

**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES “A” : HYDERABAD
(THROUGH VIDEO CONFERENCE)**

**BEFORE SHRI S.S.GODARA, JUDICIAL MEMBER
AND
SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER**

ITA No.	A.Y.	Appellant	Respondent
1412/Hyd/16	2008-09	Deputy Commissioner of Income Tax, Central Circle-2(4), Hyderabad	M/s.Gayatri Projects Limited, Hyderabad [PAN: AAACG8040K]
1413/Hyd/16	2009-10		
943/Hyd/16	2010-11	Asst. Commissioner of Income Tax, Central Circle-2(4), Hyderabad	
944/Hyd/16	2011-12		
1500/Hyd/16	2012-13	Deputy Commissioner of Income Tax, Central Circle-2(4), Hyderabad	
1501/Hyd/16	2013-14		

For Revenue : Smt. S.Praveena, DR

For Assessee : Shri Mohan Kumar &
Shri B.Shanti Kumar, ARs

Date of Hearing : 16-08-2021

Date of Pronouncement : 24-08-2021

ORDER

PER S.S.GODARA, J.M. :

These six Revenue’s appeals for AYs.2008-09 to 2013-14; in seriatim, arise against the CIT(A)-12, Hyderabad’s separate orders dt.21-07-2016, 16-03-2016, 17-03-2016 & 21-07-2016 passed in case Nos.0039, 0038, 0278, 0267, 0037 & 0036/2015-16 & 2014-15, involving proceedings u/s.143(3) of the Income Tax Act, 1961 [in short, ‘the Act’]; respectively.

Heard both the parties. Case files perused.

2. It transpires at the outset that the Revenue has raised its identical twin substantive grounds seeking to challenge correctness of the CIT(A)'s action *inter alia* restricting disallowance of assessee's certain identical expenditure claim pertaining to Dummugudem Project to the tune of Rs.15.82 crores (in lead case ITA No.943/Hyd/2016) to the extent of 12.5% and in deleting un-explained credits addition of Rs.20,50,99,560/- (involving varying sum in all these six assessment years); respectively. We advert to its foregoing former substantive grievance and notice that the CIT(A)'s detailed lower appellate discussion deleting the impugned addition under challenge reads as follows:

"8.0 Addition on account of expenditure incurred in cash, for payments made on Dummugudem Project – Rs.15,82,00,000/-:

8.1 While finalizing the assessment order, the AO had observed that the appellant had drawn an amount of Rs.15.82 cr. From various bank accounts, during the period 02-04-2009 to 30-03-2010, in the denominations ranging from 7 lakhs to 9 lakhs on each occasion, with the description of purpose as 'Dummugudem Tail Pond, PK-8 labour advance'. As per the AO, these amounts were not explained during survey proceedings and were not supported by bills/vouchers and no TDS was made on such amounts. During the asst. proceedings, only self-made Vouchers were shown to have been produced and some of the amounts were also used for payment as expenses against public policy such as penalty, gratuitous payments etc. For the said reasons the AO disallowed the entire amounts of Rs. 15,83,00,000/-, treating it as unexplained expenses.

8.2 The appellant objected. for such addition and it has been submitted that the disallowance of Rs.15.82 cr. also forms part of total Expenditure On Dumugudem Project, which has been put at Rs.37.07 cr., against which the AO made separate disallowance of Rs.32.81 cr., which are agitated separately. On the issue of withdrawal of Rs.15.82 cr., and treatment of the entire amount as unexplained expenditure by the AO, the submissions of the appellant run as under:

(i) the amount of Rs.15.82 cr. cannot be treated as unexplained expenses, as the source for the said amounts are explainable through

books, which in turn received from Gayatri Ratna JV, routed through banking channels,

(ii) No finding by AO in asst. order, to show that work related to the above expenditure, was not executed and on contrary, RA bills released by EE, NSC Division, Miryalaguda, show the total value the work done at Rs.34.10 cr.

(iii) AO failed to consider the fact that an amount of Rs.10.09 cr. were paid to M/s.Mohan Projects Contractors Pvt Ltd (MPCPL), a sub-contractor and the same were accounted in their books and assessed to tax.

