

**IN THE INCOME TAX APPELLATE TRIBUNAL  
VISAKHAPATNAM "DB" BENCH : VISAKHAPATNAM  
AT HYDERABAD**

**BEFORE SHRI VIJAY PAL RAO, VICE PRESIDENT  
AND  
SHRI OMKARESHWAR CHIDARA, ACCOUNTANT MEMBER**

आ.अपी.सं / **ITA No.181/VIZ./2025**

Assessment Year 2018-2019

The DCIT, Central Circle-2, GUNTUR – 522 004. State of Andhra Pradesh.	vs.	Apoorva Sarovar, KURNOOL – 518 004. State of Andhra Pradesh. PAN ABEFA4123B
(Appellant)		(Respondent)

For Assessee :	Sri C Subrahmanyam, CA
For Revenue :	Sri Badicala Yadagiri, CIT-DR

Date of Hearing :	18.03.2026
Date of Pronouncement :	17.04.2026

**आदेश / ORDER**

**PER VIJAY PAL RAO, V.P. :**

This appeal by the Revenue is directed against the Order dated 29.01.2025 of the learned CIT(A), Visakhapatnam-3, for the assessment year 2018-2019.

2. The Revenue has raised various grounds. However, the effective grounds from 1 to 11 are as under:

1. *“The order of the Ld. CIT(A) is erroneous both on the facts and in law.*
2. *The Ld. CIT(A) has erred in estimating the profit @ 12% on the total un-admitted receipts of Rs.3,46,24,374/-.*
3. *The Ld. CIT(A) is erred in not considering the fact that the assessee could not prove the expenditure corresponding to the un-admitted receipts of Rs.3,46,24,374/-.*
4. *The Ld. CIT(A) is erred in not appreciating the fact that the assessee firm had claimed entire expenditure in its books of account and they were audited also. The LD. CIT(A) ought to have considered the fact that allowance of any further expenditure other than recorded in the regular books of account, shall be supported by documentary evidence conclusively, but in the present case it is not so.*
5. *The Ld. CIT(A) is erred in not appreciating the fact that the receipts of Rs.3,46,24,374/- were unearthed during the course of Survey operation u/s 133A and evidenced by impounded material. The Ld CIT(A) ought to have appreciated the fact that the same impounded material has no indication of any corresponding expenditure that was not recorded in the regular books of accounts.*
6. *The Ld CIT(A) ought to have appreciated the fact that evidence was unearthed at the time of Survey in relation to un-admitted receipts, but there was no running account/cash book available, containing both the unaccounted receipts and unaccounted expenditure.*
7. *The Ld. CIT(A) is erred in allowing relief of Rs.3,10,09,614/- towards amounts collected against un sold flats more than the sale consideration holding that the said amount was admitted by the Partners of the assessee firm. The Ld. CIT(A) ought to have*

*considered that the project was taken up by the assessee firm and any receipts out of the project shall be taxable in the hands of the assessee firm, but not otherwise.*

8. *The Ld. CIT(A) is erred in allowing relief of Rs.3,10,09,614/- though the said receipts are part of the impounded material and belong to assessee firm.*
9. *The Ld. CIT(A) is erred in allowing relief of Rs.3,10,09,614/- though the assessee firm and its partners are separate entities and diversion of business receipts of the assessee firm to its partners is not permissible as per law.*
10. *The Ld CIT(A) is erred in allowing relief of Rs.3,10,09,614/- as the assessese firm had tried to reduce its taxable profits/income, by diverting part of its business receipts to its partners.*
11. *The Ld. CIT(A) is erred in allowing relief of Rs.3,10,09,614/- holding that the partners of the assessee firm have admitted the said receipts in their individual capacity, by ignoring the fact that the partners, namely Sri M Sriramulu, Smt. M Vijayalakshmi & Sri M Mahesh had admitted turnovers to the tune of Rs.1,13,62,370/, Rs.23,79,403/- & Rs.1,16,02,311/- respectively, aggregating to Rs.2,53,44,084/-only for the subject assessment year.”*

3. Ground no.1 is general in nature and does not require any specific adjudication.

4. Ground nos.2 to 6 regarding the addition made by the Assessing Officer on account of unaccounted

receipts/turnover which was restricted by the learned CIT(A) to the profit @ 12%.

5. The learned DR has submitted that the unaccounted receipts/turnover of Rs.3,46,24,374/- was unearthed during the course of survey operation u/sec.133A of the Income Tax Act [in short "the Act"], 1961 and evidenced by the impounded material. The learned CIT(A) has restricted the addition by estimating the profit @ 12% without bringing any fact or material on record to show that the assessee has incurred any expenditure towards the unaccounted receipt/turnover. The learned DR has referred to the assessment order and submitted that the Assessing Officer has noted from the details of the turnover declared by the assessee that there is a discrepancy to the extent of Rs.3,46,24,374/- in the total sale of the houses, whereas the assessee had declared the turnover in the return of income filed for the assessment years 2017-2018 and 2018-2019 only to the tune of Rs.12,22,10,605/- and a closing stock of Rs.28,77,500/-. Therefore, there was a difference of Rs.3,46,24,374/- which was added by the Assessing Officer for the year under

consideration. The learned CIT(A) has restricted the said addition by taking the profit element @ 12% of the unaccounted/undeclared turnover. The learned DR has submitted that the learned CIT(A) failed to consider the fact that, had the Department not conducted survey u/sec.133A of the Act, the fact of non-admission of sale proceeds would not have come to the light and the *modus operandi* of the assessee firm would not have unearthed. He has relied upon the Judgment of Hon'ble Supreme Court in the case of **Kishore Kumar vs. DCIT [2015] 234 Taxman 771 (SC)** and submitted that the statement recorded on oath also constitutes an incriminating material and is having an evidentiary value. The partner of the assessee firm at the time of survey proceedings admitted in the statement that he was unable to produce all the bills/vouchers for the expenditure incurred and also surrendered the income of Rs.1,50,00,000/-. Thus, without considering the statement of the partners of the assessee firm, the addition deleted by the learned CIT(A) is not justified as a statement and admission on behalf of the assessee is an admissible evidence

against the assessee. He has also relied upon the decisions of Hon'ble Supreme Court in the case of **Sumati Dayal vs. CIT [1995] 214 ITR 801 (SC)** and **CIT vs. Durga Prasad More [1971] 82 ITR 540 (SC)**. He has also relied upon the Order of the Assessing Officer.

