AO sent the draft assessment order along with assessment record to Addl. CIT on 27-12-2022 and the approval was accorded on 28-12-2022. The Ld. Addl. CIT duly considered the issues

involved in the draft assessment order and made the perusal of assessment record. The allegation that the approval was mechanical approval had no basis. In Central charges, all search and seizure assessments are regularly supervised and monitored by the range heads. The Addl. CIT as range head is actively involved in assessment of all such cases from beginning and at all stages of search and seizure assessment, the assessing officer discusses and seek his guidance. The CBDT Circular F.No.286/161/2006-IT (Inv. II) dated 22-12-2006 highlight the consultative approach between the Assessing Officer and the Range Head in search and seizure assessments. The range head as well as AO have followed the instructions / guidelines of the Board for the completion of search and seizure assessment and the assessment order was finalized by Ld. AO after obtaining approval u/s 153D from the Range Head. The seized documents were part of the assessment records. The approval u/s 153D was accorded after due examination and verification by the Range Head. Therefore, the allegation of the assessee qua mechanical approval was without any basis. Further, the approval was in the nature of administrative power. The Range head do not examine or adjudicate upon rights and obligations of the assessee but only consider whether AO has fulfilled the requirement of Sec.153A or not. Reference was made to the decision of Hon'ble Karnataka High Court in the case of **Rishabchand Bhansali (267 ITR 577)** to support the conclusion. In the given facts of the case, it could be said that Addl. CIT had applied his mind on the issues involved and accorded the requisite approval in accordance with the provisions of Act. Such approval could be said to be mechanical and without application of mind.

14. The aforesaid factual matrix has brought on record could not be controverted before us. The issue of approval as taken by Ld. AO from Addl. CIT, in our considered opinion, has adequately been dealt with by Ld. CIT(A) in the impugned order and we concur with the same. This adjudication does not warrant any interference on our part. The corresponding grounds of assessee's appeal stand dismissed. No other grounds have been urged in assessee's appeal.

### **Conclusion**

15. The assessee's appeal ITA No.1230/Chandi/2025 stand partly allowed. The revenue's appeal ITA No.1592/Chandi/2025 stand dismissed.

Order pronounced on 10<sup>th</sup> March, 2026.

-Sd-  
**(RAJPAL YADAV)**  
**VICE PRESIDENT**

-Sd-  
**(MANOJ KUMAR AGGARWAL)**  
**ACCOUNTANT MEMBER**

Dated: 10.03.2026

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

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

ASSISTANT REGISTRAR

ITAT CHANDIGARH