(iv) The observations of the AO as regards unverifiable nature of vouchers in sweeping, with the specific reference made to only few bills/vouchers.

(v) The disallowance of expenses of Rs.15.82 cr results in abnormal profits on project which is not practical or feasible in the line of business.

Accordingly, it was contended by the assessee that with the work done is not disputed, expenditure not disproved and sources for same explained, the disallowance is uncalled for.

8.3 Perused the submissions of the appellant and the brief observations of the AO in asst. order. As could be made out from the facts of the case, the appellant shown to have drawn reasonably huge amounts in cash, from various bank accounts, with the intention of meeting the expenses related to Dummugudem Project. Since the amounts were drawn in cash and the expenses not supported by reasonable details, the AO was of the opinion that the claim of entire amount as expenses is not allowable. In this regard it may be pertinent to mention that an amount of Rs.10.09 crores were shown to be given as 'advance to M/s.Mohan Projects Constructions Pvt Ltd (MPCPL) which is one of the sub-contractors, who are assessed to tax and what has been claimed as direct expense in hands of the assessee company is only Rs.5.73 cr. It was also submitted that out of Rs.15.82 cr., only an amount of Rs.9.38 cr. was directly met through assessee and Rs.3.66 cr. were incurred through M/s.MPCPL who submitted bills for said a unt of Rs.10.09 cr. given as advance. Further, with the amounts of Rs.32.80 cr shown as the expenses for Dummugudem Project, been disallowed by the AO separately, I am of the considered opinion that there is no need to treat the amounts of Rs.15.82 cr. as income separately, on the ground of disallowance of expenses related to Dummugudem Project. Accordingly, the addition of Rs.15.82 cr. held to be unsustainable as separate addition, with the said amounts merged with disallowance of Rs.32.82 cr., related to Dummugudem, which has been disallowed on same issue. Thus, this ground to this extent is treated as Partly Allowed”.

2.1. Learned CIT-DR vehemently contended during the course of hearing that the CIT(A) has erred in law and on facts in deleting the impugned cash expenditure additions. Her case is that the assessee had failed to prove its cash expenditure regarding Dummugudem Project during the course of assessment. She fails to dispute that the Assessing Officer's assessment order dt.31-03-2013 had already disallowed the assessee's entire expenditure pertaining to the very project to the tune of Rs.32,18,13,943/- as bogus under a separate head. The CIT(A) therefore has rightly held it to be an instance of the double addition apart from all other factual and legal aspects. We therefore find no merit in the Revenue's instant former substantive grievance in all these appeals in view of the foregoing clinching reason(s). This identical former substantive ground in the instant six appeals stand declined therefore.

3. Next comes the latter issue of un-explained cash credits addition of Rs.20,50,99,560/- in "lead" AY.2010-11 in ITA No.943/Hyd/2016. We notice with the able assistance of both the parties that the CIT(A)'s findings under challenge have elaborately taken into consideration the Assessing Officer's reasoning as well as the assessee's submissions as under:

"13.0 Additions based on entries in the material traced and impounded during survey proceedings – Rs.20,50,99,560/-:

13.1 While finalizing the assessment order the AO made reference to the information in the documents impounded during the survey proceedings conducted in this case on 30-10-2012. As per the AO, page 5 and 6 of Annex.A/GPL/01 of the impounded material indicated the details of receipts and payments indicated in crores for the period 10-09-2007 to 10-08-2012 and on verification, the transactions are not reflected under any head of accounts. Vide the show cause notice dtd.05-02-2013, the assessee was asked to explain the relevance of said information, which were treated as