6. On the other hand, the learned Authorised Representative of the Assessee has submitted that nothing was found or impounded during the survey except the statement of the partner of the assessee firm was recorded on 14.02.2018. He has filed copy of the statement and submitted that except question no.12 and reply to the said question, nothing has been confronted to the partners of the assessee firm in respect of the suppressed or unaccounted receipts/turnover. The Assessing Officer has made the addition on the basis of the record and details filed by the assessee wherein the assessee has explained all the details and facts regarding the sale of the plots and turnover declared by the assessee for the assessment years 2016-2017 to 2020-2021 total amounting to Rs.13,47,70,487/- and therefore, the Assessing Officer failed to consider the receipt

declared by the assessee in the subsequent years to the extent of Rs.1,25,59,880/- which was rightly considered by the learned CIT(A). The learned Authorised Representative of the Assessee has further submitted that the total turnover/receipt as per the details furnished by the assessee was a consolidated amount in respect of the sales of the plots, advanced in respect of unsold plots as well as in respect of additional working carried out by the partners of the assessee firm who have declared and admitted the turnover to the extent of Rs.3,10,09,614/- in their return of income for the assessment year 2018-2019. The learned Authorised Representative of the Assessee has submitted that the Assessing Officer has not disputed that the partners of the assessee firm are also engaged in the business of real estate and the addition is made on the basis of the details furnished by the assessee during the assessment proceedings explaining the receipts to the extent of Rs.3,10,09,614/- towards the extra work executed by the partners as per the request and requirement of the buyers. The learned Authorised Representative of the Assessee has further

submitted that since most of the buyers availed the bank loan for financing the transactions which is based on the agreement and agreed sale consideration, therefore, it was not possible for the assessee to do the extra work over and above the agreed consideration which was already submitted to the banks for availing the loan by the buyers. The learned Authorised Representative of the Assessee has thus, submitted that the extra work was carried out by the partners and is also part of the gross total receipts as per the details. However, the assessee has declared the turnover in the return of income to the extent of the consideration received by the assessee as well as some amount of extra work carried out by the assessee which is part of the agreed amount and sale consideration already declared as per the agreement between the parties. Thus, the learned Authorised Representative of the Assessee has submitted that though the assessee has not challenged the Order of the learned CIT(A) restricting the addition to 12%, however, the addition made by the Assessing Officer itself is not justified and therefore, the grounds raised by the Revenue have no merit and liable

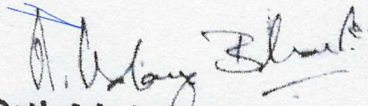
to be dismissed. In support of his contention, he has relied upon the following decisions:

- i. Judgment of Hon'ble Gujarat High Court in the case of CIT vs. Gurubachhan Singh J. Juneja [2008] 302 ITR 63 (Gujarat);
- ii. CIT vs. Willamson Financial Services [2008] 297 ITR 17 (SC);
- iii. Judgment of Hon'ble Gujarat High Court in the case of CIT vs. President Industries [2002] 258 ITR 654 (Gujarat);
- iv. Order of ITAT, Hyderabad Bench in the case of Sri Sri Estates, Hyderabad vs. ACIT, Central Circle-2(3), Hyderabad in ITA.No.2242 to 2245/Hyd./2017 and ITA.Nos.228 to 230/Hyd./2018 dated 25.07.2018;

7. We have considered the rival submissions as well as relevant material on record. At the outset we note that there was a survey operation u/sec.133A of the Act carried out on 15.02.2018 and statement of the partner of the assessee Sri M Sree Ramulu was also recorded during the survey operation which reads as under:

D.No. \_\_\_\_\_  
Prakash Nagar, KURNOOL

**Statement of Sri M Sree ramulu, Partner, M/s Apoorva Sarovar(PAN:ABEFA4123B) recorded on 15.02.2018 in connection with summons issued u/s 131 of the Income Tax Act, 1961 being conducted on M/s Apoorva Sarovar at 1<sup>st</sup> Floor, S V Complex, Kurnool - 518001 on 14.02.2018.**

  
Oath Administered.

  
Oath Taken.

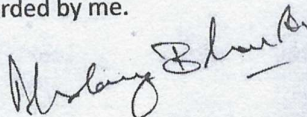
<b>1.</b>	<b>Please identify yourself.</b>
	My name is M Sreeramulu, S/o M Basappa aged 58 years. I am a resident of Kurnool. My address is H.No 43/262-1-M-1, Sankalbagh, N R Peta, Kurnool - 518001. I am partner in M/s Apoorva Sarovar. My PAN Number is AAXPM0998G.
<b>2.</b>	<b>Please give details regarding the nature of business activities of your company and your role in it?</b>
	Nature of business is purchase of agriculture lands, conversion of agricultural lands to Layout and selling the plots/houses. We are purchasing lands and selling plots/houses independently without brokers/agents but we used to give advertisement in electronic/print media.
<b>3.</b>	<b>During the course of survey u/s 133A in your business premises, it is found that no books of accounts relating to M/s Apoorva Sarovar for F.Y 2017-18. Please state the reasons.</b>
	Sir, I am herewith submitting manual books of accounts for kind perusal. We have appointed part-time accountant for maintaining books of accounts in tally package. But the health of accountant is not well. Hence, the records are not updated for the last 3 months.
<b>4.</b>	<b>Please give details of your movable and immovable Properties &amp; bank accounts.</b>
	<u>Immovable Properties:-</u> I have a own house at H No 43-262-1-M-1 at Sankal Bagh, Kurnool. I have an agricultural land of 5 acres at Veldurthy. <u>Movable properties:-</u> I have 25 tulas of gold jewellery. <u>Bank accounts:</u> I am herewith submitting list of all bank accounts.

5.	<b>Please give brief details of Modus Operandi of your business.</b>
	We purchase land after taking permission from Municipal authorities/ Gram panchayat. We divide the land into plots, then sell the plots to the buyers with the agreement of constructing the house on the plot.
6.	<b>Please give details of the M/s Apoorva Sarovar project.</b>
	The venture is situated at Pasupala Panchayat Board, Kurnool. The project has 57 plots.
7.	<b>Please give details of the firms in which you are a partner other than M/s Apoorva Sarovar.</b>
	I am a partner in the following firms: 1. M/s Apoorva Amaravathi 2. M/s Apoorva Akshardham 3. M/s Apoorva Shilparamam 4. M/s Apoorva Rohini Builders & Developers I am director in the following companies: 1. M/s Apoorva Avenues India Pvt Ltd.
8.	<b>On examination of the Profit &amp; Loss Account for the year ending 31.03.2017, you have debited a direct expense of Rs.5,51,22,871/-. During the course of survey, it is noticed that there are most of the bills/vouchers pertaining to expenses and books of accounts. Please produce the books of accounts along with the expenditure bills and vouchers.</b>
	Sir, I am submitting herewith the books of accounts for the year ending 31.03.2017 and bills/vouchers for the expenditure debited towards the Head 'Direct Expenses' viz. Steel, Cement, Sand, land development expenses, labour payments etc.
9.	<b>On the verification of bills and vouchers, it is noticed that many of the vouchers are not supported by bills and seem self-made. In addition to that, your books of account are also not updated. Please explain the reason.</b>
	Sir, in our line of business, there are many contingent expenses like petty labour payments, payments to the local contractors for our petty usage like sand, metals for which we incur expenses but sometimes, but those are updated at later stage.
10	<b>During the course of survey, it is noticed that your firm did not have any TAN number. Please state the reasons.</b>
	Sir, We do not have TAN Number since we have not made any payments which obligate us to make TDS. But, We are in the process of getting TAN

M. S. Shukla

M. S.  
APOORVA SAROVAR

D.No. 43/25-1111

	Number.	
11	On verification of Bill voucher book, it is noticed that there are some vouchers for cash receipts (above the acceptable limit). Have you maintained the cash book for receipt of cash?	
	Sir, we have maintained the cash book and ledger. All the above transactions are recorded in cash book.	
12	On perusal of Profit & Loss Account, it is seen that you are showing Net Profit of only Rs.14,36,674/- on total turnover of Rs.4,40,36,942/- i.e, 3.26% for AY 2017-18 which seems to be on the lesser side in the field of construction of houses. In addition to that, your books of accounts for the current year are also not found updated and bills/vouchers are also not fully verifiable. Please offer your comments.	AY 18-19
	Sir, I prayed earlier that the firm has incurred expenses but due to poor record keeping, I am not able to produce all the bills/vouchers before you right now. Hence, to cover up all the discrepancies/deficiencies, I voluntarily offer an additional income of Rs.1.5 Crores (Rs.1,50,00,000/-) for the AY 2017-18 and AY 2018-19 in M/s Apoorva Sarovar. For AY 2017-18, I voluntarily offer additional income of Rs.1 Cr and the rest Rs.0.5 Cr for AY 2018-19. I will pay the entire taxes thereon before 15 <sup>th</sup> March, 2018.	
13.	Do you want to say anything else?	
	Sir, I am cooperating with the department, penalties if any, may kindly be not levied and prosecution if any, may kindly be not launched.	
		DEPONENT H. S.
	Recorded by me. 	APOORVA SAROVAR D.No: 43/262-1M-1, Prakash Nagar, KURNOOL.

7.1. Thus, it is clear from the statement recorded on 14.02.2018 that neither any incriminating material nor any other fact was confronted to the partner of the assessee firm to show the suppressed of any turnover/receipts. In response to question no.12 i.e., regarding low profit declared by the assessee, the partner has explained that the firm has

incurred expenditure but due to poor record keeping, he was unable to produce all the bills/vouchers at that point of time. Therefore, to cover-up all the discrepancies/deficiencies he offered an additional income of Rs.1.5 crores out of which Rs.1 crore was to be offered for the assessment year 2017-2018 and Rs.50 lakhs for the assessment year 2018-2019. Further the Assessing Officer has not found any deficiency or discrepancy so far as the expenditure booked by the assessee in the P & L A/c for the year under consideration. The Assessing Officer has recorded the facts and discussed this issue in Para nos.4 to 5.3 as under:

*“4. In response to the notices issued under section 142(1) of the IT Act, the assessee furnished information called for. The assessee e-filed audit report in form No. 3CB and 3CD and also submitted audited financials account with annexure. On examination of relevant information filed, it is seen that the assessee is engaged in the business of real estate. A survey action u/s 14.02.2018 was carried out in the business premises of the assessee. On verification of the information submitted by the assessee, it found that during course of survey operation in the case of assessee, the assessee stated in his statement recorded on 15.02.2018 in his answer to question No. 12 as follow.*

12.	On perusal of Profit and Loss Account, it is seen that you are showing Net Profit of only Rs.14,36,674/- on total turnover of Rs.4,40,36,942/- i. e, 3.26% for A.Y. 2017-18 which seems to be on the lesser side in the field of construction of houses. In addition to that, your books of accounts for the current year are also not found updated and bills/vouchers are not fully verifiable. Please offer your comments
	Sir, I prayed earlier that the firm has incurred expenses but due to poor record keeping, I am not able to produce all the bills/vouchers before you right now. Hence, to cover up all the discrepancies/deficiencies, I voluntarily offer an additional income of Rs.1.5 Crores (Rs.1,50,00,000/-) for the A.Y. 2017-18 and A.Y. 2018-19 in M/s. Apoorva Sarovar. For A.Y. 2017-18, I voluntarily offer additional income of Rs. 1 Cr and the rest Rs. 0.5 Cr for A.Y. 2018-19. I will pay the entire taxes thereon before 15th March, 2018.