rough papers by the assessee and Why the same cannot be relied upon. In absence of any reasonable explanation from the assessee the AO depended on the analysis of the entries in impounded material and arrived at conclusions that there are various entries which were verifiable from accounts. In the process, some of the details/amounts, as reflected under the head "other receipts", were analysed and in absence of the reasonable or no explanation from the assessee, the AO treated the amounts as unexplained credits. The amounts treated as unexplained credits, On these lines are Rs.0.75 crores, as appeared against the indication/description of 'SLP' and Rs.0.51 crores against the caption, 'SLP' MD Sir House', for which the contention of the appellant was that AO could not give a clear finding as to which site payments the amounts of Rs.1.26 crores relate to, as all site payments have been properly accounted. The next item under examination was RS.9.51 crores, standing against name of Gayatri Telesoft and the assessee's explanation was that during 2007-08 and 2008-09, .M/s.GPL advanced certain amounts to M/s.Mohan Projects Ltd which in turn given amount of Rs.10.58 crores to Gayatri Star Khem, however this explanation was not acceptable to the AO. Hence, AO treated the amount as unexplained credit. Similarly, there are two other entries for amounts of Rs.37.09 crores against the description of 'SLP' and Rs.15.09 crores, against "other site funds utilized by GPL". While treating these amounts as unexplained income of the assessee, the AO worked out the ratio of the total amounts of funds mentioned in impounded document, with that of the turnover for the year to the turnovers for period of 5 years under reference and arrived at a figure of 18.42% and applied the said formula/ratio a part/portion of the amounts of Rs.37.09 crores under head SLP and Rs.15.09 crores under head other site funds utilized by GPL, to arrive at the disallowances to the extent of Rs.6.83 crores and Rs.2.90 crores, respectively. The total addition made based on impounded documents, thus totalled to Rs.2050.99 lakhs (126.00 + 951.00 + 683.00 + 290.99 lakhs).

13.2 The appellant objected for such disallowances/additions and it has been broadly submitted that the AO erred in taking cognizance of two unsigned impounded papers which have no evidentiary value under law. It was also contended and explained that the loose sheets were merely a discussion paper prepared for the information of the management and it was merely an inflow and outflow of funds for the periods mentioned there in. It was contended and submitted that the figures mentioned in these papers were not actual figures but rough figures rounded off and wherever certain figures like increase in bank loans etc were available it was taken on the basis of increase in their limits and the headings were conveniently grouped under recognizable heads for easy understating of the management. It was contended by the assessee that the AO disregarded the explanation

and proposed to make certain whimsical additions which were on basis of presumptions, but not supported by any facts or figures.

13.2.1 Regarding the evidentiary value of the material! information/ documents found during survey/search proceedings, it has been submitted by the assessee that such documents have to be interpreted literally and nothing can be added or subtracted and the unsigned papers in this case cannot be directly attributed to assessee and additions cannot be made based on them. It was also contended and argued that the loose slips found during the survey are only circumstantial evidences and there should be cogent material to substantiate such loose slips, for making additions. In this regard, the AO relied on the decisions of ITAT, Hyderabad, in the case of ITO vs Harllmark Constructions, ITA No.694/Hyd/2009,

13.2.2 It was also submitted and contended that tax has to be collected on real but not on hypothetical income and unless the entries in seized or impounded documents are independently corroborated with contemporaneous record, no adverse view can be taken by the Assessing Authorities. It was also contended that, AO has not brought on record any corroborative material or evidence to show that inferences drawn by him on basis of entries in loose sheets are correct. In this regard, the assessee relied on the several decisions of ITAT, Hyderabad. The appellant also contended that AO made huge additions on the basis of entries in two loose sheets, which are nothing but dumb documents and failed to substantiate the basis for addition, as there is no corroborative evidence to support such additions and AO have nothing" to do except to match whatever data available.

13.3 As regards to the additions made on the basis of entries in loose sheets, as 'unexplained credits', it has been submitted that there is no provision in the Income Tax Act to make additions under the head 'unexplained credit' except under Sec.68 and under no stretch of imagination, the loose sheets found and impounded in this case, can be considered as books of account, as such the provisions of Sec.68 are not applicable to the facts of the case. It was also contended that entries relating to sums must be credited in to books maintained by assessee and the enquiries by the AO must lead to the sources for such credits, so as to be decided as unexplained or otherwise and treat it as income from other sources as per the provisions of Sec.68, in case no explanation is forthcoming from assessee or the explanation offered is not acceptable to the AO. In case of assessee under reference, it was contended that neither corroborative evidence was brought on record nor any enquiries were made by the AO to ascertain the incomes that have the connotation of unexplained credits and in fact the assessee has explained the contents of loose sheets, as ad hoc cash flow statement prepared for certain period,

comprising more than an year for the guidance/benefit of the management. It was also contended that the AP has conveniently ignored the major contents of the loose sheets and drew adverse inference from few of the entries, for making the total additions of Rs.20.51 crores, on this count. While elaborating on the additions on each of the item under reference the appellant submitted as under:

13.3.1 Regarding the addition of Rs.1.26 crores, on account of entries in loose sheets, being treated as unexplained credits, being aggregate of two entries on page 6 of loose sheets, with the amounts of Rs.0.75 crores and Rs.0.51 crores, with the narration of 'SLP funds', it has been submitted that it was part of the investment statement prepared for the period 10-9-2007 to 10-8-2012, relatable to the company with page 5 indicating outflow of funds and page 6 showing the receipt of funds and the AO interpreted them as site payments that are not accounted without pointing to which site they belong to, with all the expenses at sites are properly accounted by the assessee.

13.3.2 Regarding the amount of Rs.9.51 crores shown against the name of M/s.Gayatri Telesoft, it was submitted that the loose sheets found are rough estimates of cash flow statements in which the said amounts were representing the amount received back by the company, through the other group concerns such as M/s.Mohan Projects Contractor Pvt Ltd, M/s.Gayatri Star khem, which were lent originally and the name of M/s.Gayatri Tele Soft was wrongly taken. With books accounted, amounts established to be belonging to earlier periods, there is no basis for the additions without conducting further enquiries, as per the appellant.

13.3.3 As regards to the amount of Rs.37.09 crores which was marked as 'SLP' out of which an amount of Rs.6.83 crores was treated as unexplained income, by the AO on proportionate basis, it has been submitted by the assessee that the amounts represent the net balance amount of equipment loans obtained from SREI Finance for a project specific works, during the period of 2010-11 and 2011-12. It was also explained that an amount of Rs.5.78 crores representing interest but was written as 5.82 crores in loose sheet and the matching value of assets treated as unexplained, were not reflected in books, as the same are leased assets and the AO rejected the said explanation of the assessee summarily and applied a formula which was neither explained nor have any base and treated 18.42% of such amounts (37.09 crores) and arrived at figure of Rs.6.83 crores as unexplained income of the assessee for the year under reference, notwithstanding the fact that such amounts not falling in one year.

13.3.4 Regarding the amounts of Rs.15.80 crores which was mentioned as 'other site funds utilized by GPL' it was explained that these amounts were received by the assessee company (GPL) from

their sites during last 5 years and it is difficult to identify the said transactions, as the total transactions running in to thousand of crores every year and this explanation of the assessee was rejected and addition made on proportionate basis (18.42%) and to arrive at the figure of Rs.2,90,99,560/-, as unexplained credit/income of the appellant for the year under reference, which is nothing but based on an hypothesis but not on facts. In this regard, the appellant relied on certain judicial decisions.

13.4 The appellant also contended and submitted that AO erred in making additions based on formula of 18.42% worked out on proportionate turnovers of 5 years, with that of turnovers for the year, which are in turn based on mere surmises and conjectures without involvement of law or accountancy. The appellant further contended that the AO failed to consider the past record of the assessee-company and comparable companies in similar business before resorting to huge additions. It was also highlighted and submitted by the appellant that AO failed to explain why only 4 items were chosen to tax, out of many items of expenses as reflected in the loose sheets of the impounded material and there was no application of mind by the AO as such the additions made to the extent of Rs.20.51 crores, based on the entries in loose sheets impounded are pleaded for deletion.