**5.** Vide Notice U/s. 142(1) dated 29.04.2021 the following information has been called for.

**5.1.** As per Apoorva Sarovar customers registration details furnished by you, there are total 59 plots for sale, and the plots 57,37,35,30,25,15,10 and 5 are not registered to anybody, as such the above plots should be in closing stock but details are not available or made available. It is not explained and closing stock is not matching in term of value.

**5.2.** As per list furnished during course of assessment proceedings: the total consideration of 51 houses were shown at Rs.14,61,65,000 and the value of extra work done was shown at Rs.1,06,69,979 totalling to Rs.15,68,34,979/-. The verification of return of income filed, reveals that you have admitted turnover of Rs.7,79,95,664 for 2018-19 and of Rs.3,44,27,000 for 2017-18 totalling to Rs.11,24,22,664/-. Thus, there is a difference in turnover of Rs.4,44,12,315/- but you have shown the closing stock

*of Rs.28,77,500/-, Hence there is net difference of Rs.4,15,34,815/-, that is proposed to add to the returned incomes.*

**5.3.** *The assessee in his reply dated 24.06.2021 stated that the admitted the turnover of Rs.1,78,000 for asst year 2016-17, Rs.4,40,35,942 being sales consideration of Rs.3,44,27000/- and construction/contract income of Rs.96,09,942/- and Rs.7,79,95,663 for the asst year 2018-19, totalling to Rs.12,22,10,605/- and the assessee confirmed the total sale consideration of Rs.14,61,65,000 and extra work receipt of Rs.1,06,69,979 totalling to Rs.15,68,34,979 but unable to explain the difference of Rs.3,46,24,374/- (Rs.15,68,34,979 minus Rs.12,22,10,605). Hence it is proposed to add the difference of Rs.3,46,24,374/-”*

7.2. Therefore, only in response to notice u/sec.142(1) of the Act, the assessee furnished information called for comprising of audit report in Form-3CB and 3CD and also submitted audited financial accounts with annexures. On examination of the record filed by the assessee, the Assessing Officer noted that as per the customers registration details furnished by the assessee, there are total 59 plots for sale but 8 plots are not registered to anybody and therefore, those plots ought to have been in the closing stock but details were not available or made available. Thereafter, the Assessing Officer again considered the list furnished by the assessee

regarding the total consideration received against 51 houses and again arrived to the net difference of Rs.4,15,34,850/- proposed to be added to the return of income. The Assessing Officer again after considering the reply of the assessee has modified the net difference amount to Rs.3,46,24,374/-. All these observations and details given by the Assessing Officer clearly manifest that the Assessing Officer has not verified the actual facts and details but keep on changing the amount of difference in the turnover declared by the assessee and the turnover as per the details of registration as well as other details of turnover furnished by the assessee along with extra work done. It is pertinent to note that the assessee in the reply which was considered by the Assessing Officer while arriving at the final figure of difference at Rs.3,46,24,314/-, has shown gross receipts declared in the return of income for the assessment years 2016-2017 to 2020-2021 as under:

Assessment Year	Gross Receipts
2016-17	1,78,000
2017-18	4,40,36,942
2018-19	7,79,95,655
2019-20	1,20,66,809
2020-21	4,91,071
Total	13,47,70,487

7.3. However, the Assessing Officer has calculated the net difference without considering the turnover for the assessment years 2019-2020 and 2020-2021 declared by the assessee amounting to Rs.1,25,59,880/-. This is a case of addition made by the Assessing Officer based on the details and books of account produced by the assessee during the course of assessment proceedings and not an addition based on any incriminating material found or impounded during the course of survey proceedings carried out u/sec.133A of the Act on 14.02.2018. Though the assessee explained the total receipts to the tune of Rs.15.68 crores as a gross total consolidated amount as per the Excel sheet, out of which, an amount of Rs.13.47 crore was received by the assessee and duly recorded in the books of account as well as declared in the return of income filed for the assessment years 2016-2017 to 2020-2021 and balance amount was explained by the assessee as pertain to the extra work executed by the partners. This claim of the assessee was not accepted by the learned CIT(A) but the addition was restricted firstly in respect of the differential amount which is only

Rs.2,20,64,493/- and then only to the profit element by estimating the profit at 12% on the alleged unaccounted turnover in Para nos.6.4 to 6.4.5 as under:

**“6.4. Unadmitted turnover as per assessee's working list - Rs. 3,46,24,374/-:**

*The AO, made addition of Rs.3,46,24,374/- on account of unadmitted turnover for the impugned A.Y.2018-19. The relevant findings in the assessment order is appended below:*

5.2. *As per list furnished during course of assessment proceedings: the total consideration of 51 houses were shown at Rs.14,61,65,000 and the value of extra work done was shown at Rs.1,06,69,979 totalling to Rs.15,68,34,9791- The verification of return of income filed, reveals that you have admitted turnover of Rs.7,79,95,664 for 2018-19 and of Rs.3,44,27,000 for 2017-18 totalling to Rs.11,24,22,6641-. Thus, there is a difference in turnover of Rs.4,44,12,315/- but you have shown the closing stock of Rs.28,77,500/-, Hence there is net difference of Rs. 4,15,34.815/-, that is proposed to add to the returned incomes.*

5.3. *The assessee in his reply dated 24.06.2021 stated that the admitted the turnover of Rs.1,78,000 for asst year 2016-17, Rs.4,40,35,942 being sales consideration of Rs.3,44,27000/-and construction /contract income of Rs.96,09,942/- and Rs.7,79,95,663 for the asst year 2018-19, totalling to Rs.12,22,10,6051- and the assessee confirmed the total sale consideration of Rs.14,61,65,000 and extra work receipt of Rs.1,06,69,979 totalling to Rs.15,68,34,979 but unable to explain the difference of Rs.3,46,24,3741- (Rs.15,68,34,979 minus Rs.12,22,10,605). Hence it is proposed to add the difference of Rs.3,46,24,374/-.*

**6.4.1.** *In this regard, the Ld. AR had submitted that the aggregate sale consideration pertaining to the firm and its partners (in their individual capacity) is Rs.15,68,34,974/-. Of the said amount, the firm had declared total receipts of Rs.13,47,70,487/-. Further the Ld. AR had stated that the balance pertains to amount/projected amount to be received by the partners of the firm in their individual capacity However, the Ld. AR could not reconcile the actual amount received for the said project and the amount declared in the hands of the firm and partners. It has to be noted here that the additional income of Rs.3,10,09,614/- which was made in the assessment order was already decided in favour of the assessee. Hence the appellant's submission that sum of Rs.3,46,24,373/- was also considered in the hands of the partners do not have any merits.*

**6.4.2.** *The appellant submitted the year wise turnover declared by the firm and the same is appended below.*

Assessment Year	Gross Receipts
2016-17	1,78,000
2017-18	4,40,36,942
2018-19	7,79,95,655
2019-20	1,20,66,809
2020-21	4,91,071
Total	13,47,70,487

**6.4.3.** *In arriving at the difference of Rs.3,46,24,373/-. The AO did not consider the turnover declared by the firm in the A.Y.2019-20 and 2020-21. After considering the turnover declared in AYs 2019-20 and 2020-21 the unadmitted turnover is arrived at Rs.2,20,64,493/-(Rs.3,46,24,373 Rs.1,20,68,809 - Rs.4,91,071). The unreconciled sum of Rs.2,20,64,493/- needs to be treated as additional sales receipts in the hands of the firm. The Ld.AO had taxed the entire sale receipts as income which is not correct. In this regard, many of the judicial authorities held that the entire sales*

*turnover cannot be taxed and only the profit element which needs to be brought to tax.*

**6.4.4.** *In this regard reference may be made to the Hon'ble jurisdictional ITAT, Visakhapatnam in I.T.A Nos. 83,84,85,86,87 & 88/ Viz/2022 in the case of M/s. Yugandhar Housing Pvt. Ltd. Vs. Asst. Commissioner of Income Tax, Central Circle, Vijayawada wherein it was held that only net profit of the unrecorded receipts as percentage of turnover can be brought to tax. The relevant extracts are appended below:*

*10. In the instant case, there is no dispute on the unaccounted turnover. The grievance of the assessee is that the income/net profit embedded in unaccounted turnover must have been taxed and not the entire turnover. We find merit in the argument of the Ld. AR that the assessee has consistently declaring net profit on the accounted turnover ranging from 3% to 10%. It is also noted that the unaccounted turnover of the assessee works out to 33% of the total turnover both disclosed and undisclosed and hence the assessee has disclosed nearly 67% of the turnover in the books of accounts. The net profits declared for the various assessment years as per the above table was assessed and not disputed by the AO. Similarly, it is also admitted that the seized material contains unaccounted expenditure also. We find that the AO has merely relied on the sworn-in statement recorded by the Managing Director of the assessee-company admitting the total income of Rs.27,45,12,189/- for various assessment years but has failed to give deduction for the unaccounted expenditure by the assessee for earning unaccounted income. Hon'ble Gujarat High Court in the case of CIT vs. President Industries [258 ITR 654] (Gujarat HC)*

*has held that it cannot be the matter of an argument that the amount of sales by itself cannot represent the income of the assessee. It is the realization of excess over the cost incurred that only forms part of the profit included in the configuration of sale. Similar view was taken in the case of CIT vs. Gurubachhan Singh J. Juneja [215 CTR 509] (Gujarat HC) and CIT vs. Sharada Real Estate (P) Ltd., [99 DTR 100] (MP-HC) and in the case of Jyotibhaichand BhaichandSaraf & Sons (P) Ltd., vs. DCIT [139 ITD 10] the Coordinate Bench at Pune has confirmed the addition could only be made only to an extent of gross profit earned on an unaccounted/ suppressed sales and not on the entire sales itself. Similar view was taken in the case of ACIT vs. M/s. Archana Trading Co., in ITA Nos. 351 & 352/Coch/2011, dated 28/02/2013 and also ACIT vs. Pahal Food (IT(SS)A.No. 42/Hyd/2005, dated 30/09/2009) by ITAT, Hyderabad. in the case of CIT vs. Williamson Financial Services reported in [2007] 165 Taxman 638 (SC) the Hon'ble Supreme Court has observed as follows in Para 29:*

*“.....Under the income tax Act the tax is on the income and not on gross receipts. It is also important to bear in mind that U/s.4 the levy is on “total income” of the assessee computed in accordance with and subject to the provisions of the Income Tax Act. What is to chargeable to tax under the Income Tax Act is the profit and gains of a year What is chargeable to tax under the Income Tax Act is not gross receipts but income.....”*

*Respectfully following the ratio laid in the above decisions, we are of the opinion that the entire unaccounted turnover cannot be brought to tax or the turnover admitted at the time of search operations cannot be brought to tax and as such there can only be a reasonable estimation of net profit on the unaccounted turnover. In the instant case, since the assessee has declared an average net profit of 8.18% for the AYs 2012-13 to 2018-19, we are of the considered view that the same net profit percentage shall be adopted on the unaccounted turnover of the assessee for the various assessment years.*

**6.4.5.** *Considering the facts and circumstances and the decision of the Hon'ble jurisdictional ITAT Visakhapatnam, I am of the opinion that the percentage of net profit estimated @12% on the unaccounted turnover would meet the ends of justice. Accordingly, the AO is here by directed to estimate net profit @12% on the unaccounted turnover as business income. The ground nos.2 to 6 are partly allowed.”*