13.5 Perused the submissions of the appellant and the observations of the AO in assessment order "and the information brought on record. As could be made out from the facts of the case, there was a survey conducted in this case on 03-10-2012, during which certain information/documents in the form of loose sheets were shown to have found and impounded as Annexure AI/GPL/01 and page no.5 and 6 were noteworthy among them. The AO had selectively analysed few entries of the loose sheets and arrived at certain conclusions to treat some entries either as unexplained credits or the unexplained income. The amounts as reflected at page 6 of impounded material were basically indicating the amounts as 'Investment Statement', under the name of M/s.Gayatri Projects Ltd (in short GPL) for the period 10-9-2007 to 10-8-2012, which is apparently for a period of not less than 5 years spanning over 6 Financial Years from 2007-08 to 2012-13. The total funds/amounts involved for the said period were shown at Rs.2051.45 crores, indicated under main head 'Receipts' but divided under various subheads such as (i) working capital limits - Rs.451.00 crores (ii) Term loans from banks - Rs.425.00 crores (iii) Other loan funds - Rs.114.00 crores (iv) Other group companies Rs.443.77 crores (v) Funds received from sites _ Rs.508.35 crores and (vi) Other receipts - Rs.109.33 crores. While ignoring the funds shown under first five heads (i to v), the AO had picked up the only entries falling under the head 'other receipts', which are enumerated as under:

a) SLP	-	Rs.37.09
b) Trust Funds	-	Rs.23.64
c) Other site funds		
Utilized by GPL	-	Rs.15.80
d) Pioneer Builders	-	Rs.9.81
e) Gayatri Telesoft Ltd	-	Rs.9.51
f) Essar Project	-	Rs.6.00
g) Sud Reddy	-	Rs.5.00
h) YLMC claims release	-	Rs.1.15
i) SLP funds	-	Rs.0.75
j) SLP MD Sir House	-	Rs.0.51

Rs.109.33 crores

13.5.1 As could be seen from the information brought on record, this was not put to the assessee during the survey proceedings and an explanation was sought from the assessee only during the assessment proceedings, vide the show cause notice dtd.05-02-2013 and the assessee's reply regarding the same was that the information in sheets was compiled/prepared to impress the management with the figures for 5 years spanning the period referred in documents, with adjustments made, to last two decimal places. However, based on the nomenclature of the entries in loose sheets and the company's name indicated there in, AO was of the opinion that some of the entries are verifiable from accounts, as such the evidentiary values of the papers/loose sheets, cannot be brushed aside and even if the amounts are approximate, the nature of entries required an explanation from the assessee as such the AO resorted to his own analysis of the amounts and treated the amounts as unexplained credits. Further, the amounts of Rs.9.51 crores standing against the name of M/s.Gayatri Tele Soft Ltd were treated as unexplained credits in absence of explanation acceptable to the AO. Further, the amounts standing under the head 'SLP', to the extent of Rs.37.07 crores and Rs.15.80 crores under the head 'Other Side Funds utilised by GPL', were subjected to disallowance, on the proportionate basis of total turnover of the year, to the turnovers for the period (5 years) under reference. Thus, the additions under the two heads were to the extent of Rs.6.83 crores (18.42% of Rs.37.09 crores) and Rs.2.90 crores (18.12% of Rs.15.80 crores).

13.6 Thus, as could be seen from the record, the Assessing Officer had chosen few from loose sheets without indicating the basis for such isolation and selective picking. No reasons were indicated as regard to the picking and analysis of few entries as against many entries embedded in the loose sheets under reference and no valid reasons were given for arriving at such conclusions. Further, even

among the minor head of 'other receipts' (few 4) entries were only selected as indicated above, while ignoring the balance (6) entries. Thus, "the basis adopted by the AO in arriving at given conclusions for making the disallowances appear are not fully reliable since no uniform approach was shown as such the additions are held to be not justified, on facts. Further, the amounts as mentioned in the loose sheets were not pertaining to one year, but relatable to 5 to 6 years, as indicated. Thus, based on the said facts, the additions made on account of unexplained credits to the extent of Rs.1.26 crores for the year, based on the entries relatable to more than an year, without bifurcating the figures/amounts to the respective years, is not justified and held to be arbitrary. Even for the additions of Rs.6.88 crores and Rs.2.90 crores, out of the funds referred as SLP and other funds utilised by GPL, respectively, the basis adopted by the AO on proportionate basis, is only an assumption and does not appeal to a logic or reason. The formula applied by the AO, appears based on theories, without being supported by facts or solid reasons. Same is the case with the addition of Rs.9.51 crores standing against the name of M/s.Gayatri Tele Soft Ltd.

13.6.1 In this case, it is not only the basis for selecting the few entries of loose sheets for making the addition, but also the validity of information that was found during the survey proceedings and put to use against the assessee, in the assessments, is in question. It was submitted by the assessee and appears to be fact that such impounded material was never examined during the survey proceedings, to ascertain it's relevance of the contents, to the company, vis-a-vis the books of account maintained for the years under reference. Further, the documents under reference, relied upon by the AO failed to controvert the submissions of the assessee that the statements prepared were falling in to 5 years for the period from 10-09-2007 to 10-08-2012 and was prepared for some vague purpose of impressing the management. No further enquiries were made by the AO as regard to the relevance of entries in the books of the assessee for relevant Asst.Years under reference, except to say that some of the entries are verifiable with books. Under the circumstances, the basis adopted by the AO which is a loose sheet, without any further corroborative information or evidence either found or brought on record, may only be treated as Hypothetical and not based on substantive evidence. The documents which are not supported by corroborative or related information or evidence may only be treated as a dumb document and the case laws relied upon by the assessee in this regard, support their cause. In this regard, it may be relevant to refer to the judicial decisions, on the similar facts. In case of ITO vs Hallmark Constructions (in ITA No.694/Hyd/2009) Hon'ble ITAT, Hyderabad observed that loose slips found during the Course of survey are only circumstantial evidence and there should

be cogent material to substantiate the loose slips and it is very important to have direct or conclusive evidence to determine income and the AO could make additions on the basis of direct evidences on hand. In the case under reference, there was no such direct evidence or information that was helpful to the AO for making the additions for the year under reference. Further, the information under reference was relatable to more than 5 years and no bifurcation could be made for each of the year, to verify the same with reference to the books, to determine whether the amounts reflected there in are truly relatable to the assessee and to the Asst. Year concerned and also whether accounted in books or not. Under the circumstances, the information in loose sheets were held to be unreliable for making the additions for the year, that too without making any further reference to the books of account. In this context, it may not be out of context to observe that tax has to be collected on real income but not on hypothetical income.

In this case, the entries in loose sheets are not corroborated by contemporaneous record, as such no adverse view can be taken by the AO. Further, it was not established whether the loose sheets represent books of the assessee, without bringing any corroborative evidence on record and without relating the entries of loose sheets to the year under reference as such resorting to additions as per provisional of Sec.68 are not justified. On similar basis the amounts under various heads could not be estimated and treated as unexplained incomes. Further, in absence of any independent evidence brought on record by the AO to demolish the contentions of the assessee, it is reasonable to hold that the additions made on the unsubstantiated information are not sustainable and do not have legs to stand. Under the circumstances and based on facts of the case, the addition of Rs.20.51 crores (RS.0.75+0.51+9.51+6.83+2.90) based on entries in loose sheets are ordered to be deleted. The grounds relatable to the said additions, thus, are treated as Allowed”.

3.1. Learned CIT-DRs vehement contention before us is that the Assessing Officer had rightly made the impugned addition on account of assessee's failure to explain identity, genuineness and creditworthiness of the corresponding creditor parties which could sufficiently throw light on source of the sum in issue. She further invited our attention to the assessee's Managing Director, Shri T.V.Sandeep Reddy survey statement dt.03-10-2012 admitting the corresponding entries in the impounded document “pg.5 and 6 of the impounded

document as representing investments and loans on estimate basis” to this effect.

3.2. Learned authorised representatives strongly defended the CIT(A)’s foregoing detailed findings *inter alia* on the ground that the foregoing impounded document is only a loose sheet involving rough notings and documents and therefore, it is liable to be treated as a dumb one only. Learned counsel further took us to the impugned document that the same was a mere estimation and the assessee’s books had nowhere been credited *qua* the corresponding varying amounts in all these assessment years.