7.4. As regards the difference arrived by the learned CIT(A), the Revenue has not disputed this factual aspect as the Assessing Officer has not considered the turnover declared by the assessee for the assessment years 2019-2020 and 2020-2021 which was considered by the learned CIT(A). We do not find any error on this factual finding of the learned CIT(A) because the project in question was running up to the financial year 2019-2020 relevant to the assessment year 2020-2021 and therefore, the turnover declared by the

assessee in respect of the said project has been rightly considered by the learned CIT(A). The learned CIT(A) has followed the decision of this Tribunal which was also based on the various decisions of Hon'ble High Courts and Hon'ble Supreme Court as relied upon by the learned Authorised Representative of the Assessee before us. We further note that when the Assessing Officer has initially pointed out that there is a discrepancy in respect of the sales of plots and assessee has not shown the sale of atleast 8 plots which were also not shown in in the closing stock therefore, the alleged unaccounted turnover would not be considered as undisclosed income of the assessee without taking the corresponding expenditure into consideration. The Assessing Officer has not given the finding that the assessee has booked all the expenditure in respect of the differential turnover treated as unaccounted/undisclosed turnover of the assessee and hence, in the facts and circumstances of the case, we do not find any reason to interfere with the impugned order of the learned CIT(A) *qua* on this issue.

8. Ground nos.7 to 11 are regarding the addition of Rs.3,10,09,614/- made by the Assessing Officer on account of the amount collected against the unsold flats.

9. The learned DR has submitted that the Assessing Officer noted from the customer registration details furnished by the assessee that the consideration of 51 houses is shown at Rs.14,61,65,000/- along with extra work done at Rs.1,06,69,779/- total amounting to Rs.15,68,34,979/-. However, from verification of the individual files of each customer, the Assessing Officer found that the customers paid more than the consideration recorded in the sale deeds of the houses and therefore, there is a collection over and above the consideration shown in the sale deeds to the tune of Rs.3,10,09,614/-. Though the assessee has explained that this amount represents the extra work carried out by the partners of the assessee firm which was also declared by the partners in their individual capacity and return of income filed by them however, there was no evidence filed by the assessee in respect of the said claim and consequently, the Assessing Officer has made this addition to the total income

of the assessee. The assessee has not filed any evidence in support of the said claim and consequently, the Assessing Officer has made this addition to the total income of the assessee. The learned DR has further submitted that the learned CIT(A) has deleted this addition by accepting the claim of the assessee without verifying the fact whether the turnover declared by the partners in their return of income is exclusively for the extra work carried out in this project or from the other work or business done by the partners. The learned DR has thus submitted that accepting this claim without verifying the fact that the turnover of the partners is entirely from this project of the assessee. The learned DR has further submitted that once the assessee has given the details of this amount as per the personal file of the customers then, the claim of the assessee is only an afterthought to avoid the tax on this amount. He has relied upon the Order of the Assessing Officer.

10. On the other hand, the learned Authorised Representative of the Assessee has submitted that the extra work as requested by the customers could not be executed by

the assessee firm as the total consideration would exceed the agreed contractual figure provided with the bankers for availing the loans by the buyers and therefore, in this situation the extra work has been executed by the partners in their individual capacity and the turnover to the extent of Rs.3,10,09,614/- has been separately shown and admitted by the partners in their individual capacity and also paid tax as per their returns of income filed for the year under consideration. The learned Authorised Representative of the Assessee has referred to the details of the returns of income filed by the three partners which is reproduced by the learned CIT(A) as well as placed in the paper book and submitted that the partners have declared the turnover in question in their individual capacity and also paid the taxes and therefore, when this amount was already offered to tax by the partners the same cannot be added in the hand of the assessee. He has supported the impugned order of the learned CIT(A).

11. We have considered the rival submissions as well as relevant material on record. The Assessing Officer has considered this issue in Para nos.5.4 to 5.5.3 as under:

**“5.4.** As per individual files maintained by you: As per the customers registration details furnished as per list, the total consideration of 51 house were shown at Rs.14,61,65,000 and extra work done was shown at Rs.1,06,69,979 totalling to Rs.15,68,34,979/-. You have claimed that the customers paid Rs.3,33,98,210, arranged bank loans for Rs.10,20,91,270/-and the balance amount of Rs.2,13,53,841/- is shown as receivable from customer. The verification of individual file of the each customer, it is found that the customer paid more than the consideration recorded in sale deeds of houses sold totalling to Rs.24,00,57,904. You have mentioned in the sheet/list furnished that there are unsold houses/plots against which you have collected the amount to the tune of Rs.3,10,09,614, If this amounts is also taken into consideration, the total turnover or receipts are around Rs.18,78,52,935/-(Rs.15,68,34979 plus Rs.3,10,09,614) out of which, you admitted Rs.11,24,22,664/- in the returns of income filed. Thus, there is total suppressed turnover of Rs.7,54,30,271 (Rs. 4,15,34,815 plus of Rs.3,10,09,614). As the turnover of Rs.4,15,34,815 is brought tax under para 5.2, the advances collected against unsold houses of Rs.3,10,09,614 is proposed to be brought to tax.

**5.5.** The assessee in his reply dated 24.06.2021 stated that "with respect to the total turnover or receipts as per the Excel sheet available with you was Rs.18,78,52,935/-and you have worked out the suppressed figures Rs.3,10,09,614/-. In this regard we submit that the most of the customers have been provided with respective figures for consideration. As the extra works being anticipated by the customers and requested to execute by our firm was not possible as the total consideration may exceed the agreed contractual figures provided with the bankers. In such scenario the extra work have been executed by the partner in their

*individual capacity and the alleged suppressed turnover of Rs.3,10,09,614/- has been admitted and paid the taxes in the individual capacity of the partners which can be verified from the individual tax returns of the partners Mr. M. Sree Ramulu and Mrs. M. Vijaya Lakshmi and Mr. M. Mahesh." For the following reasons, it is proposed to make addition of Rs.3,10,09,614/-, the calculation of which is as under.*

xxxxx	xxxxx	xxxxx
xxxxx	xxxxx	xxxxx
xxxxx	xxxxx	xxxxx
xxxxx	xxxxx	xxxxx
xxxxx	xxxxx	xxxxx
xxxxx	xxxxx	xxxxx
xxxxx	xxxxx	xxxxx

**5.5.1.** *The assessee has not furnished the details of work executed by each partner in their individual capacity and has not furnished the copy of the returns of income reconciling their turnovers with the amount of Rs.3,10,09,614/-.*

**5.5.2.** *The amount of Rs.3,10,09,614/- was received by the assessee towards unsold houses and also more than the sale consideration. In the absence of proof and considering the fact that advances received for the unsold houses and more than the sale consideration, it cannot be accepted that the partners have executed the extra works worth of Rs.3,10,09,614/-.*

**5.5.3.** *The amount of Rs.3,10,09,614/- was received by the assessee in his bank account but the assessee has not filed any evidence to the effect that the amount of Rs.3,10,09,614/- has been transferred from its bank account to the accounts of the partners. In view of the above it is proposed to add Rs.3,10,09,614/- to the returned income.”*

12. Thus, the Assessing Officer has recorded the facts that the customers have paid part amount and balance consideration was arranged through bank loans. The Assessing Officer then found from the verification of individual files of each customer that they paid the consideration over and above the agreed amount as per the sale deed which was explained by the assessee that the said payment was towards the extra work executed as per the request of the customers and since the sale consideration was already agreed and contractual details were furnished to the banks for availing the loans, therefore, the request of the customers could not be executed by the assessee firm but the same was executed by the partners in their individual capacity. This addition is also made by the Assessing Officer on the basis of the details furnished by the assessee during the course of assessment proceedings and therefore, there is nothing either found or impounded during the course of survey as a basis of this addition. Even otherwise, the Assessing Officer has not made any reference to the any incriminating material found or impounded during the

course of survey in respect of this addition on account of suppressed turnover. The Assessing Officer has clearly stated in Para nos.5.5.2 that this amount was received by the assessee towards un-sold houses more than the sale consideration and explanation of assessee was rejected for want of the details of the work executed by each partner in their individual capacity and non-furnishing of the copy of the return of income. At the outset, it is pertinent to note that if any amount is received by the assessee in respect of the unsold houses then, even if the said amount is not declared by the assessee for the year under consideration, the same cannot be added as suppressed income of the assessee for the year under consideration as this was received in respect of unsold houses and therefore, would represent only an advance received towards unsold houses. Hence, the addition if at all can be made only in the year when finally the houses are sold and the turnover/sales is declared by the assessee in respect of those unsold houses. The learned CIT(A) has considered this issue in para nos.6.3 to 6.3.6 as under:

**“6.3. Amount collected against unsold flats and more than sale consideration - Rs.3,10,09,614/-.**

*During the survey proceedings, in the said Apoorva Sarovar project carried out by the assessee, it was noticed that the appellant had collected more amount against unsold flats over and above the sale consideration. The AO had tabulated such extra collections made by the appellant vide page no. 7 to page 14 of the assessment order. The AO had given each flat number against which the total collection was made and the amount declared by the appellant firm and found out the difference between the two. The total of the difference in the amount collected and amount offered in the return of income of the firm comes to Rs.3,10,09,614/-. In this regard, the Ld.AR before the AO had replied that:*

*“In this regard we submit that the most of the customers have been provided with respective figures for consideration. As the extra works being anticipated by the customers and requested to execute by our firm was not possible as the total consideration may exceed the agreed contractual figures provided with the bankers. In such scenario the extra work have been executed by the partner in their individual capacity and the alleged suppressed turnover of Rs.3,10,09,614/- has been admitted and paid the taxes in the individual capacity of the partners which can be verified from the individual tax returns of the partners Mr. M. Sree Ramulu and Mrs. M. Vijaya Lakshmi and Mr. M. Mahesh.”*

**6.3.1.** *The AO had not accepted the above contentions of the appellant and stated that the assessee has not furnished the details of work executed by each partner in their individual capacity and proceeded to make addition of Rs.3,10,09,614/-.*

**6.3.2.** *I have considered the relevant submission of the appellant and the findings in the assessment order. It is an undisputed fact that the said partner of the firm Shri M. Sriramulu, Smt.M Vijaya Lakshmi and Sri M.Mahesh are into the construction business and filing Return of Income for the impugned A.Ys. The said partners had also filed business income in each A.Y and declared the sales turnover in the respective A.Ys. The turnover declared by the partners are as below.*

**Shri M. Sri Ramulu – Statement showing year wise Turnover, Profit before tax, Taxable Income and Taxes Paid**

Sl. No.	Asst. Year	PBT as per P & L	Turnover
1	2016-17	11,99,595	2,19,50,873
2	2017-18	11,68,806	1,76,89,352
3	2018-19	6,17,694	1,13,62,370

4	2019-20	5,99,178	51,35,727
5	2020-21	1,52,578	52,64,800
6	2021-22	3,35,384	24,73,000
7	2022-23	3,88,090	19,49,177
8	2023-24	4,30,600	23,06,386
9	2024-25	6,40,770	80,09,624

**Smt. M Vijaya Lakshmi – Statement showing year wise Turnover, Profit before tax, Taxable Income and Taxes Paid**

Sl. No.	Asst. Year	PBT as per P & L	Turnover
1	2016-17	5,32,161	32,50,000
2	2017-18	2,90,478	50,77,422
3	2018-19	1,94,223	23,79,403
4	2019-20	2,46,747	30,69,000
5	2020-21	5,39,117	35,94,100
6	2021-22	7,25,680	90,40,000
7	2022-23	4,20,521	44,08,000
8	2023-24	6,51,404	80,00,000
9	2024-25	6,45,315	80,65,000

Smt. M Mahesh – Statement showing year wise Turnover, Profit before tax, Taxable Income and Taxes Paid

Sl. No.	Asst. Year	PBT as per P & L	Turnover
1	2016-17	13,89,977	2,93,05,263
2	2017-18	11,29,642	1,80,84,112
3	2018-19	6,13,228	1,16,02,311
4	2019-20	7,76,906	97,11,300
5	2020-21	4,62,400	57,68,000
6	2021-22	5,92,850	26,63,909
7	2022-23	3,89,769	19,51,800
8	2023-24	5,49,358	55,65,305
9	2024-25	9,26,416	1,53,97,881

**6.3.3.** Further the Ld. AR had submitted that the additional income earned with respect to each flats were offered in the hands of the partners. The Ld. AR had tallied the total amount received from each flat against the total consideration said to be received by the firm specified in page no.7 to 14 of the assessment order. Against the same flat nos mentioned in the assessment order i.e. for flat no's AS-1 to AS-58 of Apoorva Sarovar project, the partners had also offered certain additional income which is part of turnover.