3.3. We have given our thoughtful consideration to rival contentions and find force in the Revenue’s stand. This assessee is admittedly a company engaged in construction and building of infrastructure projects/facilities. The department had carried out the survey in question dt.03-10-2012 at its premises. It came across the alleged impounded document forming part of case records before us as Annexure-I (pages.158-159 in the paper book. This crucial document found at assessee’s premises during survey makes it clear that it is in the nature of assessee’s “INVESTMENT STATEMENT FROM 10-09-2007 TO 10-08-2012” wherein it had duly recorded payment, fund transfers, site payments involving group companies, other payments and administrative expenses along with working capital limits, term loans from banks other loans funds, other group companies’ funds received from sites and ‘other’ receipts indicating varying sums.

Coupled with this, the assessee's Managing Director (supra) also got recorded his survey statement (pg.2 in assessee's paper book) and explained the entries in pg.6; and more particularly those in issue as 'other' receipts that the same 'represents' the estimate from various sources. Funds received from site, represent various inflows like advance RA bills from various sites and other receipts consist of miscellaneous receipts, investments, loans etc. which are being realised. There is no dispute that the assessee had never filed even a retraction before the departmental authorities concerned. And that this investment sheet duly make it clear the corresponding time span has been from 10-09-2007 to 10-08-2012 only. There is further no issue that the assessee had also not explained the said entries in issue before the Assessing Officer or before the CIT(A). The very factual position continues in the instant second appellate proceedings as well.

3.4. Faced with the foregoing factual position, we are of the opinion that the assessee's impounded document explaining all details with the corresponding parties deserves to be presumed as disclosing the correct particulars during the course of survey as per Section 292(C) of the Act, (more particularly in view of the amendment therein vide Finance Act, 2008 with retrospective effect from 01-06-2002).

Coupled with this, we posed a specific query to the learned counsel as to whether all the remaining entries in both sides of the impounded document Annexure-I are correct or not? The reply received from the assessee's side is in affirmative only. All this leads us to an irresistible conclusion that the learned Assessing Officer had rightly made the

impugned addition in assessee's hands taking into consideration the totality of all the corresponding entries in the impounded document rather than adopting a pick and choose method.

3.5. Coming to the learned counsel's argument that such loose sheets or dumb documents are ought not be allowed to form the basis of the impugned addition fails to make us concur with we find that such a question has indeed arose before hon'ble apex court in CBI Vs. V.C.Shukla 1998 (3) SEC 410 (SC), wherein their lordships made it clear that the entries in loose papers/sheets are neither relevant nor admissible and it is only where entries are in the books of account regularly kept; depending on the nature of occupation, that they are admissible. Hon'ble apex court further reiterated such entries are only in the nature of corroborative evidence which further require independent evidence to test trustworthiness thereof. There can hardly be any dispute regarding the foregoing settled proposition. The fact, however, remains that the document impounded herein is duly supported by all the correct entries as per assessee's stand itself. We also wish to quote Section 2(12A) of the Act, defining; "books or books of account" to "include ledgers, day books, cash books, account books and other books.....". We wish to emphasize here that the impounded document is assessee's "INVESTMENT STATEMENT FROM 10-09-2007 TO 10-08-2012" wherein its Managing Director had duly pointed out the same in the nature of investments and loans which ought to be treated as un-explained u/s.68 of the Act only.

The assessee's further argument that the impugned sum "is merely an estimate also fails to inspire confidence since there is no material before us which could suggest the factual position to be different than that found during the course of "survey". It appears that assessee's failure in filing its cogent explanation only led the Assessing Officer to add the impugned sums in all these assessment years. We thus restore this un-explained cash credit addition of Rs.20,55,99,560/- in these facts and circumstances in AY.2010-11. The CIT(A)'s findings under challenge stand reversed therefore. The Revenue succeeds in its instant identical latter substantive ground in all these appeals since there is no distinction of facts or law; as the case may be.

No other argument or ground has been pressed before us.

4. These Revenue's appeals are partly allowed in above terms. A copy of this common order be placed in the respective case files.

Order pronounced in the open court on 24th August, 2021

Sd/-
(LAXMI PRASAD SAHU)
ACCOUNTANT MEMBER

Hyderabad,
Dated: 24-08-2021

TNMM

Sd/-
(S.S.GODARA)
JUDICIAL MEMBER

Copy to :

- 1.The Dy.Commissioner of Income Tax, Central Circle-2(4), Hyderabad.*
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