**6.3.4.** *At page no. 5 of the assessment order, the AO had computed the total amount received by the firm towards the Apoorva Sarovar and the consolidated figures are extracted as below:*

<i>Flat Nos.</i>	<i>Total Turnover</i>	<i>Extra Work</i>	<i>Total Amount</i>
<i>AS-1 to 58</i>	<i>14,61,65,000/-</i>	<i>1,06,69,979/-</i>	<i>15,68,34,976/-</i>

*As seen from the above table, the AO had computed the total amount received/ receivable towards Apoorva Sarovar project is Rs.15,68,34,976/-. The appellant submitted the year wise turnover declared by the firm as under:*

*In this regard we submit that the most of the customers have been provided with respective figures for consideration. As the extra works being anticipated by the customers and requested to execute by our firm was not possible as the total consideration may exceed the agreed contractual figures provided with the bankers. In such scenario the extra work have been executed by the partner in their individual capacity and the alleged suppressed turnover of Rs.3,10,09,614/- has been admitted and paid the taxes in the individual capacity of the partners which can be verified from the individual tax returns of the partners Mr. M. Sree Ramutu and Mrs. M. Vijaya Lakshmi and Mr. M. Mahesh.*

**6.3.5.** *The appellant's AR had submitted that already he had offered a sum of Rs.13,47,70,487/- in the hands of the firm. It was also submitted that the firm has not received any other amount apart from the above sum of Rs.15,68,34,976/-. In this regard The Ld. AR had refused the findings of the AO that the sum of Rs.3.10 Cr was credited in the appellant's bank account. The*

*relevant portion of the appellant's AR submission is appended below:*

- a) The Assessing Officer stated in the impugned order that the additional amount of Rs.3.10.09,614/- has been received by the appellant in its bank account. As stated above, the total amount received by the appellant towards the said project over the span of the project i.e. five years is only. Rs.13,47,70,487/- (Refer Annexure # 1). The said Annexure has been submitted to the AO during the assessment proceedings.*
- b) It is humbly submitted that the Assessing Officer has not brought anything on record to substantiate that the alleged additional receipts of Rs.3.10 crores have in fact been received by the firm in its bank account. Since the alleged addition is not backed by any documents/records, the question of rebuttal/proving disproving by the appellant, of such findings by Assessing Officer which are not supported by proper acceptable evidence, does not arise.*

*Further to this, the appellant had submitted that:*

*"d. We herewith enclose a customer wise summary statement in support of Rs.13.47 crores received by the firm as part of the Paper Book that is being filed along with these written submissions (Refer Annexure 1 of the Paper Book). The said statement has been submitted to the Ld. AO during the assessment proceedings.*

*e. As stated above, the aggregate sale consideration pertaining to the firm and its partners (in their Individual capacity) is Rs.15,68,34.979. Of the said amount, the firm has declared total receipts of Rs.13,47,70,487. The balance pertains to amount*

*(projected amount to be received by the partners of the firm in their individual capacity. In support of this, we submit the details of turnover and profits declared by the Partners in their individual hands along with relevant extracts from their Income tax Returns as per Annexure 2 of the Paper book)."*

*6.3.6. When the total receipts from the project is Rs.15.68 Crs and the appellant had offered already Rs.13.74 Cr, it is not known how the sum of Rs.3.10 Crore was said to be received in appellant's bank account. The AO could not specify any reasons why the additional income offered in the hands of partners could not be considered as the part of the sales turnover of Apoorva Sarovar project. Since the appellant had offered the additional receipts of Rs.3,10,09,614/- in the hands of the partners against the sale of flats, i.e. AS-1 to AS-58 mentioned in the assessment order, I find no merits to tax the same in the hands of the firm. I hereby direct the AO to delete the sum of Rs.3,10,09,614/-, made an account of amount collected against unsold flats and more than sale consideration."*

12.1. Therefore, the addition was deleted by the learned CIT(A) after considering the turnover declared by the partners of the assessee in their return of income, particularly for the year under consideration. The details of the returns of income filed by the partners of the assessee firm shows that they are also in the business of real estate and therefore, when the amount was received towards unsold houses which cannot

be added for the year under consideration then, we do not find any reason to interfere with the impugned order of the learned CIT(A) *qua* this issue. Ground nos.7 to 11 are dismissed.

13. In the result, appeal of the Revenue is dismissed.

Order pronounced in the open Court on 17.04.2026.

Sd/-  
[OMKARESHWAR CHIDARA]  
ACCOUNTANT MEMBER

Sd/-  
[VIJAY PAL RAO]  
VICE PRESIDENT

Hyderabad, Dated 17<sup>th</sup> April, 2026.

VBP

Copy to

1.	The DCIT, Central Circle-2, Income Tax Office, Central Revenue Building, Kannavarithota, GUNTUR PIN – 522 004. State of Andhra Pradesh.
2.	Apoorva Sarovar, 43/262-1-M1, Prakash Nagar, KURNOOL – 518 004. State of Andhra Pradesh.
3.	The CIT(A), Visakhapatnam-3, Visakhapatnam.
4.	The Pr. CIT-(Central), Visakhapatnam.
5.	The DR ITAT “Visakhapatnam” DB-Bench, Visakhapatnam.
6.	Guard File

//By Order//